

FIRST REGULAR SESSION

# HOUSE BILL NO. 658

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES DUGGER (Sponsor), WELLS, POLLOCK, HOBBS, BRUNS, SMITH (150), WILSON (119), BROWN (149), DENISON, FISCHER (107), JONES (117), CUNNINGHAM, MUNZLINGER, RUZICKA, WALLACE, FISHER (125), SCHOELLER, FAITH, GUERNSEY, HARRIS, GATSCHENBERGER AND McNARY (Co-sponsors).

1614L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 32.115, 99.1205, 135.484, 135.535, 135.680, and 208.770, RSMo, and to enact in lieu thereof seven new sections relating to the show-me milk credit.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 32.115, 99.1205, 135.484, 135.535, 135.680, and 208.770, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 32.115, 99.1205, 135.484, 135.535, 135.680, 135.704, and 208.770, to read as follows:

32.115. 1. The department of revenue shall grant a tax credit, to be applied in the following order until used, against:

(1) The annual tax on gross premium receipts of insurance companies in chapter 148, RSMo;

(2) The tax on banks determined pursuant to subdivision (2) of subsection 2 of section 148.030, RSMo;

(3) The tax on banks determined in subdivision (1) of subsection 2 of section 148.030, RSMo;

(4) The tax on other financial institutions in chapter 148, RSMo;

(5) The corporation franchise tax in chapter 147, RSMo;

(6) The state income tax in chapter 143, RSMo; and

(7) The annual tax on gross receipts of express companies in chapter 153, RSMo.

2. For proposals approved pursuant to section 32.110:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 (1) The amount of the tax credit shall not exceed fifty percent of the total amount  
15 contributed during the taxable year by the business firm or, in the case of a financial institution,  
16 where applicable, during the relevant income period in programs approved pursuant to section  
17 32.110;

18 (2) Except as provided in subsection 2 or 5 of this section, a tax credit of up to seventy  
19 percent may be allowed for contributions to programs where activities fall within the scope of  
20 special program priorities as defined with the approval of the governor in regulations  
21 promulgated by the director of the department of economic development;

22 (3) Except as provided in subsection 2 or 5 of this section, the tax credit allowed for  
23 contributions to programs located in any community shall be equal to seventy percent of the total  
24 amount contributed where such community is a city, town or village which has fifteen thousand  
25 or less inhabitants as of the last decennial census and is located in a county which is either  
26 located in:

27 (a) An area that is not part of a standard metropolitan statistical area;

28 (b) A standard metropolitan statistical area but such county has only one city, town or  
29 village which has more than fifteen thousand inhabitants; or

30 (c) A standard metropolitan statistical area and a substantial number of persons in such  
31 county derive their income from agriculture.

32

33 Such community may also be in an unincorporated area in such county as provided in  
34 subdivision (1), (2) or (3) of this subsection. Except in no case shall the total economic benefit  
35 of the combined federal and state tax savings to the taxpayer exceed the amount contributed by  
36 the taxpayer during the tax year;

37 (4) Such tax credit allocation, equal to seventy percent of the total amount contributed,  
38 shall not exceed four million dollars in fiscal year 1999 and six million dollars in fiscal year 2000  
39 and any subsequent fiscal year. When the maximum dollar limit on the seventy percent tax credit  
40 allocation is committed, the tax credit allocation for such programs shall then be equal to fifty  
41 percent credit of the total amount contributed. Regulations establishing special program  
42 priorities are to be promulgated during the first month of each fiscal year and at such times  
43 during the year as the public interest dictates. Such credit shall not exceed two hundred and fifty  
44 thousand dollars annually except as provided in subdivision (5) of this subsection. No tax credit  
45 shall be approved for any bank, bank and trust company, insurance company, trust company,  
46 national bank, savings association, or building and loan association for activities that are a part  
47 of its normal course of business. Any tax credit not used in the period the contribution was made  
48 may be carried over the next five succeeding calendar or fiscal years until the full credit has been  
49 claimed. Except as otherwise provided for proposals approved pursuant to section 32.111,

50 32.112 or 32.117, in no event shall the total amount of all other tax credits allowed pursuant to  
51 sections 32.100 to 32.125 exceed thirty-two million dollars in any one fiscal year, of which six  
52 million shall be credits allowed pursuant to section 135.460, RSMo. If six million dollars in  
53 credits are not approved, then the remaining credits may be used for programs approved pursuant  
54 to sections 32.100 to 32.125. **To the extent that as of the last day of April in any year, less**  
55 **than thirty million dollars in tax credits have been issued under the provisions of this**  
56 **section, such remaining unissued tax credits shall be made available for allocation**  
57 **pursuant to the provisions of section 135.704, RSMo;**

58 (5) The credit may exceed two hundred fifty thousand dollars annually and shall not be  
59 limited if community services, crime prevention, education, job training, physical revitalization  
60 or economic development, as defined by section 32.105, is rendered in an area defined by federal  
61 or state law as an impoverished, economically distressed, or blighted area or as a neighborhood  
62 experiencing problems endangering its existence as a viable and stable neighborhood, or if the  
63 community services, crime prevention, education, job training, physical revitalization or  
64 economic development is limited to impoverished persons.

65 3. For proposals approved pursuant to section 32.111:

66 (1) The amount of the tax credit shall not exceed fifty-five percent of the total amount  
67 invested in affordable housing assistance activities or market rate housing in distressed  
68 communities as defined in section 135.530, RSMo, by a business firm. Whenever such  
69 investment is made in the form of an equity investment or a loan, as opposed to a donation alone,  
70 tax credits may be claimed only where the loan or equity investment is accompanied by a  
71 donation which is eligible for federal income tax charitable deduction, and where the total value  
72 of the tax credits herein plus the value of the federal income tax charitable deduction is less than  
73 or equal to the value of the donation. Any tax credit not used in the period for which the credit  
74 was approved may be carried over the next ten succeeding calendar or fiscal years until the full  
75 credit has been allowed. If the affordable housing units or market rate housing units in distressed  
76 communities for which a tax is claimed are within a larger structure, parts of which are not the  
77 subject of a tax credit claim, then expenditures applicable to the entire structure shall be reduced  
78 on a prorated basis in proportion to the ratio of the number of square feet devoted to the  
79 affordable housing units or market rate housing units in distressed communities, for purposes of  
80 determining the amount of the tax credit. The total amount of tax credit granted for programs  
81 approved pursuant to section 32.111 for the fiscal year beginning July 1, 1991, shall not exceed  
82 two million dollars, to be increased by no more than two million dollars each succeeding fiscal  
83 year, until the total tax credits that may be approved reaches ten million dollars in any fiscal year;

84 (2) For any year during the compliance period indicated in the land use restriction  
85 agreement, the owner of the affordable housing rental units for which a credit is being claimed

86 shall certify to the commission that all tenants renting claimed units are income eligible for  
87 affordable housing units and that the rentals for each claimed unit are in compliance with the  
88 provisions of sections 32.100 to 32.125. The commission is authorized, in its discretion, to audit  
89 the records and accounts of the owner to verify such certification;

90 (3) In the case of owner-occupied affordable housing units, the qualifying owner  
91 occupant shall, before the end of the first year in which credits are claimed, certify to the  
92 commission that the occupant is income eligible during the preceding two years, and at the time  
93 of the initial purchase contract, but not thereafter. The qualifying owner occupant shall further  
94 certify to the commission, before the end of the first year in which credits are claimed, that  
95 during the compliance period indicated in the land use restriction agreement, the cost of the  
96 affordable housing unit to the occupant for the claimed unit can reasonably be projected to be  
97 in compliance with the provisions of sections 32.100 to 32.125. Any succeeding owner occupant  
98 acquiring the affordable housing unit during the compliance period indicated in the land use  
99 restriction agreement shall make the same certification;

100 (4) If at any time during the compliance period the commission determines a project for  
101 which a proposal has been approved is not in compliance with the applicable provisions of  
102 sections 32.100 to 32.125 or rules promulgated therefor, the commission may within one  
103 hundred fifty days of notice to the owner either seek injunctive enforcement action against the  
104 owner, or seek legal damages against the owner representing the value of the tax credits, or  
105 foreclose on the lien in the land use restriction agreement, selling the project at a public sale, and  
106 paying to the owner the proceeds of the sale, less the costs of the sale and less the value of all tax  
107 credits allowed herein. The commission shall remit to the director of revenue the portion of the  
108 legal damages collected or the sale proceeds representing the value of the tax credits. However,  
109 except in the event of intentional fraud by the taxpayer, the proposal's certificate of eligibility for  
110 tax credits shall not be revoked.

111 4. For proposals approved pursuant to section 32.112, the amount of the tax credit shall  
112 not exceed fifty-five percent of the total amount contributed to a neighborhood organization by  
113 business firms. Any tax credit not used in the period for which the credit was approved may be  
114 carried over the next ten succeeding calendar or fiscal years until the full credit has been allowed.  
115 The total amount of tax credit granted for programs approved pursuant to section 32.112 shall  
116 not exceed one million dollars for each fiscal year.

117 5. The total amount of tax credits used for market rate housing in distressed communities  
118 pursuant to sections 32.100 to 32.125 shall not exceed thirty percent of the total amount of all  
119 tax credits authorized pursuant to sections 32.111 and 32.112.

99.1205. 1. This section shall be known and may be cited as the "Distressed Areas Land  
2 Assemblage Tax Credit Act".

3           2. As used in this section, the following terms mean:

4           (1) "Acquisition costs", the purchase price for the eligible parcel, costs of environmental  
5 assessments, closing costs, real estate brokerage fees, reasonable demolition costs of vacant  
6 structures, and reasonable maintenance costs incurred to maintain an acquired eligible parcel for  
7 a period of five years after the acquisition of such eligible parcel. Acquisition costs shall not  
8 include costs for title insurance and survey, attorney's fees, relocation costs, fines, or bills from  
9 a municipality;

10          (2) "Applicant", any person, firm, partnership, trust, limited liability company, or  
11 corporation which has:

12           (a) Incurred, within an eligible project area, acquisition costs for the acquisition of land  
13 sufficient to satisfy the requirements under subdivision (8) of this subsection; and

14           (b) Been appointed or selected, pursuant to a redevelopment agreement by a municipal  
15 authority, as a redeveloper or similar designation, under an economic incentive law, to redevelop  
16 an urban renewal area or a redevelopment area that includes all of an eligible project area or  
17 whose redevelopment plan or redevelopment area, which encompasses all of an eligible project  
18 area, has been approved or adopted under an economic incentive law. In addition to being  
19 designated the redeveloper, the applicant shall have been designated to receive economic  
20 incentives only after the municipal authority has considered the amount of the tax credits in  
21 adopting such economic incentives as provided in subsection 8 of this section. The  
22 redevelopment agreement shall provide that:

23           a. The funds generated through the use or sale of the tax credits issued under this section  
24 shall be used to redevelop the eligible project area;

25           b. No more than seventy-five percent of the urban renewal area identified in the urban  
26 renewal plan or the redevelopment area identified in the redevelopment plan may be redeveloped  
27 by the applicant; and

28           c. The remainder of the urban renewal area or the redevelopment area shall be  
29 redeveloped by co-redevelopers or redevelopers to whom the applicant has assigned its  
30 redevelopment rights and obligations under the urban renewal plan or the redevelopment plan;

31          (3) "Certificate", a tax credit certificate issued under this section;

32          (4) "Condemnation proceedings", any action taken by, or on behalf of, an applicant to  
33 initiate an action in a court of competent jurisdiction to use the power of eminent domain to  
34 acquire a parcel within the eligible project area. Condemnation proceedings shall include any  
35 and all actions taken after the submission of a notice of intended acquisition to an owner of a  
36 parcel within the eligible project area by a municipal authority or any other person or entity under  
37 section 523.250, RSMo;

38          (5) "Department", the Missouri department of economic development;

39 (6) "Economic incentive laws", any provision of Missouri law pursuant to which  
40 economic incentives are provided to redevelopers of a parcel or parcels to redevelop the land,  
41 such as tax abatement or payments in lieu of taxes, or redevelopment plans or redevelopment  
42 projects approved or adopted which include the use of economic incentives to redevelop the land.  
43 Economic incentive laws include, but are not limited to, the land clearance for redevelopment  
44 authority law under sections 99.300 to 99.660, the real property tax increment allocation  
45 redevelopment act under sections 99.800 to 99.865, the Missouri downtown and rural economic  
46 stimulus act under sections 99.915 to 99.1060, and the downtown revitalization preservation  
47 program under sections 99.1080 to 99.1092;

48 (7) "Eligible parcel", a parcel:

49 (a) Which is located within an eligible project area;

50 (b) Which is to be redeveloped;

51 (c) On which the applicant has not commenced construction prior to November 28,  
52 2007;

53 (d) Which has been acquired without the commencement of any condemnation  
54 proceedings with respect to such parcel brought by or on behalf of the applicant. Any parcel  
55 acquired by the applicant from a municipal authority shall not constitute an eligible parcel; and

56 (e) On which all outstanding taxes, fines, and bills levied by municipal governments that  
57 were levied by the municipality during the time period that the applicant held title to the eligible  
58 parcel have been paid in full;

59 (8) "Eligible project area", an area which shall have satisfied the following requirements:

60 (a) The eligible project area shall consist of at least seventy-five acres and may include  
61 parcels within its boundaries that do not constitute an eligible parcel;

62 (b) At least eighty percent of the eligible project area shall be located within a Missouri  
63 qualified census tract area, as designated by the United States Department of Housing and Urban  
64 Development under 26 U.S.C. Section 42, or within a distressed community as that term is  
65 defined in section 135.530, RSMo;

66 (c) The eligible parcels acquired by the applicant within the eligible project area shall  
67 total at least fifty acres, which may consist of contiguous and noncontiguous parcels;

68 (d) The average number of parcels per acre in an eligible project area shall be four or  
69 more;

70 (e) Less than five percent of the acreage within the boundaries of the eligible project area  
71 shall consist of owner-occupied residences which the applicant has identified for acquisition  
72 under the urban renewal plan or the redevelopment plan pursuant to which the applicant was  
73 appointed or selected as the redeveloper or by which the person or entity was qualified as an  
74 applicant under this section on the date of the approval or adoption of such plan;

75 (9) "Interest costs", interest, loan fees, and closing costs. Interest costs shall not include  
76 attorney's fees;

77 (10) "Maintenance costs", costs of boarding up and securing vacant structures, costs of  
78 removing trash, and costs of cutting grass and weeds;

79 (11) "Municipal authority", any city, town, village, county, public body corporate and  
80 politic, political subdivision, or land trust of this state established and authorized to own land  
81 within the state;

82 (12) "Municipality", any city, town, village, or county;

83 (13) "Parcel", a single lot or tract of land, and the improvements thereon, owned by, or  
84 recorded as the property of, one or more persons or entities;

85 (14) "Redeveloped", the process of undertaking and carrying out a redevelopment plan  
86 or urban renewal plan pursuant to which the conditions which provided the basis for an eligible  
87 project area to be included in a redevelopment plan or urban renewal plan are to be reduced or  
88 eliminated by redevelopment or rehabilitation; and

89 (15) "Redevelopment agreement", the redevelopment agreement or similar agreement  
90 into which the applicant entered with a municipal authority and which is the agreement for the  
91 implementation of the urban renewal plan or redevelopment plan pursuant to which the applicant  
92 was appointed or selected as the redeveloper or by which the person or entity was qualified as  
93 an applicant under this section; and such appointment or selection shall have been approved by  
94 an ordinance of the governing body of the municipality, or municipalities, or in the case of any  
95 city not within a county, the board of aldermen, in which the eligible project area is located. The  
96 redevelopment agreement shall include a time line for redevelopment of the eligible project area.  
97 The redevelopment agreement shall state that the named developer shall be subject to the  
98 provisions of chapter 290, RSMo.

99 3. Any applicant shall be entitled to a tax credit against the taxes imposed under chapters  
100 143, 147, and 148, RSMo, except for sections 143.191 to 143.265, RSMo, in an amount equal  
101 to fifty percent of the acquisition costs, and one hundred percent of the interest costs incurred for  
102 a period of five years after the acquisition of an eligible parcel. No tax credits shall be issued  
103 under this section until after January 1, 2008.

104 4. If the amount of such tax credit exceeds the total tax liability for the year in which the  
105 applicant is entitled to receive a tax credit, the amount that exceeds the state tax liability may be  
106 carried forward for credit against the taxes imposed under chapters 143, 147, and 148, RSMo,  
107 for the succeeding six years, or until the full credit is used, whichever occurs first. The applicant  
108 shall not be entitled to a tax credit for taxes imposed under sections 143.191 to 143.265, RSMo.  
109 Applicants entitled to receive such tax credits may transfer, sell, or assign the tax credits. Tax  
110 credits granted to a partnership, a limited liability company taxed as a partnership, or multiple

111 owners of property shall be passed through to the partners, members, or owners respectively pro  
112 rata or pursuant to an executed agreement among the partners, members, or owners documenting  
113 an alternate distribution method.

114 5. A purchaser, transferee, or assignee of the tax credits authorized under this section  
115 may use acquired tax credits to offset up to one hundred percent of the tax liabilities otherwise  
116 imposed under chapters 143, 147, and 148, RSMo, except for sections 143.191 to 143.265,  
117 RSMo. A seller, transferor, or assignor shall perfect such transfer by notifying the department  
118 in writing within thirty calendar days following the effective date of the transfer and shall  
119 provide any information as may be required by the department to administer and carry out the  
120 provisions of this section.

121 6. To claim tax credits authorized under this section, an applicant shall submit to the  
122 department an application for a certificate. An applicant shall identify the boundaries of the  
123 eligible project area in the application. The department shall verify that the applicant has  
124 submitted a valid application in the form and format required by the department. The department  
125 shall verify that the municipal authority held the requisite hearings and gave the requisite notices  
126 for such hearings in accordance with the applicable economic incentive act, and municipal  
127 ordinances. On an annual basis, an applicant may file for the tax credit for the acquisition costs,  
128 and for the tax credit for the interest costs, subject to the limitations of this section. If an  
129 applicant applying for the tax credit meets the criteria required under this section, the department  
130 shall issue a certificate in the appropriate amount. If an applicant receives a tax credit for  
131 maintenance costs as a part of the applicant's acquisition costs, the department shall post on its  
132 Internet web site the amount and type of maintenance costs and a description of the  
133 redevelopment project for which the applicant received a tax credit within thirty days after the  
134 department issues the certificate to the applicant.

135 7. The total aggregate amount of tax credits authorized under this section shall not  
136 exceed ninety-five million dollars. At no time shall the annual amount of the tax credits issued  
137 under this section exceed ten million dollars. **To the extent that as of the first day of**  
138 **December in any year, less than ten million dollars in tax credits have been issued under**  
139 **the provisions of this section, such remaining unissued tax credits shall be made available**  
140 **for allocation pursuant to the provisions of section 135.704, RSMo.** If the tax credits that are  
141 to be issued under this section exceed, in any year, the ten million dollar limitation, the  
142 department shall either:

143 (1) Issue tax credits to the applicant in the amount of ten million dollars, if there is only  
144 one applicant entitled to receive tax credits in that year; or

145 (2) Issue the tax credits on a pro rata basis to all applicants entitled to receive tax credits  
146 in that year. Any amount of tax credits, which an applicant is, or applicants are, entitled to



147 receive on an annual basis and are not issued due to the ten million dollar limitation, shall be  
148 carried forward for the benefit of the applicant or applicants to subsequent years. No tax credits  
149 provided under this section shall be authorized after August 28, 2013. Any tax credits which  
150 have been authorized on or before August 28, 2013, but not issued, may be issued, subject to the  
151 limitations provided under this subsection, until all such authorized tax credits have been issued.

152 8. Upon issuance of any tax credits pursuant to this section, the department shall report  
153 to the municipal authority the applicant's name and address, the parcel numbers of the eligible  
154 parcels for which the tax credits were issued, the itemized acquisition costs and interest costs for  
155 which tax credits were issued, and the total value of the tax credits issued. The municipal  
156 authority and the state shall not consider the amount of the tax credits as an applicant's cost, but  
157 shall include the tax credits in any sources and uses and cost benefit analysis reviewed or created  
158 for the purpose of awarding other economic incentives. The amount of the tax credits shall not  
159 be considered an applicant's cost in the evaluation of the amount of any award of any other  
160 economic incentives, but shall be considered in measuring the reasonableness of the rate of  
161 return to the applicant with respect to such award of other economic incentives. The municipal  
162 authority shall provide the report to any relevant commission, board, or entity responsible for the  
163 evaluation and recommendation or approval of other economic incentives to assist in the  
164 redevelopment of the eligible project area. Tax credits authorized under this section shall  
165 constitute redevelopment tax credits, as such term is defined under section 135.800 RSMo, and  
166 shall be subject to all provisions applicable to redevelopment tax credits provided under sections  
167 135.800 to 135.830 RSMo.

168 9. The department may promulgate rules to implement the provisions of this section.  
169 Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created  
170 under the authority delegated in this section shall become effective only if it complies with and  
171 is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,  
172 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested  
173 with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date,  
174 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
175 rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid  
176 and void.

135.484. 1. Beginning January 1, 2000, tax credits shall be allowed pursuant to section  
2 135.481 in an amount not to exceed sixteen million dollars per year. Of this total amount of tax  
3 credits in any given year, eight million dollars shall be set aside for projects in areas described  
4 in subdivision (6) of section 135.478 and eight million dollars for projects in areas described in  
5 subdivision (10) of section 135.478. The maximum tax credit for a project consisting of  
6 multiple-unit qualifying residences in a distressed community shall not exceed three million

7 dollars. **To the extent that as of the first day of December in any year, less than sixteen**  
8 **million dollars in tax credits have been issued under the provisions of this section, such**  
9 **remaining unissued tax credits shall be made available for allocation under the provisions**  
10 **of section 135.704.**

11         2. Any amount of credit which exceeds the tax liability of a taxpayer for the tax year in  
12 which the credit is first claimed may be carried back to any of the taxpayer's three prior tax years  
13 and carried forward to any of the taxpayer's five subsequent tax years. A certificate of tax credit  
14 issued to a taxpayer by the department may be assigned, transferred, sold or otherwise conveyed.  
15 Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a  
16 notarized endorsement shall be filed with the department specifying the name and address of the  
17 new owner of the tax credit and the value of the credit.

18         3. The tax credits allowed pursuant to sections 135.475 to 135.487 may not be claimed  
19 in addition to any other state tax credits, with the exception of the historic structures  
20 rehabilitation tax credit authorized pursuant to sections 253.545 to 253.559, RSMo, which  
21 insofar as sections 135.475 to 135.487 are concerned may be claimed only in conjunction with  
22 the tax credit allowed pursuant to subsection 4 of section 135.481. In order for a taxpayer  
23 eligible for the historic structures rehabilitation tax credit to claim the tax credit allowed pursuant  
24 to subsection 4 of section 135.481, the taxpayer must comply with the requirements of sections  
25 253.545 to 253.559, RSMo, and in such cases, the amount of the tax credit pursuant to  
26 subsection 4 of section 135.481 shall be limited to the lesser of twenty percent of the taxpayer's  
27 eligible costs or forty thousand dollars.

135.535. 1. A corporation, limited liability corporation, partnership or sole  
2 proprietorship, which moves its operations from outside Missouri or outside a distressed  
3 community into a distressed community, or which commences operations in a distressed  
4 community on or after January 1, 1999, and in either case has more than seventy-five percent of  
5 its employees at the facility in the distressed community, and which has fewer than one hundred  
6 employees for whom payroll taxes are paid, and which is a manufacturing, biomedical, medical  
7 devices, scientific research, animal research, computer software design or development,  
8 computer programming, including Internet, web hosting, and other information technology,  
9 wireless or wired or other telecommunications or a professional firm shall receive a forty percent  
10 credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than taxes  
11 withheld pursuant to sections 143.191 to 143.265, RSMo, for each of the three years after such  
12 move, if approved by the department of economic development, which shall issue a certificate  
13 of eligibility if the department determines that the taxpayer is eligible for such credit. The  
14 maximum amount of credits per taxpayer set forth in this subsection shall not exceed one  
15 hundred twenty-five thousand dollars for each of the three years for which the credit is claimed.

16 The department of economic development, by means of rule or regulation promulgated pursuant  
17 to the provisions of chapter 536, RSMo, shall assign appropriate North American Industry  
18 Classification System numbers to the companies which are eligible for the tax credits provided  
19 for in this section. Such three-year credits shall be awarded only one time to any company which  
20 moves its operations from outside of Missouri or outside of a distressed community into a  
21 distressed community or to a company which commences operations within a distressed  
22 community. A taxpayer shall file an application for certification of the tax credits for the first  
23 year in which credits are claimed and for each of the two succeeding taxable years for which  
24 credits are claimed.

25         2. Employees of such facilities physically working and earning wages for that work  
26 within a distressed community whose employers have been approved for tax credits pursuant to  
27 subsection 1 of this section by the department of economic development for whom payroll taxes  
28 are paid shall also be eligible to receive a tax credit against individual income tax, imposed  
29 pursuant to chapter 143, RSMo, equal to one and one-half percent of their gross salary paid at  
30 such facility earned for each of the three years that the facility receives the tax credit provided  
31 by this section, so long as they were qualified employees of such entity. The employer shall  
32 calculate the amount of such credit and shall report the amount to the employee and the  
33 department of revenue.

34         3. A tax credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo,  
35 other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in lieu of the  
36 credit against income taxes as provided in subsection 1 of this section, may be taken by such an  
37 entity in a distressed community in an amount of forty percent of the amount of funds expended  
38 for computer equipment and its maintenance, medical laboratories and equipment, research  
39 laboratory equipment, manufacturing equipment, fiber optic equipment, high speed  
40 telecommunications, wiring or software development expense up to a maximum of seventy-five  
41 thousand dollars in tax credits for such equipment or expense per year per entity and for each of  
42 three years after commencement in or moving operations into a distressed community.

43         4. A corporation, partnership or sole partnership, which has no more than one hundred  
44 employees for whom payroll taxes are paid, which is already located in a distressed community  
45 and which expends funds for such equipment pursuant to subsection 3 of this section in an  
46 amount exceeding its average of the prior two years for such equipment, shall be eligible to  
47 receive a tax credit against income taxes owed pursuant to chapters 143, 147 and 148, RSMo,  
48 in an amount equal to the lesser of seventy-five thousand dollars or twenty-five percent of the  
49 funds expended for such additional equipment per such entity. Tax credits allowed pursuant to  
50 this subsection or subsection 1 of this section may be carried back to any of the three prior tax  
51 years and carried forward to any of the **next** five tax years.

52           5. An existing corporation, partnership or sole proprietorship that is located within a  
53 distressed community and that relocates employees from another facility outside of the distressed  
54 community to its facility within the distressed community, and an existing business located  
55 within a distressed community that hires new employees for that facility may both be eligible for  
56 the tax credits allowed by subsections 1 and 3 of this section. To be eligible for such tax credits,  
57 such a business, during one of its tax years, shall employ within a distressed community at least  
58 twice as many employees as were employed at the beginning of that tax year. A business hiring  
59 employees shall have no more than one hundred employees before the addition of the new  
60 employees. This subsection shall only apply to a business which is a manufacturing, biomedical,  
61 medical devices, scientific research, animal research, computer software design or development,  
62 computer programming or telecommunications business, or a professional firm.

63           6. Tax credits shall be approved for applicants meeting the requirements of this section  
64 in the order that such applications are received. Certificates of tax credits issued in accordance  
65 with this section may be transferred, sold or assigned by notarized endorsement which names the  
66 transferee.

67           7. The tax credits allowed pursuant to subsections 1, 2, 3, 4 and 5 of this section shall  
68 be for an amount of no more than ten million dollars for each year beginning in 1999. To the  
69 extent there are available tax credits remaining under the ten million dollar cap provided in this  
70 section, up to one hundred thousand dollars in the remaining credits shall first be used for tax  
71 credits authorized under section 135.562. **To the extent that as of the first day of December**  
72 **in any year, less than ten million dollars in tax credits have been issued under the**  
73 **provisions of this section, such remaining unissued tax credits shall be made available for**  
74 **allocation under the provisions of section 135.704.** The total maximum credit for all entities  
75 already located in distressed communities and claiming credits pursuant to subsection 4 of this  
76 section shall be seven hundred and fifty thousand dollars. The department of economic  
77 development in approving taxpayers for the credit as provided for in subsection 6 of this section  
78 shall use information provided by the department of revenue regarding taxes paid in the previous  
79 year, or projected taxes for those entities newly established in the state, as the method of  
80 determining when this maximum will be reached and shall maintain a record of the order of  
81 approval. Any tax credit not used in the period for which the credit was approved may be carried  
82 over until the full credit has been allowed.

83           8. A Missouri employer relocating into a distressed community and having employees  
84 covered by a collective bargaining agreement at the facility from which it is relocating shall not  
85 be eligible for the credits in subsection 1, 3, 4 or 5 of this section, and its employees shall not be  
86 eligible for the credit in subsection 2 of this section if the relocation violates or terminates a

87 collective bargaining agreement covering employees at the facility, unless the affected collective  
88 bargaining unit concurs with the move.

89 9. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax  
90 credits allowed in this section and the tax credits otherwise allowed in section 135.110, or the  
91 tax credits, exemptions, and refund otherwise allowed in sections 135.200, 135.220, 135.225 and  
92 135.245, respectively, for the same business for the same tax period.

135.680. 1. As used in this section, the following terms shall mean:

2 (1) "Adjusted purchase price", the product of:

3 (a) The amount paid to the issuer of a qualified equity investment for such qualified  
4 equity investment; and

5 (b) The following fraction:

6 a. The numerator shall be the dollar amount of qualified low-income community  
7 investments held by the issuer in this state as of the credit allowance date during the applicable  
8 tax year; and

9 b. The denominator shall be the total dollar amount of qualified low-income community  
10 investments held by the issuer in all states as of the credit allowance date during the applicable  
11 tax year;

12 c. For purposes of calculating the amount of qualified low-income community  
13 investments held by an issuer, an investment shall be considered held by an issuer even if the  
14 investment has been sold or repaid; provided that the issuer reinvests an amount equal to the  
15 capital returned to or recovered by the issuer from the original investment, exclusive of any  
16 profits realized, in another qualified low-income community investment within twelve months  
17 of the receipt of such capital. An issuer shall not be required to reinvest capital returned from  
18 qualified low-income community investments after the sixth anniversary of the issuance of the  
19 qualified equity investment, the proceeds of which were used to make the qualified low-income  
20 community investment, and the qualified low-income community investment shall be considered  
21 held by the issuer through the seventh anniversary of the qualified equity investment's issuance;

22 (2) "Applicable percentage", zero percent for each of the first two credit allowance dates,  
23 seven percent for the third credit allowance date, and eight percent for the next four credit  
24 allowance dates;

25 (3) "Credit allowance date", with respect to any qualified equity investment:

26 (a) The date on which such investment is initially made; and

27 (b) Each of the six anniversary dates of such date thereafter;

28 (4) "Long-term debt security", any debt instrument issued by a qualified community  
29 development entity, at par value or a premium, with an original maturity date of at least seven  
30 years from the date of its issuance, with no acceleration of repayment, amortization, or

31 prepayment features prior to its original maturity date, and with no distribution, payment, or  
32 interest features related to the profitability of the qualified community development entity or the  
33 performance of the qualified community development entity's investment portfolio. The  
34 foregoing shall in no way limit the holder's ability to accelerate payments on the debt instrument  
35 in situations where the issuer has defaulted on covenants designed to ensure compliance with this  
36 section or Section 45D of the Internal Revenue Code of 1986, as amended;

37 (5) "Qualified active low-income community business", the meaning given such term  
38 in Section 45D of the Internal Revenue Code of 1986, as amended; provided that any business  
39 that derives or projects to derive fifteen percent or more of its annual revenue from the rental or  
40 sale of real estate shall not be considered to be a qualified active low-income community  
41 business;

42 (6) "Qualified community development entity", the meaning given such term in Section  
43 45D of the Internal Revenue Code of 1986, as amended; provided that such entity has entered  
44 into an allocation agreement with the Community Development Financial Institutions Fund of  
45 the U.S. Treasury Department with respect to credits authorized by Section 45D of the Internal  
46 Revenue Code of 1986, as amended, which includes the state of Missouri within the service area  
47 set forth in such allocation agreement;

48 (7) "Qualified equity investment", any equity investment in, or long-term debt security  
49 issued by, a qualified community development entity that:

50 (a) Is acquired after September 4, 2007, at its original issuance solely in exchange for  
51 cash;

52 (b) Has at least eighty-five percent of its cash purchase price used by the issuer to make  
53 qualified low-income community investments; and

54 (c) Is designated by the issuer as a qualified equity investment under this subdivision and  
55 is certified by the department of economic development as not exceeding the limitation contained  
56 in subsection 2 of this section.

57

58 This term shall include any qualified equity investment that does not meet the provisions of  
59 paragraph (a) of this subdivision if such investment was a qualified equity investment in the  
60 hands of a prior holder;

61 (8) "Qualified low-income community investment", any capital or equity investment in,  
62 or loan to, any qualified active low-income community business. With respect to any one  
63 qualified active low-income community business, the maximum amount of qualified low-income  
64 community investments made in such business, on a collective basis with all of its affiliates, that  
65 may be used from the calculation of any numerator described in subparagraph a. of paragraph

66 (b) of subdivision (1) of this subsection shall be ten million dollars whether issued to one or  
67 several qualified community development entities;

68 (9) "Tax credit", a credit against the tax otherwise due under chapter 143, RSMo,  
69 excluding withholding tax imposed in sections 143.191 to 143.265, RSMo, or otherwise due  
70 under section 375.916, RSMo, or chapter 147, 148, or 153, RSMo;

71 (10) "Taxpayer", any individual or entity subject to the tax imposed in chapter 143,  
72 RSMo, excluding withholding tax imposed in sections 143.191 to 143.265, RSMo, or the tax  
73 imposed in section 375.916, RSMo, or chapter 147, 148, or 153, RSMo.

74 2. A taxpayer that makes a qualified equity investment earns a vested right to tax credits  
75 under this section. On each credit allowance date of such qualified equity investment the  
76 taxpayer, or subsequent holder of the qualified equity investment, shall be entitled to a tax credit  
77 during the taxable year including such credit allowance date. The tax credit amount shall be  
78 equal to the applicable percentage of the adjusted purchase price paid to the issuer of such  
79 qualified equity investment. The amount of the tax credit claimed shall not exceed the amount  
80 of the taxpayer's state tax liability for the tax year for which the tax credit is claimed. No tax  
81 credit claimed under this section shall be refundable or transferable. Tax credits earned by a  
82 partnership, limited liability company, S-corporation, or other pass-through entity may be  
83 allocated to the partners, members, or shareholders of such entity for their direct use in  
84 accordance with the provisions of any agreement among such partners, members, or  
85 shareholders. Any amount of tax credit that the taxpayer is prohibited by this section from  
86 claiming in a taxable year may be carried forward to any of the taxpayer's five subsequent taxable  
87 years. The department of economic development shall limit the monetary amount of qualified  
88 equity investments permitted under this section to a level necessary to limit tax credit utilization  
89 at no more than fifteen million dollars of tax credits in any fiscal year. **To the extent that as of**  
90 **the last day of April in any year, less than fifteen million dollars in tax credits have been**  
91 **issued under the provisions of this section, such remaining unissued tax credits shall be**  
92 **made available for allocation under the provisions of section 135.704.** Such limitation on  
93 qualified equity investments shall be based on the anticipated utilization of credits without regard  
94 to the potential for taxpayers to carry forward tax credits to later tax years.

95 3. The issuer of the qualified equity investment shall certify to the department of  
96 economic development the anticipated dollar amount of such investments to be made in this state  
97 during the first twelve-month period following the initial credit allowance date. If on the second  
98 credit allowance date, the actual dollar amount of such investments is different than the amount  
99 estimated, the department of economic development shall adjust the credits arising on the second  
100 allowance date to account for such difference.

101           4. The department of economic development shall recapture the tax credit allowed under  
102 this section with respect to such qualified equity investment under this section if:

103           (1) Any amount of the federal tax credit available with respect to a qualified equity  
104 investment that is eligible for a tax credit under this section is recaptured under Section 45D of  
105 the Internal Revenue Code of 1986, as amended; or

106           (2) The issuer redeems or makes principal repayment with respect to a qualified equity  
107 investment prior to the seventh anniversary of the issuance of such qualified equity investment.

108

109 Any tax credit that is subject to recapture shall be recaptured from the taxpayer that claimed the  
110 tax credit on a return.

111           5. The department of economic development shall promulgate rules to implement the  
112 provisions of this section, including recapture provisions on a scaled proportional basis, and to  
113 administer the allocation of tax credits issued for qualified equity investments, which shall be  
114 conducted on a first-come, first-serve basis. Any rule or portion of a rule, as that term is defined  
115 in section 536.010, RSMo, that is created under the authority delegated in this section shall  
116 become effective only if it complies with and is subject to all of the provisions of chapter 536,  
117 RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are  
118 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,  
119 RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently  
120 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
121 after September 4, 2007, shall be invalid and void.

122           6. For fiscal years following fiscal year 2010, qualified equity investments shall not be  
123 made under this section unless reauthorization is made pursuant to this subsection. For all fiscal  
124 years following fiscal year 2010, unless the general assembly adopts a concurrent resolution  
125 granting authority to the department of economic development to approve qualified equity  
126 investments for the Missouri new markets development program and clearly describing the  
127 amount of tax credits available for the next fiscal year, or otherwise complies with the provisions  
128 of this subsection, no qualified equity investments may be permitted to be made under this  
129 section. The amount of available tax credits contained in such a resolution shall not exceed the  
130 limitation provided under subsection 2 of this section. In any year in which the provisions of this  
131 section shall sunset pursuant to subsection 7 of this section, reauthorization shall be made by  
132 general law and not by concurrent resolution. Nothing in this subsection shall preclude a  
133 taxpayer who makes a qualified equity investment prior to the expiration of authority to make  
134 qualified equity investments from claiming tax credits relating to such qualified equity  
135 investment for each applicable credit allowance date.

136           7. Under section 23.253, RSMo, of the Missouri sunset act:



137 (1) The provisions of the new program authorized under this section shall automatically  
138 sunset six years after September 4, 2007, unless reauthorized by an act of the general assembly;  
139 and

140 (2) If such program is reauthorized, the program authorized under this section shall  
141 automatically sunset twelve years after the effective date of the reauthorization of this section;  
142 and

143 (3) This section shall terminate on September first of the calendar year immediately  
144 following the calendar year in which the program authorized under this section is sunset.

145

146 However, nothing in this subsection shall preclude a taxpayer who makes a qualified equity  
147 investment prior to sunset of this section under the provisions of section 23.253, RSMo, from  
148 claiming tax credits relating to such qualified equity investment for each credit allowance date.

**135.704. 1. As used in this section, the following terms mean:**

2 (1) "Department", the department of agriculture of the state of Missouri;

3 (2) "Director", the director of the department of agriculture of the state of  
4 Missouri;

5 (3) "Milk plant", any place, premises, or establishment where graded fluid milk or  
6 fluid milk products are collected, handled, processed, stored, bottled, pasteurized, and  
7 prepared for distribution, except an establishment where graded fluid milk products are  
8 sold at retail as purchased from a milk plant;

9 (4) "Milk producer", any person with a valid Missouri milk producer identification  
10 number who operates a dairy farm and provides, sells, or offers milk for sale to a milk  
11 plant, receiving station, or transfer station;

12 (5) "Taxpayer", any individual, partnership, or corporation as described in  
13 sections 143.441 and 143.471, RSMo, that is subject to the tax imposed in chapter 143,  
14 RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, or the  
15 tax imposed in chapter 147, RSMo.

16 2. For all taxable years beginning on or after January 1, 2010, any resident  
17 taxpayer who is actively engaged in business as a milk producer shall be granted a tax  
18 credit based upon the amount of milk produced and sold. The tax credit authorized under  
19 this section shall be allowed based upon milk production for any month in which the  
20 average of the USDA Uniform Prices in Federal Order Numbers 7 and 32 drops below the  
21 announced production price during the calendar year. The tax credit authorized under  
22 this section may be claimed against a taxpayer's state tax liability in the year of issuance.  
23 Such tax credit shall be nonrefundable, transferrable and valid only against the state tax  
24 liability for the tax year of issuance. However, tax credits earned by a partnership, limited

25 liability company, S-corporation, or other pass-through entity may be allocated to the  
26 partners, members, or shareholders of such entity for their direct use in accordance with  
27 the provisions of any agreement among such partners, members, or shareholders.

28       **3. Taxpayers shall apply for the milk production tax credit by submitting an**  
29 **application to the department of agriculture on a form provided by the department. As**  
30 **part of the application, the taxpayer shall provide his or her producer identification**  
31 **number and documentation as to the amount of milk produced during the tax credit**  
32 **allowance period.**

33       **4. As of the first day of January, 2010, and the first day of every calendar month**  
34 **thereafter, the director, or his or her designee, shall report and make available for public**  
35 **inspection the announced price based upon the following factors:**

36           **(1) The average price of milk in the top five states where milk is imported into**  
37 **Missouri;**

38           **(2) The average transportation costs of importing milk from the top five states**  
39 **where milk is imported into Missouri; and**

40           **(3) The cost of milk production in the state of Missouri.**

41       **5. In any calendar month in which tax credits are available for issuance under the**  
42 **provisions of this section, eligible taxpayers may be issued a credit in an amount equal to**  
43 **the sum of difference between the average of the USDA Uniform Prices in Federal Order**  
44 **Numbers 7 and 32 and the announced price multiplied by the amount of milk produced**  
45 **during such month in pounds divided by one hundred. The department shall not issue**  
46 **more than twenty-five thousand dollars in tax credits per milk producer taxpayer per year.**  
47 **The department shall not issue more tax credits in any calendar year than are allocable to**  
48 **this program for such calendar year as provided under section 32.115, RSMo, section**  
49 **99.1205, RSMo, sections 135.484, 135.535, and 135.680, and section 208.770, RSMo.**

50       **6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**  
51 **that is created under the authority delegated in this section shall become effective only if**  
52 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**  
53 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**  
54 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**  
55 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**  
56 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**  
57 **adopted after August 28, 2009, shall be invalid and void.**

58       **7. Under section 23.253, RSMo, of the Missouri sunset act:**

59           **(1) The provisions of the new program authorized under this section shall**  
60 **automatically sunset two years after August 28, 2009, unless reauthorized by an act of the**  
61 **general assembly; and**

62           **(2) If such program is reauthorized, the program authorized under this section**  
63 **shall automatically sunset one year after the effective date of the reauthorization of this**  
64 **section; and**

65           **(3) This section shall terminate on September first of the calendar year immediately**  
66 **following the calendar year in which the program authorized under this section is sunset.**

208.770. 1. Moneys deposited in or withdrawn pursuant to subsection 1 of section  
2 208.760 from a family development account by an account holder are exempted from taxation  
3 pursuant to chapter 143, RSMo, excluding withholding tax imposed by sections 143.191 to  
4 143.265, RSMo, and chapter 147, 148 or 153, RSMo, provided, however, that any money  
5 withdrawn for an unapproved use should be subject to tax as required by law.

6           2. Interest earned by a family development account is exempted from taxation pursuant  
7 to chapter 143, RSMo.

8           3. Any funds in a family development account, including accrued interest, shall be  
9 disregarded when determining eligibility to receive, or the amount of, any public assistance or  
10 benefits.

11           4. A program contributor shall be allowed a credit against the tax imposed by chapter  
12 143, RSMo, excluding withholding tax imposed by sections 143.191 to 143.265, RSMo, and  
13 chapter 147, 148 or 153, RSMo, pursuant to sections 208.750 to 208.775. Contributions up to  
14 fifty thousand dollars per program contributor are eligible for the tax credit which shall not  
15 exceed fifty percent of the contribution amount.

16           5. The department of economic development shall verify all tax credit claims by  
17 contributors. The administrator of the community-based organization, with the cooperation of  
18 the participating financial institutions, shall submit the names of contributors and the total  
19 amount each contributor contributes to a family development account reserve fund for the  
20 calendar year. The director shall determine the date by which such information shall be  
21 submitted to the department by the local administrator. The department shall submit verification  
22 of qualified tax credits pursuant to sections 208.750 to 208.775 to the department of revenue.

23           6. The total tax credits authorized pursuant to sections 208.750 to 208.775 shall not  
24 exceed four million dollars in any fiscal year. **To the extent that as of the last day of April in**  
25 **any year, less than four million dollars in tax credits have been issued under the provisions**  
26 **of this section, such remaining unissued tax credits shall be made available for allocation**  
27 **under the provisions of section 135.704, RSMo.**

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