

FIRST REGULAR SESSION

SENATE BILL NO. 229

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BRAY.

Read 1st time January 8, 2003, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0864S.011

AN ACT

To repeal sections 135.400, 135.403, 135.408, 135.411, 135.423, 135.530, 348.300 and 348.302, RSMo, section 135.535 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701 of the ninetieth general assembly, first regular session and section 135.535 as enacted by conference committee substitute no. 2 for house substitute for house committee substitute for senate bill no. 20 of the ninetieth general assembly, first regular session, RSMo, and to enact in lieu thereof nine new sections relating to tax relief in distressed communities, with an emergency clause.

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

Section A. Sections 135.400, 135.403, 135.408, 135.411, 135.423, 135.530, 348.300 and 348.302, RSMo, section 135.535 as enacted by conference committee substitute for senate substitute for senate committee substitute for house substitute for house committee substitute for house bill no. 701 of the ninetieth general assembly, first regular session and section 135.535 as enacted by conference committee substitute no. 2 for house substitute for house committee substitute for senate bill no. 20, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 135.400, 135.403, 135.408, 135.411, 135.423, 135.530, 135.535, 348.300, and 348.302, to read as follows:

135.400. As used in sections 135.400 to 135.430, the following terms mean:

(1) "Certificate", a tax credit certificate issued by the department of economic development in accordance with sections 135.400 to 135.430;

(2) "Community bank", either a bank community development corporation or development

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

bank, which are financial organizations which receive investments from commercial financial institutions regulated by the federal reserve, the office of the comptroller of the currency, the office of thrift supervision, or the Missouri division of finance. Community banks, in addition to their other privileges, shall be allowed to make loans to businesses or equity investments in businesses or in real estate provided that such transactions have associated public benefits;

(3) "Community development corporation", a not-for-profit corporation [and a recipient of Community Development Block Grant (CDBG) funds pursuant to the Housing Community Development Act of 1974. Such corporations design specific, comprehensive programs to stimulate economic development, housing or other public benefits leading to the development of economically sustainable neighborhoods or communities] **whose board of directors is composed of business, civic and community leaders, and whose primary purpose is to encourage and promote the industrial, economic, entrepreneurial, commercial and civic development or redevelopment of a community or area, including the provision of housing and community economic development projects that benefit low-income individuals and communities;**

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

(5) "Director", the director of the department of economic development, or a person acting under the supervision of the director;

(6) "Investment", a transaction in which a Missouri small business or a community bank receives a monetary benefit from an investor pursuant to the provisions of sections 135.403 to 135.414;

(7) "Investor", an individual, partnership, financial institution, trust or corporation meeting the eligibility requirements of sections 135.403 to 135.414. In the case of partnerships and nontaxable trusts, the individual partners or beneficiaries shall be treated as the investors;

(8) "Missouri small business", an independently owned and operated business as defined in Title 15 U.S.C. Section 632(a) and as described by Title 13 CFR Part 121, which is headquartered in Missouri and which employs at least eighty percent of its employees in Missouri, except that no such small business shall employ more than one hundred employees. Such businesses must be involved in interstate or intrastate commerce for the purpose of manufacturing, processing or assembling products, conducting research and development, or providing services in interstate commerce, but excluding retail, real estate, insurance or professional services. For the purpose of qualifying for the tax credit pursuant to sections 135.400 to 135.430, "Missouri small business" shall include cooperative marketing associations organized pursuant to chapter 274, RSMo, which are engaged in the business of producing and marketing fuels derived from agriculture commodities, without regard for whether a cooperative marketing association has more than one hundred employees. Cooperative marketing associations organized pursuant to chapter 274, RSMo, shall not be required to comply

with the requirements of section 135.414;

(9) "Primary employment", work which pays at least the minimum wage and which is not seasonal or part-time;

(10) "Principal owners", one or more persons who own an aggregate of ~~[fifty]~~ **thirty-five** percent or more of the Missouri small business and who are involved in the operation of the business as a full-time professional activity;

(11) "Project", any commercial or industrial business or other economic development activity undertaken in a target area, designed to reduce conditions of blight, unemployment or widespread reliance on public assistance which creates permanent primary employment opportunities;

(12) "State tax liability", any liability incurred by a taxpayer pursuant to the provisions of chapter 143, RSMo, chapter 147, RSMo, chapter 148, RSMo, section 375.916, RSMo, and chapter 153, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo, and related provisions[;

(13) "Target area", a group of blocks or a self-defined neighborhood where the rate of poverty in the area is greater than twice the national poverty rate and as defined by the department of social services in conjunction with the department of economic development. Areas of the state satisfying the criteria of this subdivision may be designated as a "target area" following appropriate findings made and certified by the departments of economic development and social services. In making such findings, the departments of economic development and social services may use any commonly recognized records and statistical indices published or made available by any agency or instrumentality of the federal or state government. No area of the state shall be a target area until so certified by the department of social services and the revitalization plan submitted pursuant to section 208.335, RSMo, has received approval].

135.403. 1. Any investor who makes a qualified investment in a Missouri small business shall be entitled to receive a tax credit equal to forty percent of the amount of the investment or, in the case of a qualified investment in a Missouri small business in a distressed community as defined by section 135.530, a credit equal to sixty percent of the amount of the investment, and any investor who makes a qualified investment in a community bank or a community development corporation shall be entitled to receive a tax credit equal to fifty percent of the amount of the investment if the investment is made in a community bank or community development corporation for direct investment. The total amount of tax credits available for qualified investments in Missouri small businesses shall not exceed thirteen million dollars and at least four million dollars of the amount authorized by this section and certified by the department of economic development shall be for investment in Missouri small businesses in distressed communities. Authorization for all or any part of this four-million-dollar amount shall in no way restrict the eligibility of Missouri small businesses in distressed communities, as defined

in section 135.530, for the remaining amounts authorized within this section. No more than twenty percent of the tax credits available each year for investments in community banks or community development corporations for direct investment shall be certified for any one project, as defined in section 135.400. The tax credit shall be evidenced by a tax credit certificate in accordance with the provisions of sections 135.400 to 135.430 and may be used to satisfy the state tax liability of the owner of the certificate that becomes due in the tax year in which the qualified investment is made, or in any of the **[ten] five** tax years thereafter. When the qualified small business is in a distressed community, as defined in section 135.530, the tax credit may also be used to satisfy the state tax liability of the owner of the certificate that was due during each of the previous three years in addition to the year in which the investment is made and any of the **[ten] five** years thereafter. No investor may receive a tax credit pursuant to sections 135.400 to 135.430 unless that person presents a tax credit certificate to the department of revenue for payment of such state tax liability. The department of revenue shall grant tax credits in the same order as established by subsection 1 of section 32.115, RSMo. Subject to the provisions of sections 135.400 to 135.430, certificates of tax credit issued in accordance with these sections may be transferred, sold or assigned by **filing a** notarized endorsement thereof **with the department** which names the transferee **and the amount of tax credit transferred**.

2. Five hundred thousand dollars in tax credits shall be available annually from the total amount of tax credits authorized by section 32.110, RSMo, and subdivision (4) of subsection 2 of section 32.115, RSMo, as a result of investments in community banks or community development corporations. Aggregate investments eligible for tax credits in any one Missouri small business shall not be more than one million dollars. Aggregate investments eligible for tax credits in any one Missouri small business shall not be less than five thousand dollars as of the date of issuance of the first tax credit certificate for investment in that business.

3. This section and section 620.1039, RSMo, shall become effective January 1, 2001.

135.408. A qualified investment in a Missouri small business may be made either through an unsecured loan or the purchase of equity or unsecured debt securities of such business. Investors in a small business qualifying for tax credits **[under] pursuant to** the provisions of sections 135.400 to 135.430, however, must collectively own less than **[fifty] sixty-five** percent of a business after their investments are made. Qualified investments in a Missouri small business must be expended for capital improvements, plant, equipment, research and development, or working capital for the business or such business activity as may be approved by the department.

135.411. The amount of the qualified investment made in a Missouri small business must remain in that business for a minimum of **[five] three** years **and, if the business is in a distressed community, it must remain in the distressed community for a minimum of five years**. Withdrawal of the investment prior to the minimum **[five-year]** period shall result

in revocation of the tax credit, and repayment of any amounts of the tax credit already applied against the investor's state tax liability, **but the department may prorate the revocation or repayment authorized by this section. The sale, change in control or going public of a business shall not trigger such a revocation if the business continues to operate.**

135.423. **Except as otherwise provided in this section,** the department may revoke a tax credit certificate **issued pursuant to sections 135.400 to 135.430 or enforce repayment of any amounts of the tax credit already applied against the investor's state liability** if any representation to the department in connection with the application proves to have been false when made or if the application violates any conditions established by the department and stated in the tax credit certificate. The revocation may be in full or in part as the department may determine. The department shall specify the amount of credit being revoked and shall send notice of the revocation to the investor and to the state department of revenue. **Any revocation, partial revocation or overpayment of a tax credit issued pursuant to sections 135.400 to 135.430 shall apply only to the original applicant for the tax credit and not to a good faith subsequent purchaser or transferee thereof.**

135.530. For the purposes of sections 100.010, 100.710 and 100.850, RSMo, sections 135.110, 135.200, 135.258, 135.313, 135.403, 135.405, 135.503, 135.530 and 135.545, section 215.030, RSMo, sections 348.300 and 348.302, RSMo, and sections 620.1400 to 620.1460, RSMo, "distressed community" means either a Missouri municipality within a metropolitan statistical area which has a median household income of under seventy percent of the median household income for the metropolitan statistical area, according to the last decennial census, or a United States census block group or contiguous group of block groups within a metropolitan statistical area which has a population of at least [two thousand] five hundred, and each block group having a median household income of under seventy percent of the median household income for the metropolitan area in Missouri, according to the last decennial census. In addition the definition shall include municipalities not in a metropolitan statistical area, with a median household income of under seventy percent of the median household income for the nonmetropolitan areas in Missouri according to the last decennial census or a census block group or contiguous group of block groups which has a population of at least two thousand five hundred each block group having a median household income of under seventy percent of the median household income for the nonmetropolitan areas of Missouri, according to the last decennial census. **In metropolitan statistical areas, the definition shall include areas that are designated as either a federal empowerment zone, a federal enhanced enterprise community, or a state enterprise zone that was originally designated before January 1, 1986, but will not include expansions of such zones done after March 16, 1988.**

135.535. 1. A corporation, limited liability corporation, partnership or sole proprietorship, which moves its operations from outside Missouri or outside a distressed community into a

distressed community, or which commences operations in a distressed community on or after January 1, 1999, and in either case has more than [seventy-five] **sixty** percent of its employees at [the facility] **facilities** in [the] distressed [community] **communities**, and which has fewer than one hundred **fifty** employees for whom payroll taxes are paid, and which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming, telecommunications or a professional firm shall receive a forty percent credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, for each of the three years after such move, if approved by the department of economic development, which shall issue a certificate of eligibility if the department determines that the taxpayer is eligible for such credit. The maximum amount of credits per taxpayer set forth in this subsection shall not exceed one hundred twenty-five thousand dollars for each of the three years for which the credit is claimed. The department of economic development, by means of rule or regulation promulgated pursuant to the provisions of chapter 536, RSMo, shall [assign] **specify which** appropriate standard industrial classification numbers [to the companies which are], **or North American Industrial Classification System numbers assigned to a business make the business** eligible for the tax credits provided for in this section. Such three-year credits shall be awarded only one time to any company which moves its operations from outside of Missouri or outside of a distressed community into a distressed community or to a company which commences operations within a distressed community. A taxpayer shall file an application for certification of the tax credits for the first year in which credits are claimed and for each of the two succeeding taxable years for which credits are claimed.

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

3. A tax credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in lieu of the credit against income taxes as provided in subsection 1 of this section, may be taken by such an entity in a distressed community in an amount of forty percent of the amount of funds expended for **the purchase of or at least a two-year lease of** computer equipment and its maintenance, medical laboratories and equipment, research laboratory equipment, manufacturing

equipment, fiber optic equipment, high speed telecommunications, wiring or software development expense up to a maximum of seventy-five thousand dollars in tax credits for such equipment or expense per year per entity and for each of three years after commencement in or moving operations into a distressed community. **The maximum tax credit allowed pursuant to this subsection shall apply to entities which have previously qualified for a tax credit pursuant to this subsection for future tax years for which such entities qualify.**

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

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

6. Tax credits shall be approved for applicants meeting the requirements of this section in the order that such applications are received. Certificates of tax credits issued in accordance with this section may be transferred, sold or assigned by **filing a notarized endorsement thereof with the department** which names the transferee **and the amount of tax credits transferred, and any revocation, partial revocation or repayment of a tax credit issued pursuant to this section shall apply only to the original applicant for the tax credit and not to a good faith subsequent purchaser or transferee thereof.**

7. The tax credits allowed pursuant to subsections 1, 2, 3, 4 and 5 of this section shall be for an amount of no more than ten million dollars for each year beginning in 1999. The total

maximum credit for all entities already located in distressed communities and claiming credits pursuant to subsection 4 of this section shall be seven hundred and fifty thousand dollars. The department of economic development in approving taxpayers for the credit as provided for in subsection 6 of this section shall use information provided by the department of revenue regarding taxes paid in the previous year, or projected taxes for those entities newly established in the state, as the method of determining when this maximum will be reached and shall maintain a record of the order of approval. Any tax credit not used in the period for which the credit was approved may be carried over until the full credit has been allowed. **If the total amount of tax credits authorized pursuant to subsections 1, 2, and 3 of this section is not used in a given year, then such excess portion shall be added to the maximum amount of tax credits available pursuant to subsection 2 of section 348.302, RSMo, for the following year.**

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

9. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax credits allowed in this section and the tax credits otherwise allowed in section 135.110, or the tax credits, exemptions, and refund otherwise allowed in sections 135.200, 135.220, 135.225 and 135.245, respectively, for the same business for the same tax period. **A change in ownership or control of a taxpayer shall not revoke or otherwise restrict the tax credits allowed pursuant to this section.**

348.300. As used in sections 348.300 to 348.318, the following terms mean:

(1) "Commercial activity located in Missouri", any research, development, prototype fabrication, and subsequent precommercialization activity, or any activity related thereto, conducted in Missouri for the purpose of producing a service or a product or process for manufacture, assembly or sale or developing a service based on such a product or process by any person, corporation, partnership, joint venture, unincorporated association, trust or other organization doing business in Missouri. Subsequent to January 1, 1999, a commercial activity located in Missouri shall mean only such activity that is located within a distressed community, as defined in section 135.530, RSMo;

(2) "Follow-up capital", capital provided to a commercial activity located in Missouri **or any other Missouri business** in which a qualified fund has previously invested seed capital or start-up capital **within the previous three years** and which does not exceed ten times the amount of such seed and start-up capital;

(3) "Qualified contribution", cash contribution to a qualified fund;

(4) "Qualified economic development organization", any corporation organized under the provisions of chapter 355, RSMo, which has as of January 1, 1991, obtained a contract with the department of economic development to operate an innovation center to promote, assist and coordinate the research and development of new services, products or processes in the state of Missouri; and the Missouri technology corporation organized pursuant to the provisions of sections 348.253 to 348.266;

(5) "Qualified fund", any corporation, partnership, joint venture, unincorporated association, trust or other organization which is established under the laws of Missouri after December 31, 1985, which meets all of the following requirements established by this subdivision. The fund shall have as its sole purpose and business the making of investments, of which at least ninety percent of the dollars invested shall be qualified investments. The fund shall enter into a contract with one or more qualified economic development organizations which shall entitle the qualified economic development organizations to receive not less than ten percent of all distributions of equity and dividends or other earnings of the fund. Such contracts shall require the qualified fund to transfer to the Missouri technology corporation organized pursuant to the provisions of sections 348.253 to 348.266, this interest and make corresponding distributions thereto in the event the qualified economic development organization holding such interest is dissolved or ceases to do business for a period of one year or more;

(6) "Qualified investment", any investment of seed capital, start-up capital, or follow-up capital in any commercial activity located in Missouri;

(7) "Person", any individual, corporation, partnership or other entity;

(8) "Seed capital", capital provided to a commercial activity located in Missouri for research, development and precommercialization activities to prove a concept for a new product or process or service, and for activities related thereto;

(9) "Start-up capital", capital provided to a commercial activity located in Missouri for use in preproduction product development or service development or initial marketing thereof, and for activities related thereto;

(10) "State tax liability", any state tax liability incurred by a taxpayer under the provisions of chapters 143, 147 and 148, RSMo, exclusive of the provisions relating to the withholding of tax as provided for in sections 143.191 to 143.265, RSMo, and related provisions;

(11) "Uninvested capital", the amount of any distribution, other than of earnings, by a qualified fund made within five years of the issuance of a certificate of tax credit as provided by sections 348.300 to 348.318; or the portion of all qualified contributions to a qualified fund which are not invested as qualified investments within five years of the issuance of a certificate of tax credit as provided by sections 348.300 to 348.318 to the extent that the amount not so invested exceeds ten percent of all such qualified contributions.

348.302. 1. Any person who makes a qualified contribution to a qualified fund shall be entitled to receive a tax credit equal to [fifty] **seventy-five** percent of the amount of the qualified contribution. The tax credit shall be evidenced by a tax credit certificate in accordance with the provisions of sections 348.300 to 348.318 and may be used to satisfy the state tax liability of the owner of such certificate that becomes due in the tax year in which the qualified contribution is made, or in any of the ten tax years thereafter. No person may receive a tax credit pursuant to sections 348.300 to 348.318 unless that person presents a tax credit certificate to the department of revenue for payment of such state tax liability.

2. The amount of such qualified contributions which can be made is limited so that the aggregate of all tax credits authorized [under] **pursuant to** the provisions of sections 348.300 to 348.318 shall not exceed nine million dollars. All tax credits authorized [under] **pursuant to** the provisions of this section may be transferred, sold or assigned.

[135.535. 1. A corporation, limited liability corporation, partnership or sole proprietorship, which moves its operations from outside Missouri or outside a distressed community into a distressed community, or which commences operations in a distressed community on or after January 1, 1999, and in either case has more than seventy-five percent of its employees at the facility in the distressed community, and which has fewer than one hundred employees for whom payroll taxes are paid, and which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming, telecommunications or a professional firm shall receive a forty percent credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo, for each of the three years after such move, if approved by the department of economic development, which shall issue a certificate of eligibility if the department determines that the taxpayer is eligible for such credit. The maximum amount of credits per taxpayer set forth in this subsection shall not exceed one hundred twenty-five thousand dollars for each of the three years for which the credit is claimed. The department of economic development, by means of rule or regulation promulgated pursuant to the provisions of chapter 536, RSMo, shall assign appropriate standard industrial classification numbers to the companies which are eligible for the tax credits provided for in this section. Such three-year credits shall be awarded only one time to any company which moves its operations from outside of Missouri or outside of a distressed community into a distressed community or to a company which commences operations within a distressed community. A taxpayer shall file an application for certification of the tax credits for the first year in which credits are claimed and for each of the two succeeding taxable years for which credits are claimed.

2. Employees of such facilities physically working and earning wages for that

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

3. A tax credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to 143.265, RSMo, in lieu of the credit against income taxes as provided in subsection 1 of this section, may be taken by such an entity in a distressed community in an amount of forty percent of the amount of funds expended for computer equipment and its maintenance, medical laboratories and equipment, research laboratory equipment, manufacturing equipment, fiber optic equipment, high speed telecommunications, wiring or software development expense up to a maximum of seventy-five thousand dollars in tax credits for such equipment or expense per year per entity and for each of three years after commencement in or moving operations into a distressed community. A corporation, partnership or sole proprietorship, which has no more than one hundred employees for whom payroll taxes are paid, and which is already located in a distressed community, which expends funds for such equipment as set forth in this subsection in an amount exceeding its average of the prior two years for such equipment, shall be eligible to receive a twenty-five percent tax credit against income taxes owed pursuant to chapters 143, 147 and 148, RSMo, up to a maximum of seventy-five thousand dollars in tax credits for such additional equipment and expense per such entity. Tax credits pursuant to this subsection or subsection 1 may be used to satisfy the state tax liability due in the tax year the credit is certified, and that was due during the previous three years, and in any of the five tax years thereafter.

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

5. The tax credits allowed pursuant to subsections 1, 2 and 3 of this section shall be for an amount of no more than ten million dollars for each year beginning in 1999. The total maximum credit for all entities already located in distressed communities and claiming credits pursuant to subsection 3 of this section shall be seven hundred and fifty thousand dollars. The department of economic development in approving taxpayers

for the credit as provided for in subsection 4 of this section shall use information provided by the department of revenue regarding taxes paid in the previous year, or projected taxes for those entities newly established in the state, as the method of determining when this maximum will be reached and shall maintain a record of the order of approval. Any tax credit not used in the period for which the credit was approved may be carried over until the full credit has been allowed.

6. A Missouri employer relocating into a distressed community and having employees covered by a collective bargaining agreement at the facility from which it is relocating shall not be eligible for the credits in subsection 1 or 3 of this section, and its employees shall not be eligible for the credit in subsection 2 of this section if the relocation violates or terminates a collective bargaining agreement covering employees at the facility, unless the affected collective bargaining unit concurs with the move.

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

8. An existing business located within a distressed community, that hires new employees within such distressed communities may be eligible for the tax credits provided in this section. In order to be eligible for such tax credits, the business located within the distressed community, during one of its tax years, must employ within such distressed communities at least twice as many workers as were employed at the beginning of that tax year. Prior to the addition of the new employees, the business shall have no more than one hundred employees. The provisions of this section shall apply only to a business which is a manufacturing, biomedical, medical devices, scientific research, animal research, computer software design or development, computer programming, or telecommunications business or a professional firm.]

Section B. Because of the need to reallocate and extend the tax credits contained in this act, this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and this act shall be in full force and effect upon its passage and approval.