

FIRST REGULAR SESSION

HOUSE BILL NO. 839

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PEARCE.

Read 1st time March 22, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2074L.011

AN ACT

To repeal 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, 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, ninetieth general assembly, first regular session, RSMo, and to enact in lieu thereof one new section relating to tax credits.

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

Section A. Section 135.535 as enacted by conference committee substitute for senate
2 substitute for senate committee substitute for house substitute for house committee substitute for
3 house bill no. 701, ninetieth general assembly, first regular session and section 135.535 as
4 enacted by conference committee substitute no. 2 for house substitute for house committee
5 substitute for senate bill no. 20, ninetieth general assembly, first regular session, RSMo, are
6 repealed and one new section enacted in lieu thereof, to be known as section 135.535, to read as
7 follows:

2 [135.535. 1. A corporation, limited liability corporation, partnership or
3 sole proprietorship, which moves its operations from outside Missouri or outside
4 a distressed community into a distressed community, or which commences
5 operations in a distressed community on or after January 1, 1999, and in either
6 case has more than seventy-five percent of its employees at the facility in the
7 distressed community, and which has fewer than one hundred employees for
whom payroll taxes are paid, and which is a manufacturing, biomedical, medical

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.

8 devices, scientific research, animal research, computer software design or
9 development, computer programming, telecommunications or a professional firm
10 shall receive a forty percent credit against income taxes owed pursuant to chapter
11 143, 147 or 148, RSMo, other than taxes withheld pursuant to sections 143.191
12 to 143.265, RSMo, for each of the three years after such move, if approved by the
13 department of economic development, which shall issue a certificate of eligibility
14 if the department determines that the taxpayer is eligible for such credit. The
15 maximum amount of credits per taxpayer set forth in this subsection shall not
16 exceed one hundred twenty-five thousand dollars for each of the three years for
17 which the credit is claimed. The department of economic development, by means
18 of rule or regulation promulgated pursuant to the provisions of chapter 536,
19 RSMo, shall assign appropriate standard industrial classification numbers to the
20 companies which are eligible for the tax credits provided for in this section. Such
21 three-year credits shall be awarded only one time to any company which moves
22 its operations from outside of Missouri or outside of a distressed community into
23 a distressed community or to a company which commences operations within a
24 distressed community. A taxpayer shall file an application for certification of the
25 tax credits for the first year in which credits are claimed and for each of the two
26 succeeding taxable years for which credits are claimed.

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

37 3. A tax credit against income taxes owed pursuant to chapter 143, 147
38 or 148, RSMo, other than the taxes withheld pursuant to sections 143.191 to
39 143.265, RSMo, in lieu of the credit against income taxes as provided in
40 subsection 1 of this section, may be taken by such an entity in a distressed
41 community in an amount of forty percent of the amount of funds expended for
42 computer equipment and its maintenance, medical laboratories and equipment,
43 research laboratory equipment, manufacturing equipment, fiber optic equipment,
44 high speed telecommunications, wiring or software development expense up to
45 a maximum of seventy-five thousand dollars in tax credits for such equipment or
46 expense per year per entity and for each of three years after commencement in or
47 moving operations into a distressed community. A corporation, partnership or
48 sole proprietorship, which has no more than one hundred employees for whom
49 payroll taxes are paid, and which is already located in a distressed community,
50 which expends funds for such equipment as set forth in this subsection in an

51 amount exceeding its average of the prior two years for such equipment, shall be
52 eligible to receive a twenty-five percent tax credit against income taxes owed
53 pursuant to chapters 143, 147 and 148, RSMo, up to a maximum of seventy-five
54 thousand dollars in tax credits for such additional equipment and expense per
55 such entity. Tax credits pursuant to this subsection or subsection 1 may be used
56 to satisfy the state tax liability due in the tax year the credit is certified, and that
57 was due during the previous three years, and in any of the five tax years
58 thereafter.

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

63 5. The tax credits allowed pursuant to subsections 1, 2 and 3 of this
64 section shall be for an amount of no more than ten million dollars for each year
65 beginning in 1999. The total maximum credit for all entities already located in
66 distressed communities and claiming credits pursuant to subsection 3 of this
67 section shall be seven hundred and fifty thousand dollars. The department of
68 economic development in approving taxpayers for the credit as provided for in
69 subsection 4 of this section shall use information provided by the department of
70 revenue regarding taxes paid in the previous year, or projected taxes for those
71 entities newly established in the state, as the method of determining when this
72 maximum will be reached and shall maintain a record of the order of approval.
73 Any tax credit not used in the period for which the credit was approved may be
74 carried over until the full credit has been allowed.

75 6. A Missouri employer relocating into a distressed community and
76 having employees covered by a collective bargaining agreement at the facility
77 from which it is relocating shall not be eligible for the credits in subsection 1 or
78 3 of this section, and its employees shall not be eligible for the credit in
79 subsection 2 of this section if the relocation violates or terminates a collective
80 bargaining agreement covering employees at the facility, unless the affected
81 collective bargaining unit concurs with the move.

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

87 8. An existing business located within a distressed community, that hires
88 new employees within such distressed communities may be eligible for the tax
89 credits provided in this section. In order to be eligible for such tax credits, the
90 business located within the distressed community, during one of its tax years,
91 must employ within such distressed communities at least twice as many workers
92 as were employed at the beginning of that tax year. Prior to the addition of the
93 new employees, the business shall have no more than one hundred employees.

94 The provisions of this section shall apply only to a business which is a
95 manufacturing, biomedical, medical devices, scientific research, animal research,
96 computer software design or development, computer programming, or
97 telecommunications business or a professional firm.]

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
10 percent credit against income taxes owed pursuant to chapter 143, 147 or 148, RSMo, other than
11 taxes withheld pursuant to sections 143.191 to 143.265, RSMo, for each of the three years after
12 such move, if approved by the department of economic development, which shall issue a
13 certificate of eligibility if the department determines that the taxpayer is eligible for such credit.
14 The 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 [standard industrial
18 classification] **North American Industry Classification System** numbers to the companies
19 which are eligible for the tax credits provided for in this section. Such three-year credits shall
20 be awarded only one time to any company which moves its operations from outside of Missouri
21 or outside of a distressed community into a distressed community or to a company which
22 commences operations within a distressed community. A taxpayer shall file an application for
23 certification of the tax credits for the first year in which credits are claimed and for each of the
24 two succeeding taxable years for which 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 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. The total
69 maximum credit for all entities already located in distressed communities and claiming credits

70 pursuant to subsection 4 of this section shall be seven hundred and fifty thousand dollars. The
71 department of economic development in approving taxpayers for the credit as provided for in
72 subsection 6 of this section shall use information provided by the department of revenue
73 regarding taxes paid in the previous year, or projected taxes for those entities newly established
74 in the state, as the method of determining when this maximum will be reached and shall maintain
75 a record of the order of approval. Any tax credit not used in the period for which the credit was
76 approved may be carried over until the full credit has been allowed.

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

83 9. Notwithstanding any provision of law to the contrary, no taxpayer shall earn the tax
84 credits allowed in this section and the tax credits otherwise allowed in section 135.110, or the
85 tax credits, exemptions, and refund otherwise allowed in sections 135.200, 135.220, 135.225 and
86 135.245, respectively, for the same business for the same tax period.