

SECOND REGULAR SESSION

# SENATE BILL NO. 670

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREEN.

Pre-filed December 1, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

3371S.01I

## AN ACT

To repeal section 143.121, RSMo, and to enact in lieu thereof two new sections relating to a tax deduction for higher education expenses.

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

Section A. Section 143.121, RSMo, is repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 143.121 and 143.1014, to read as  
3 follows:

143.121. 1. The Missouri adjusted gross income of a resident individual  
2 shall be the taxpayer's federal adjusted gross income subject to the modifications  
3 in this section.

4 2. There shall be added to the taxpayer's federal adjusted gross income:

5 (a) The amount of any federal income tax refund received for a prior year  
6 which resulted in a Missouri income tax benefit;

7 (b) Interest on certain governmental obligations excluded from federal  
8 gross income by Section 103 of the Internal Revenue Code. The previous sentence  
9 shall not apply to interest on obligations of the state of Missouri or any of its  
10 political subdivisions or authorities and shall not apply to the interest described  
11 in subdivision (a) of subsection 3 of this section. The amount added pursuant to  
12 this paragraph shall be reduced by the amounts applicable to such interest that  
13 would have been deductible in computing the taxable income of the taxpayer  
14 except only for the application of Section 265 of the Internal Revenue Code. The  
15 reduction shall only be made if it is at least five hundred dollars;

16 (c) The amount of any deduction that is included in the computation of

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

17 federal taxable income pursuant to Section 168 of the Internal Revenue Code as  
18 amended by the Job Creation and Worker Assistance Act of 2002 to the extent the  
19 amount deducted relates to property purchased on or after July 1, 2002, but  
20 before July 1, 2003, and to the extent the amount deducted exceeds the amount  
21 that would have been deductible pursuant to Section 168 of the Internal Revenue  
22 Code of 1986 as in effect on January 1, 2002; and

23 (d) The amount of any deduction that is included in the computation of  
24 federal taxable income for net operating loss allowed by Section 172 of the  
25 Internal Revenue Code of 1986, as amended, other than the deduction allowed by  
26 Section 172(b)(1)(G) and Section 172(i) of the Internal Revenue Code of 1986, as  
27 amended, for a net operating loss the taxpayer claims in the tax year in which the  
28 net operating loss occurred or carries forward for a period of more than twenty  
29 years and carries backward for more than two years. Any amount of net  
30 operating loss taken against federal income taxes but disallowed against Missouri  
31 income taxes pursuant to this paragraph since July 1, 2002, may be carried  
32 forward and taken against any loss on the Missouri income tax return for a period  
33 of not more than twenty years from the year of the initial loss.

34 3. There shall be subtracted from the taxpayer's federal adjusted gross  
35 income the following amounts to the extent included in federal adjusted gross  
36 income:

37 (a) Interest or dividends on obligations of the United States and its  
38 territories and possessions or of any authority, commission or instrumentality of  
39 the United States to the extent exempt from Missouri income taxes pursuant to  
40 the laws of the United States. The amount subtracted pursuant to this  
41 paragraph shall be reduced by any interest on indebtedness incurred to carry the  
42 described obligations or securities and by any expenses incurred in the production  
43 of interest or dividend income described in this paragraph. The reduction in the  
44 previous sentence shall only apply to the extent that such expenses including  
45 amortizable bond premiums are deducted in determining the taxpayer's federal  
46 adjusted gross income or included in the taxpayer's Missouri itemized  
47 deduction. The reduction shall only be made if the expenses total at least five  
48 hundred dollars;

49 (b) The portion of any gain, from the sale or other disposition of property  
50 having a higher adjusted basis to the taxpayer for Missouri income tax purposes  
51 than for federal income tax purposes on December 31, 1972, that does not exceed  
52 such difference in basis. If a gain is considered a long-term capital gain for

53 federal income tax purposes, the modification shall be limited to one-half of such  
54 portion of the gain;

55 (c) The amount necessary to prevent the taxation pursuant to this chapter  
56 of any annuity or other amount of income or gain which was properly included in  
57 income or gain and was taxed pursuant to the laws of Missouri for a taxable year  
58 prior to January 1, 1973, to the taxpayer, or to a decedent by reason of whose  
59 death the taxpayer acquired the right to receive the income or gain, or to a trust  
60 or estate from which the taxpayer received the income or gain;

61 (d) Accumulation distributions received by a taxpayer as a beneficiary of  
62 a trust to the extent that the same are included in federal adjusted gross income;

63 (e) The amount of any state income tax refund for a prior year which was  
64 included in the federal adjusted gross income;

65 (f) The portion of capital gain specified in section 135.357, RSMo, that  
66 would otherwise be included in federal adjusted gross income;

67 (g) The amount that would have been deducted in the computation of  
68 federal taxable income pursuant to Section 168 of the Internal Revenue Code as  
69 in effect on January 1, 2002, to the extent that amount relates to property  
70 purchased on or after July 1, 2002, but before July 1, 2003, and to the extent that  
71 amount exceeds the amount actually deducted pursuant to Section 168 of the  
72 Internal Revenue Code as amended by the Job Creation and Worker Assistance  
73 Act of 2002; [and]

74 (h) For all tax years beginning on or after January 1, 2005, the amount  
75 of any income received for military service while the taxpayer serves in a combat  
76 zone which is included in federal adjusted gross income and not otherwise  
77 excluded therefrom. As used in this section, "combat zone" means any area which  
78 the President of the United States by Executive Order designates as an area in  
79 which armed forces of the United States are or have engaged in combat. Service  
80 is performed in a combat zone only if performed on or after the date designated  
81 by the President by Executive Order as the date of the commencing of combat  
82 activities in such zone, and on or before the date designated by the President by  
83 Executive Order as the date of the termination of combatant activities in such  
84 zone; **and**

85 **(i) The amount of any qualified higher education expenses**  
86 **determined under section 143.1014.**

87 4. There shall be added to or subtracted from the taxpayer's federal  
88 adjusted gross income the taxpayer's share of the Missouri fiduciary adjustment

89 provided in section 143.351.

90 5. There shall be added to or subtracted from the taxpayer's federal  
91 adjusted gross income the modifications provided in section 143.411.

143.1014. 1. This section shall be known and may be cited as the  
2 "Higher Education Expenses Deduction".

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

4 (1) "Department", the department of revenue;

5 (2) "Director", the director of the department of revenue;

6 (3) "Higher education institution", an institution that meets the  
7 standards for accreditation as determined by either the North Central  
8 Association of Colleges and Secondary Schools or by other accrediting  
9 bodies recognized by the United States Department of Education or by  
10 utilizing accreditation standards applicable to non-degree granting  
11 institutions as established by the coordinating board for higher  
12 education.

13 (4) "Tax liability", the tax due under chapter 143, other than  
14 taxes withheld under sections 143.191 to 143.265; and

15 (5) "Taxpayer", any student filing income tax returns or a  
16 taxpayer who claims a student as a dependent.

17 3. If any taxpayer with a federal adjusted gross income of less  
18 than two hundred thousand dollars incurs tuition or fee expenses for  
19 enrollment of at least half time at a higher education institution, such  
20 taxpayer shall subtract from such taxpayer's federal adjusted gross  
21 income an amount equal to one hundred percent of such costs the  
22 taxpayer paid during the taxable year.

23 4. The department may promulgate such rules or regulations as  
24 are necessary to administer the provisions of this section. Any rule or  
25 portion of a rule, as that term is defined in section 536.010, RSMo, that  
26 is created under the authority delegated in this section shall become  
27 effective only if it complies with and is subject to all of the provisions  
28 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This  
29 section and chapter 536, RSMo, are nonseverable and if any of the  
30 powers vested with the general assembly pursuant to chapter 536,  
31 RSMo, to review, to delay the effective date, or to disapprove and annul  
32 a rule are subsequently held unconstitutional, then the grant of  
33 rulemaking authority and any rule proposed or adopted after August  
34 28, 2006, shall be invalid and void.

35           **5. The provisions of this section shall apply to all tax years**  
36 **beginning on or after January 1, 2007.**

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