FIRST REGULAR SESSION

HOUSE BILL NO. 143

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MOORE, CRAWFORD, LUETKEMEYER, ERVIN, SAGER, BEHNEN, PORTWOOD, SUTHERLAND, HUNTER (Co-sponsors), REINHART, BEARDEN, SMITH (14), DOUGHERTY, BAKER AND CROWELL.

Pre-filed January 6, 2003, and copies ordered printed.

TED WEDEL, Chief Clerk

0702L.01I

AN ACT

To repeal sections 143.121 and 143.124, RSMo, and to enact in lieu thereof two new sections relating to income taxation, with an effective date.

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

Section A. Sections 143.121 and 143.124, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 143.121 and 143.124, to read as follows:

143.121. 1. The Missouri adjusted gross income of a resident individual shall be **[**his**]** **such taxpayer's** federal adjusted gross income subject to the modifications in this section.

2. There shall be added to **[**his**]** **such taxpayer's** federal adjusted gross income:

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

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

(c) The amount of any deduction that is included in the computation of federal taxable income **[**under**]** **pursuant to** Section 168 of the Internal Revenue Code as amended by the Job

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

Creation and Worker Assistance Act of 2002 to the extent the amount deducted relates to property purchased on or after July 1, 2002, but before July 1, 2003, and to the extent the amount deducted exceeds the amount that would have been deductible [under] **pursuant to** Section 168 of the Internal Revenue Code of 1986 as in effect on January 1, 2002; and

(d) The amount of any deduction that is included in the computation of federal taxable income for net operating loss allowed by Section 172 of the Internal Revenue Code of 1986, as amended, except for any deduction for net operating loss the taxpayer claims in the tax year in which the net operating loss occurred or carries forward for a period not to exceed twenty years and carries backward for not more than two years.

3. There shall be subtracted from [his] **such taxpayer's** federal adjusted gross income the following amounts to the extent included in federal adjusted gross income:

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

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

(c) The amount necessary to prevent the taxation [under sections 143.011 to 143.996] **pursuant to chapter 143** of any annuity or other amount of income or gain which was properly included in income or gain and was taxed [under] **pursuant to** the laws of Missouri for a taxable year prior to January 1, 1973, to the taxpayer, or to a decedent by reason of whose death the taxpayer acquired the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain;

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

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

(f) The portion of capital gain specified in **[**subsection 3 of section 144.747**] section 135.357**, RSMo, that would otherwise be included in federal adjusted gross income; and

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

4. There shall be added to or subtracted from **[**his**] such taxpayer's** federal adjusted gross income the taxpayer's share of the Missouri fiduciary adjustment provided in section 143.351.

5. There shall be added to or subtracted from **[**his**] such taxpayer's** federal adjusted gross income the modifications provided in **[**section**] sections 143.124 and** 143.411.

143.124. 1. Other provisions of law to the contrary notwithstanding, **for tax years beginning before January 1, 2004,** the total amount of all annuities, pensions, or retirement allowances above the amount of six thousand dollars annually provided by any law of this state, the United States, or any other state to any person except as provided in subsection 4 of this section, shall be subject to tax pursuant to the provisions of this chapter, in the same manner, to the same extent and under the same conditions as any other taxable income received by the person receiving it. For purposes of this section, annuity, pension, or retirement allowance shall be defined as an annuity, pension or retirement allowance provided by the United States, this state, any other state or any political subdivision or agency or institution of this or any other state. For all tax years beginning on or after January 1, 1998, for purposes of this section, annuity, pension or retirement allowance shall be defined to include 401(k) plans, deferred compensation plans, self-employed retirement plans, also known as Keogh plans, annuities from a defined pension plan and individual retirement arrangements, also known as IRAs, as described in the Internal Revenue Code, but not including Roth IRAs, as well as an annuity, pension or retirement allowance provided by the United States, this state, any other state or any political subdivision or agency or institution of this or any other state. **For all tax years beginning on or after January 1, 2004, any annuity, pension or retirement allowance, whether public or private, subtracted from federal adjusted gross income pursuant to section 143.121 shall not be subject to tax pursuant to the provisions of this chapter.** An individual taxpayer shall only be allowed a maximum deduction of six thousand dollars pursuant to this section. Taxpayers filing combined returns shall only be allowed a maximum deduction of six thousand dollars for each taxpayer on the combined return.

2. For the period beginning July 1, 1989, and ending December 31, 1989, there shall be

subtracted from Missouri adjusted gross income for that period, determined pursuant to section 143.121, the first three thousand dollars of retirement benefits received by each taxpayer:

(1) If the taxpayer's filing status is single, head of household or qualifying widow(er) and the taxpayer's Missouri adjusted gross income is less than twelve thousand five hundred dollars; or

(2) If the taxpayer's filing status is married filing combined and their combined Missouri adjusted gross income is less than sixteen thousand dollars; or

(3) If the taxpayer's filing status is married filing separately and the taxpayer's Missouri adjusted gross income is less than eight thousand dollars.

3. For **[**the**]** tax years beginning on or after January 1, 1990, there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of the first six thousand dollars of retirement benefits received by each taxpayer from sources other than privately funded sources, and for tax years beginning on or after January 1, 1998, there shall be subtracted from Missouri adjusted gross income, determined pursuant to section 143.121, a maximum of the first one thousand dollars of any retirement allowance received from any privately funded source for tax years beginning on or after January 1, 1998, but before January 1, 1999, and a maximum of the first three thousand dollars of any retirement allowance received from any privately funded source for tax years beginning on or after January 1, 1999, but before January 1, 2000, and a maximum of the first four thousand dollars of any retirement allowance received from any privately funded source for tax years beginning on or after January 1, 2000, but before January 1, 2001**[**, and a maximum of the first five thousand dollars of any retirement allowance received from any privately funded source for tax years beginning on or after January 1, 2001, but before January 1, 2002, and a maximum of the first six thousand dollars of any retirement allowance received from any privately funded sources for tax years beginning on or after January 1, 2002**]**. A taxpayer shall be entitled to the maximum exemption provided by this subsection:

(1) If the taxpayer's filing status is single, head of household or qualifying widow(er) and the taxpayer's Missouri adjusted gross income is less than twenty-five thousand dollars; or

(2) If the taxpayer's filing status is married filing combined and their combined Missouri adjusted gross income is less than thirty-two thousand dollars; or

(3) If the taxpayer's filing status is married filing separately and the taxpayer's Missouri adjusted gross income is less than sixteen thousand dollars**; or**

(4) If the taxpayer is age sixty-five or over.

4. If a taxpayer's adjusted gross income exceeds the adjusted gross income ceiling for such taxpayer's filing status, as provided in subdivisions (1), (2)**,** and (3) of subsection 3 of this section, such taxpayer shall be entitled to an exemption equal to the greater of zero or the

maximum exemption provided in subsection 3 of this section reduced by one dollar for every dollar such taxpayer's income exceeds the ceiling for his or her filing status.

5. For purposes of this section, any Social Security benefits otherwise included in Missouri adjusted gross income shall be subtracted; but Social Security benefits shall not be subtracted for purposes of other computations pursuant to this chapter, and are not to be considered as retirement benefits for purposes of this section.

6. The provisions of subdivisions (1) and (2) of subsection 3 of this section shall apply during all tax years in which the federal Internal Revenue Code provides exemption levels for calculation of the taxability of Social Security benefits that are the same as the levels in subdivisions (1) and (2) of subsection 3 of this section. If the exemption levels for the calculation of the taxability of Social Security benefits are adjusted by applicable federal law or regulation, the exemption levels in subdivisions (1) and (2) of subsection 3 of this section shall be accordingly adjusted to the same exemption levels.

7. The portion of a taxpayer's lump sum distribution from an annuity or other retirement plan not otherwise included in Missouri adjusted gross income as calculated pursuant to this chapter, but subject to taxation **[**under**]** **pursuant to** Internal Revenue Code Section 402 shall be taxed in an amount equal to ten percent of the taxpayer's federal liability on such distribution for the same tax year.

8. For purposes of this section, retirement benefits received shall not include any withdrawals from qualified retirement plans which are subsequently rolled over into another retirement plan.

9. The exemptions provided for in this section shall not affect the calculation of the income to be used to determine the property tax credit provided in sections 135.010 to 135.035, RSMo.

Section B. Section A of this act shall become effective on January 1, 2004, and shall apply to all taxable years beginning after December 31, 2003.