

SECOND REGULAR SESSION

# HOUSE BILL NO. 2115

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BERNSKOETTER.

5872H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 166.435 as enacted by senate bill no. 366, ninety-eighth general assembly, first regular session and section 166.435 as enacted by senate bill no. 863, ninety-fourth general assembly, second regular session, RSMo, and to enact in lieu thereof one new section relating to the Missouri higher education savings program.

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

Section A. Section 166.435 as enacted by senate bill no. 366, ninety-eighth general assembly, first regular session and section 166.435 as enacted by senate bill no. 863, ninety-fourth general assembly, second regular session, RSMo, are repealed and one new section enacted in lieu thereof, to be known as section 166.435, to read as follows:

166.435. 1. Notwithstanding any law to the contrary, the assets of the savings program held by the board, the assets of any deposit program authorized in section 166.500, and the assets of any qualified tuition savings program established pursuant to Section 529 of the Internal Revenue Code and any income therefrom shall be exempt from all taxation by the state or any of its political subdivisions. Income earned or received from the savings program, deposit, or other qualified tuition savings programs established under Section 529 of the Internal Revenue Code **[program]**, or refunds of qualified higher education expenses received by a beneficiary from an eligible educational institution in connection with withdrawal from enrollment at such institution which are contributed within sixty days of withdrawal to a qualified tuition savings program of which such individual is a beneficiary shall not be subject to state income tax imposed pursuant to chapter 143 and shall be eligible for any benefits provided in accordance with Section 529 of the Internal Revenue Code. The exemption from taxation pursuant to this section shall apply only to assets and income maintained, accrued, or expended pursuant to the

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 requirements of the savings program established pursuant to sections 166.400 to 166.455, the  
15 deposit program established pursuant to sections 166.500 to 166.529, and other qualified tuition  
16 savings programs established under Section 529 of the Internal Revenue Code, and no exemption  
17 shall apply to assets and income expended for any other purposes. Annual contributions made  
18 to the savings program held by the board, the deposit program, and any qualified tuition savings  
19 program established under Section 529 of the Internal Revenue Code up to and including eight  
20 thousand dollars per participating taxpayer, and up to sixteen thousand dollars for married  
21 individuals filing a joint tax return, shall be subtracted in determining Missouri adjusted gross  
22 income pursuant to section 143.121.

23         2. If any deductible contributions to or earnings from any such program referred to in this  
24 section are distributed and not used to pay qualified higher education expenses, **not transferred**  
25 **as allowed by 26 U.S.C. 529(c)(3)(C)(i), as amended, and any Internal Revenue Service**  
26 **regulations or guidance issued in relation thereto**, or are not held for the minimum length of  
27 time established by the appropriate Missouri board, **then** the amount so distributed shall be  
28 added to the Missouri adjusted gross income of the participant, or, if the participant is not living,  
29 the beneficiary.

30         3. The provisions of this section shall apply to tax years beginning on or after January  
31 1, 2008, and the provisions of this section with regard to sections 166.500 to 166.529 shall apply  
32 to tax years beginning on or after January 1, 2004.

33         4. The repeal and reenactment of this section shall become effective only upon  
34 notification by the State Treasurer to the Revisor of Statutes of the passage of H.R. 529 of the  
35 114th United States Congress.

~~2                 [166.435. 1. Notwithstanding any law to the contrary, the assets of the  
3 savings program held by the board, the assets of any deposit program authorized  
4 in section 166.500, and the assets of any qualified tuition savings program  
5 established pursuant to Section 529 of the Internal Revenue Code and any income  
6 therefrom shall be exempt from all taxation by the state or any of its political  
7 subdivisions. Income earned or received from the savings program, deposit, or  
8 other qualified tuition savings programs established under Section 529 of the  
9 Internal Revenue Code program shall not be subject to state income tax imposed  
10 pursuant to chapter 143 and shall be eligible for any benefits provided in  
11 accordance with Section 529 of the Internal Revenue Code. The exemption from  
12 taxation pursuant to this section shall apply only to assets and income  
13 maintained, accrued, or expended pursuant to the requirements of the savings  
14 program established pursuant to sections 166.400 to 166.455, the deposit  
15 program established pursuant to sections 166.500 to 166.529, and other qualified  
16 tuition savings programs established under Section 529 of the Internal Revenue  
17 Code, and no exemption shall apply to assets and income expended for any other  
purposes. Annual contributions made to the savings program held by the board,~~

18 the deposit program, and any qualified tuition savings program established under  
19 Section 529 of the Internal Revenue Code up to and including eight thousand  
20 dollars per participating taxpayer, and up to sixteen thousand dollars for married  
21 individuals filing a joint tax return, shall be subtracted in determining Missouri  
22 adjusted gross income pursuant to section 143.121.

23 ~~2. If any deductible contributions to or earnings from any such program~~  
24 ~~referred to in this section are distributed and not used to pay qualified higher~~  
25 ~~education expenses or are not held for the minimum length of time established~~  
26 ~~by the appropriate Missouri board, the amount so distributed shall be added to the~~  
27 ~~Missouri adjusted gross income of the participant, or, if the participant is not~~  
28 ~~living, the beneficiary.~~

29 ~~3. The provisions of this section shall apply to tax years beginning on or~~  
30 ~~after January 1, 2008, and the provisions of this section with regard to sections~~  
31 ~~166.500 to 166.529 shall apply to tax years beginning on or after January 1,~~  
32 ~~2004.]~~

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