

SECOND REGULAR SESSION

**HOUSE BILL NO. 1537**

**92ND GENERAL ASSEMBLY**

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INTRODUCED BY REPRESENTATIVES GRAHAM (Sponsor) AND HARRIS (23) (Co-sponsor).

Read 1<sup>st</sup> time February 19, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4250L.021

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**AN ACT**

To repeal sections 143.121, 143.431, 313.805, 313.820, and 313.822, RSMo, and to enact in lieu thereof six new sections relating to revenues for higher education.

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

Section A. Sections 143.121, 143.431, 313.805, 313.820, and 313.822, RSMo, are  
2 repealed and six new sections enacted in lieu thereof, to be known as sections 143.121, 143.431,  
3 313.804, 313.805, 313.820, and 313.822, to read as follows:

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

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

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

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

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

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

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

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

29 (e) **For nonresident individuals, in all taxable years ending on or after December**  
30 **31, 2004, the amount of any property taxes paid to another state or a political subdivision**  
31 **of another state for which a deduction was allowed on such nonresident's federal return**  
32 **in the taxable year.**

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

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

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

50 (c) The amount necessary to prevent the taxation pursuant to this chapter of any annuity  
51 or other amount of income or gain which was properly included in income or gain and was taxed

52 pursuant to the laws of Missouri for a taxable year prior to January 1, 1973, to the taxpayer, or  
53 to a decedent by reason of whose death the taxpayer acquired the right to receive the income or  
54 gain, or to a trust or estate from which the taxpayer received the income or gain;

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

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

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

61 (g) The amount that would have been deducted in the computation of federal taxable  
62 income pursuant to Section 168 of the Internal Revenue Code as in effect on January 1, 2002,  
63 to the extent that amount relates to property purchased on or after July 1, 2002, but before July  
64 1, 2003, and to the extent that amount exceeds the amount actually deducted pursuant to Section  
65 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act  
66 of 2002.

67 4. There shall be added to or subtracted from the taxpayer's federal adjusted gross  
68 income the taxpayer's share of the Missouri fiduciary adjustment provided in section 143.351.

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

143.431. 1. The Missouri taxable income of a corporation taxable under sections  
2 143.011 to 143.996 shall be so much of its federal taxable income for the taxable year, with the  
3 modifications specified in subsections 2 and 3 of this section, as is derived from sources within  
4 Missouri as provided in section 143.451. The tax of a corporation shall be computed on its  
5 Missouri taxable income at the rates provided in section 143.071.

6 2. There shall be added to or subtracted from federal taxable income, the modifications  
7 to adjusted gross income provided in section 143.121, **with the exception of subdivision (e) of**  
8 **subsection 2 of section 143.121**, and the applicable modifications to itemized deductions  
9 provided in section 143.141. There shall be subtracted the federal income tax deduction  
10 provided in section 143.171. There shall be subtracted, to the extent included in federal taxable  
11 income, corporate dividends from sources within Missouri.

12 3. (1) If an affiliated group of corporations files a consolidated income tax return for the  
13 taxable year for federal income tax purposes and fifty percent or more of its income is derived  
14 from sources within this state as determined in accordance with section 143.451, then it may  
15 elect to file a Missouri consolidated income tax return. The federal consolidated taxable income  
16 of the electing affiliated group for the taxable year shall be its federal taxable income.

17 (2) So long as a federal consolidated income tax return is filed, an election made by an

18 affiliated group of corporations to file a Missouri consolidated income tax return may be  
19 withdrawn or revoked only upon substantial change in the law or regulations adversely changing  
20 tax liability under this chapter; or, with permission of the director of revenue upon the showing  
21 of good cause for such action. After such a withdrawal or revocation with respect to an affiliated  
22 group, it may not file a Missouri consolidated income tax return for five years thereafter, except  
23 with the approval of the director of revenue, and subject to such terms and conditions as he may  
24 prescribe.

25 (3) No corporation which is part of an affiliated group of corporations filing a Missouri  
26 consolidated income tax return shall be required to file a separate Missouri corporate income tax  
27 return for the taxable year.

28 (4) For each taxable year an affiliated group of corporations filing a federal consolidated  
29 income tax return does not file a Missouri consolidated income tax return, for purposes of  
30 computing the Missouri income tax, the federal taxable income of each member of the affiliated  
31 group shall be determined as if a separate federal income tax return had been filed by each such  
32 member.

33 (5) The director of revenue may prescribe such regulations not inconsistent with the  
34 provisions of this chapter as he may deem necessary in order that the tax liability of any affiliated  
35 group of corporations making a Missouri consolidated income tax return, and of each corporation  
36 in the group, before, during, and after the period of affiliation, may be returned, determined,  
37 computed, assessed, collected, and adjusted, in such manner as clearly to reflect the Missouri  
38 taxable income derived from sources within this state and in order to prevent avoidance of such  
39 tax liability.

40 **(6) The commissioner of administration shall estimate and furnish to the state**  
41 **treasurer the appropriate net increase in the amount of state tax revenues collected and**  
42 **any adjustments to previous estimates pursuant to subdivision (e) of subsection 2 of section**  
43 **143.121. The treasurer shall transfer monthly from general revenue an amount equal to**  
44 **the estimate to the Missouri college guarantee fund established in section 173.830, RSMo.**

**313.804. This act shall be known and may be cited as the "Higher Education**  
2 **Investment and Affordability Act".**

313.805. The commission shall have full jurisdiction over and shall supervise all  
2 gambling operations governed by sections 313.800 to 313.850. The commission shall have the  
3 following powers and shall promulgate rules and regulations to implement sections 313.800 to  
4 313.850:

5 (1) To investigate applicants and determine the priority and eligibility of applicants for  
6 a license and to select among competing applicants for a license the applicant which best serves  
7 the interests of the citizens of Missouri;

8           (2) To license the operators of excursion gambling boats and operators of gambling  
9 games within such boats, to identify occupations within the excursion gambling boat operations  
10 which require licensing, and adopt standards for licensing the occupations including establishing  
11 fees for the occupational licenses and to license suppliers;

12           (3) To adopt standards under which all excursion gambling boat operations shall be held  
13 and standards for the facilities within which the gambling operations are to be held.  
14 Notwithstanding the provisions of chapter 311, RSMo, to the contrary, the commission may  
15 authorize the operation of gambling games on an excursion gambling boat which is also licensed  
16 to sell or serve alcoholic beverages, wine, or beer[. The commission shall regulate the wagering  
17 structure for gambling excursions including providing a maximum loss of five hundred dollars  
18 per individual player per gambling excursion];

19           (4) To enter the premises of excursion gambling boats, facilities, or other places of  
20 business of a licensee within this state to determine compliance with sections 313.800 to  
21 313.850;

22           (5) To investigate alleged violations of sections 313.800 to 313.850 or the commission  
23 rules, orders, or final decisions;

24           (6) To assess any appropriate administrative penalty against a licensee, including, but  
25 not limited to, suspension, revocation, and penalties of an amount as determined by the  
26 commission up to three times the highest daily amount of gross receipts derived from wagering  
27 on the gambling games, whether unauthorized or authorized, conducted during the previous  
28 twelve months as well as confiscation and forfeiture of all gambling game equipment used in the  
29 conduct of unauthorized gambling games. Forfeitures pursuant to this section shall be enforced  
30 as provided in sections 513.600 to 513.645, RSMo;

31           (7) To require a licensee, an employee of a licensee or holder of an occupational license  
32 to remove a person violating a provision of sections 313.800 to 313.850 or the commission rules,  
33 orders, or final orders, or other person deemed to be undesirable from the excursion gambling  
34 boat or adjacent facilities;

35           (8) To require the removal from the premises of a licensee, an employee of a licensee,  
36 or a holder of an occupational license for a violation of sections 313.800 to 313.850 or a  
37 commission rule or engaging in a fraudulent practice;

38           (9) To require all licensees to file all financial reports required by rules and regulations  
39 of the commission;

40           (10) To issue subpoenas for the attendance of witnesses and subpoenas duces tecum for  
41 the production of books, records, and other pertinent documents, and to administer oaths and  
42 affirmations to the witnesses, when, in the judgment of the commission, it is necessary to enforce  
43 sections 313.800 to 313.850 or the commission rules;

44 (11) To keep accurate and complete records of its proceedings and to certify the records  
45 as may be appropriate;

46 (12) To ensure that the gambling games are conducted fairly. No gambling device shall  
47 be set to pay out less than eighty percent of all wagers;

48 (13) To require all licensees of gambling game operations to use a cashless wagering  
49 system whereby all players' money is converted to physical or electronic tokens, electronic cards,  
50 or chips which only can be used for wagering on the excursion gambling boat;

51 (14) To require excursion gambling boat licensees to develop a system, approved by the  
52 commission, that allows patrons the option to prohibit the excursion gambling boat licensee from  
53 using identifying information for marketing purposes. The provisions of this subdivision shall  
54 apply only to patrons giving identifying information for the first time. Such system shall be  
55 submitted to the commission by October 1, 2000, and approved by the commission by January  
56 1, 2001. The excursion gambling boat licensee shall use identifying information obtained from  
57 patrons who have elected to have marketing blocked under the provisions of this section only for  
58 the purposes of enforcing the requirements contained in sections 313.800 to 313.850. This  
59 section shall not prohibit the commission from accessing identifying information for the  
60 purposes of enforcing section 313.004 and sections 313.800 to 313.850;

61 (15) To determine which of the authorized gambling games will be permitted on any  
62 licensed excursion gambling boat;

63 (16) Excursion gambling boats shall cruise, unless the commission finds that the best  
64 interest of Missouri and the safety of the public indicate the need for continuous docking of the  
65 excursion gambling boat in any city or county authorized pursuant to subsection 10 of section  
66 313.812. The commission shall base its decision to allow continuously docked excursion  
67 gambling boats on any of the following criteria: the docking location or the excursion cruise  
68 could cause danger to the boat's passengers, violate federal law or the law of another state, or  
69 cause disruption of interstate commerce or possible interference with railway or barge  
70 transportation. In addition, the commission shall consider economic feasibility or impact that  
71 would benefit land-based development and permanent job creation. The commission shall not  
72 discriminate among applicants for continuous-docking excursion gambling that are similarly  
73 situated with respect to the criteria set forth in this section;

74 (17) The commission shall render a finding concerning the possibility of continuous  
75 docking, as described in subdivision (15) of this section, within thirty days after a hearing on any  
76 request from an applicant or licensee. Such hearing may be held prior to any final action on  
77 licensing to assist an applicant and any city or county in the finalizing of their economic  
78 development plan;

79 (18) To require any applicant for a license or renewal of a license to operate an excursion

80 gambling boat to provide an affirmative action plan which has as its goal the use of best efforts  
81 to achieve maximum employment of African-Americans and other minorities and maximum  
82 participation in the procurement of contractual purchases of goods and services. This provision  
83 shall be administered in accordance with all federal and state employment laws, including Title  
84 VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991. At license  
85 renewal, the licensee will report on the effectiveness of the plan. The commission shall include  
86 the licensee's reported information in its annual report to the joint committee on gaming and  
87 wagering;

88 (19) To take any other action as may be reasonable or appropriate to enforce sections  
89 313.800 to 313.850 and the commission rules.

90 313.820. 1. An excursion boat licensee shall pay to the commission [an] **a one-time-**  
91 **per-day** admission fee of [two] **four** dollars for each person embarking on an excursion  
92 gambling boat with a ticket of admission. [One dollar] **Two dollars** of such fee shall be  
93 deposited to the credit of the gaming commission fund as authorized pursuant to section 313.835,  
94 and [one dollar] **two dollars** of such fee shall not be considered state funds and shall be paid to  
95 the home dock city or county. Subject to appropriation, one cent of such fee deposited to the  
96 credit of the gaming commission fund may be deposited to the credit of the compulsive gamblers  
97 fund created pursuant to the provisions of section 313.842. Nothing in this section shall preclude  
98 any licensee from charging any amount deemed necessary for a ticket of admission to any person  
99 embarking on an excursion gambling boat. If tickets are issued which are good for more than  
100 one excursion, the admission fee shall be paid to the commission for each person using the ticket  
101 on each excursion that the ticket is used. If free passes or complimentary admission tickets are  
102 issued, the excursion boat licensee shall pay to the commission the same fee upon these passes  
103 or complimentary tickets as if they were sold at the regular and usual admission rate; however,  
104 the excursion boat licensee may issue fee-free passes to actual and necessary officials and  
105 employees of the licensee or other persons actually working on the excursion gambling boat.  
106 The issuance of fee-free passes is subject to the rules of the commission, and a list of all persons  
107 to whom the fee-free passes are issued shall be filed with the commission.

108 2. All licensees are subject to all income taxes, sales taxes, earnings taxes, use taxes,  
109 property taxes or any other tax or fee now or hereafter lawfully levied by any political  
110 subdivision; however, no other license tax, permit tax, occupation tax, excursion fee, or taxes  
111 or fees shall be imposed, levied or assessed exclusively upon licensees by a political subdivision.  
112 All state taxes not connected directly to gambling games shall be collected by the department of  
113 revenue. Notwithstanding the provisions of section 32.057, RSMo, to the contrary, the  
114 department of revenue may furnish and the commission may receive tax information to  
115 determine if applicants or licensees are complying with the tax laws of this state; however, any

116 tax information acquired by the commission shall not become public record and shall be used  
117 exclusively for commission business.

118           313.822. **1.** A tax is imposed on the adjusted gross receipts received from gambling  
119 games authorized pursuant to sections 313.800 to 313.850 at the rate of [twenty] **twenty-one**  
120 percent. The taxes imposed by this section shall be returned to the commission in accordance  
121 with the commission's rules and regulations who shall transfer such taxes to the director of  
122 revenue. All checks and drafts remitted for payment of these taxes and fees shall be made  
123 payable to the director of revenue. If the commission is not satisfied with the return or payment  
124 made by any licensee, it is hereby authorized and empowered to make an assessment of the  
125 amount due based upon any information within its possession or that shall come into its  
126 possession. Any licensee against whom an assessment is made by the commission may petition  
127 for a reassessment. The request for reassessment shall be made within twenty days from the date  
128 the assessment was mailed or delivered to the licensee, whichever is earlier. Whereupon the  
129 commission shall give notice of a hearing for reassessment and fix the date upon which the  
130 hearing shall be held. The assessment shall become final if a request for reassessment is not  
131 received by the commission within the twenty days. Except as provided in this section, on and  
132 after April 29, 1993, all functions incident to the administration, collection, enforcement, and  
133 operation of the tax imposed by sections 144.010 to 144.525, RSMo, shall be applicable to the  
134 taxes and fees imposed by this section.

135           [(1)] **2.** Each excursion gambling boat shall designate a city or county as its home dock.  
136 The home dock city or county may enter into agreements with other cities or counties authorized  
137 pursuant to subsection 10 of section 313.812 to share revenue obtained pursuant to this section.  
138 The home dock city or county shall receive ten percent of the adjusted gross receipts tax  
139 collections, as levied pursuant to this section, for use in providing services necessary for the  
140 safety of the public visiting an excursion gambling boat. Such home dock city or county shall  
141 annually submit to the commission a shared revenue agreement with any other city or county.  
142 All moneys owed the home dock city or county shall be deposited and distributed to such city  
143 or county in accordance with rules and regulations of the commission. All revenues provided  
144 for in this section to be transferred to the governing body of any city not within a county and any  
145 city with a population of over three hundred fifty thousand inhabitants shall not be considered  
146 state funds and shall be deposited in such city's general revenue fund to be expended as provided  
147 for in this section.

148           **3. Additional tax revenue provided by the one percent increase in the adjusted**  
149 **gross receipts tax as enacted by the general assembly in this section during the ninety-**  
150 **second general assembly, second regular session shall be deposited in the state treasury to**  
151 **the credit of the "Higher Education Investment Fund" which is hereby created in the state**



152 treasury. Moneys deposited in this fund shall be considered the proceeds of excursion boat  
 153 gambling and state funds pursuant to article IV, section 15 of the Missouri constitution.  
 154 All interest received on the higher education investment fund shall be credited to the  
 155 higher education investment fund. All proceeds in the higher education investment fund  
 156 shall be distributed in the following manner:

157 (1) All proceeds necessary shall be used to meet all bond obligations for higher  
 158 education, in the following order:

159 (a) The construction and renovation of life sciences and economic development  
 160 infrastructure on the several campuses of the University of Missouri, including the  
 161 following:

162 Project	Campus	Amount	Project
		from Bonds	Cost
164 Benton-Stadler Renovation	St. Louis	\$23,913,000	\$23,913,000
165 Mechanical Engineering	Rolla	\$18,617,000	\$23,350,000
166 Addition/Renovation			
167 Engineering Building	Columbia	\$20,910,000	\$20,910,000
168 East Renovation			
169 Health Sciences Building	Kansas City	\$42,800,000	\$53,500,000
170 Phase 2			
171 Health Sciences Building	Kansas City	\$ 9,200,000	\$11,500,000
172 Phase 1 Space Completion			
173 Health Sciences Research	Columbia	\$75,000,000	\$175,000,000

174 (b) The renovation and revitalization plan involving multiple campus facilities on  
 175 the campus of Southwest Missouri State University;

176 (c) Renovations and additions for math and science programs at the Agenstein  
 177 Science and Math Building on the campus of Missouri Western State College;

178 (d) The renovation of Olive DeLuce Fine Arts Building on the campus of Northwest  
 179 Missouri State University;

180 (e) The renovation of the Morrow or Garrison Building on the campus of Central  
 181 Missouri State University;

182 (f) The renovation of Jason Hall and the addition of a swimming facility on the  
 183 campus of Lincoln University;

184 (g) Renovations to Baldwin and McClain Halls on the campus of Truman State  
 185 University;

186 (h) The construction of new buildings for early childhood and parent education  
 187 programs on the campus of Harris Stowe State College;

188 (i) The construction of a Health Sciences Building on the campus of Missouri

189 **Southern State University-Joplin; and**

190 **(j) The addition of a Visual and Performing Arts Building and for renovations at**  
191 **the Kennett Area Center on the campus of Southeast Missouri State University;**

192 **(2) Any remaining net proceeds shall be used to fund the following student financial**  
193 **aid programs in the following order:**

194 **(a) The Missouri college guarantee program established in section 173.810, RSMo;**

195 **(b) The higher education academic scholarship program established in section**  
196 **173.250, RSMo;**

197 **(c) The advantage Missouri program established in sections 173.775 to 173.796,**  
198 **RSMo;**

199 **(d) The A+ schools program established in section 160.545, RSMo; and**

200 **(e) The Charles Gallagher student financial assistance program established in**  
201 **sections 173.200 to 173.230, RSMo;**

202 **(3) Any remaining net proceeds up to a maximum of twelve million dollars shall be**  
203 **used to fund endowed chairs in the life sciences at the University of Missouri;**

204 **(4) Any remaining net proceeds shall be used to restore community college core**  
205 **funding to fiscal year 2002 levels;**

206 **(5) Any remaining net proceeds shall be used to restore four-year and coordinating**  
207 **board for higher education core funding to fiscal year 2002 levels.**

208 **[(2)] 4. The remaining amount of the adjusted gross receipts tax, not to exceed an**  
209 **amount equal to the total amount of adjusted gross receipts taxes transferred into the**  
210 **gaming proceeds for education fund in fiscal year 2004, shall be deposited in the state**  
211 **treasury to the credit of the "Gaming Proceeds for Education Fund" which is hereby created in**  
212 **the state treasury. Moneys deposited in this fund shall be considered the proceeds of excursion**  
213 **boat gambling and state funds pursuant to article IV, section 15 of the Missouri Constitution.**  
214 **All interest received on the gaming proceeds for education fund shall be credited to the gaming**  
215 **proceeds for education fund. Appropriation of the moneys deposited into the gaming proceeds**  
216 **for education fund shall be pursuant to state law. Any amounts in excess of the total amount**  
217 **of adjusted gross receipts taxes transferred into the gaming proceeds for education fund**  
218 **in fiscal year 2004 shall be deposited in the higher education investment fund created in**  
219 **subsection 3 of this section and shall be distributed pursuant to the provisions of that**  
220 **subsection.**

221 **5. Any funding provided for higher education pursuant to subsections 3 and 4 of**  
222 **this section shall not be used to supplant, reduce, or replace funding which would**  
223 **otherwise be appropriated by the general assembly from general revenue or lottery**  
224 **proceed funds for higher education and none of the existing educational programs**

225 **described in subsection 3 of this section shall receive any less funding from general revenue**  
226 **than such programs received in fiscal year 2004.**  
227