

FIRST REGULAR SESSION

HOUSE BILL NO. 313

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SMITH (14) (Sponsor), SMITH (118), PAGE, SUTHERLAND, JETTON, YATES, BYRD, FAITH, RUESTMAN, HUGHES, ICET, PORTWOOD, RUPP, DAVIS, PARKER AND MOORE (Co-sponsors).

Read 1st time January 25, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0317L.011

AN ACT

To repeal section 143.121, RSMo, and to enact in lieu thereof three new sections relating to a tutoring program for public schools.

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

Section A. Section 143.121, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 143.117, 143.121, and 167.420, to read as follows:

- 2 **143.117. 1. For all tax years beginning on or after January 1, 2006, a qualified**
3 **taxpayer, as determined in section 167.420, RSMo, shall be allowed to subtract from the**
4 **taxpayer's federal adjusted gross income to determine Missouri adjusted gross income the**
5 **total value of the taxpayer's time spent tutoring at the appropriate hourly rate established**
6 **within the school district where the taxpayer tutored.**
- 7 **2. The commissioner of education shall establish a procedure to evaluate the**
8 **amount of time a tutor has spent tutoring within the tutor's school district. The**
9 **superintendent of the school district shall provide a certificate to each tutor indicating the**
10 **value of time spent which shall be attached to the tutor's income tax return for that year**
11 **for the tutor to deduct the amount from the tutor's federal adjusted gross income.**
- 12 **3. School districts desiring to participate in the Missouri tutoring program for**
13 **public schools established in section 167.420, RSMo, shall apply to the department of**
14 **elementary and secondary education.**
- 14 **4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**

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.

15 **that is created under the authority delegated in this section shall become effective only if**
16 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**
17 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
18 **and if any of the powers vested with the general assembly under chapter 536, RSMo, to**
19 **review, to delay the effective date, or to disapprove and annul a rule are subsequently held**
20 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
21 **after August 28, 2005, shall be invalid and void.**

22 **5. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:**

23 **(1) The provisions of the new program authorized under this section shall**
24 **automatically sunset six years after the effective date of this section unless reauthorized by**
25 **an act of the general assembly; and**

26 **(2) If such program is reauthorized, the program authorized under this section**
27 **shall automatically sunset twelve years after the effective date of the reauthorization of this**
28 **section; and**

29 **(3) This section shall terminate on September first of the calendar year immediately**
30 **following the calendar year in which the program authorized under this section is sunset.**

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
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 taxable income but disallowed for Missouri income tax purposes pursuant
27 to this paragraph after June 18, 2002, may be carried forward and taken against any income on
28 the Missouri income tax return for a period of not more than twenty years from the year of the
29 initial loss.

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

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

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

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

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

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

56 (f) The portion of capital gain specified in section 135.357, RSMo, that would otherwise

57 be included in federal adjusted gross income;

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

64 (h) For all tax years ending on or after July 1, 2002, with respect to qualified property
65 that is sold or otherwise disposed of during a taxable year by a taxpayer and for which an
66 addition modification was made under paragraph (c) of subsection 2 of this section, the amount
67 by which addition modification made under paragraph (c) of subsection 2 of this section on
68 qualified property has not been recovered through the additional subtractions provided in
69 paragraph (g) of this subsection; **and**

70 (i) **The amount equal to the value of time spent tutoring in public schools as**
71 **provided in section 143.117.**

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

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

167.420. 1. There is hereby established the "Missouri Tutoring Program for Public
2 **Schools". Tutors shall be available to provide assistance to students in kindergarten**
3 **through the twelfth grade. To be eligible for participation in this program as a tutor, an**
4 **individual shall:**

5 (1) **Successfully complete a background check pursuant to that school district's**
6 **policy as applied to all teachers of such district; and**

7 (2) **Be a certificated teacher in good standing; or**

8 (3) **Possess a four-year degree from an accredited institution of higher education**
9 **with one year of work experience; or**

10 (4) **Be a student in good standing who is majoring in education at an accredited**
11 **institution of higher education and be within three semesters of graduation from such**
12 **institution; or**

13 (5) **Any individual or organization that currently tutors students may participate**
14 **in this program if they meet the requirements set forth in this section.**

15 **2. Tutors participating in this program shall be reimbursed at the hourly rate**
16 **equivalent to the pay received by teachers' assistants within that particular school district.**
17 **The school district's board of education shall have the authority to increase the hourly rate**

18 **paid to those tutors working in districts experiencing student achievement difficulty. Each**
19 **school district shall keep records of the amount of time each tutor spends tutoring within**
20 **their district. Each tutor shall spend a minimum of sixty hours and a maximum of one**
21 **hundred eighty hours tutoring in any school year.**

22 **3. The commissioner of education shall have the authority to promulgate any rules**
23 **necessary for the administration of this section. Any rule or portion of a rule, as that term**
24 **is defined in section 536.010, RSMo, that is created under the authority delegated in this**
25 **section shall become effective only if it complies with and is subject to all of the provisions**
26 **of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter**
27 **536, RSMo, are nonseverable and if any of the powers vested with the general assembly**
28 **under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul**
29 **a rule are subsequently held unconstitutional, then the grant of rulemaking authority and**
30 **any rule proposed or adopted after August 28, 2005, shall be invalid and void.**

31 **4. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:**

32 **(1) The provisions of the new program authorized under this section shall**
33 **automatically sunset six years after the effective date of this section unless reauthorized by**
34 **an act of the general assembly; and**

35 **(2) If such program is reauthorized, the program authorized under this section**
36 **shall automatically sunset twelve years after the effective date of the reauthorization of this**
37 **section; and**

38 **(3) This section shall terminate on September first of the calendar year immediately**
39 **following the calendar year in which the program authorized under this section is sunset.**