SECOND REGULAR SESSION

HOUSE BILL NO. 1594

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SMITH (14) (Sponsor), KRAUS, KELLY, CURLS, NOLTE, STEVENSON, WHORTON, BEHNEN, MUNZLINGER, McGHEE, STORCH, SCHAD, MOORE, CHINN, FAITH, PARKER, SMITH (118), JACKSON, BIVINS, DAY, NANCE, WALTON, MEADOWS, TILLEY, MUSCHANY, BAKER (123), KRATKY, KUESSNER, HENKE, DOUGHERTY, EMERY, BEAN, WELLS, WITTE AND RUPP (Co-sponsors).

Read 1st time January 31, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4525L.01I

AN ACT

To repeal sections 143.121 and 143.124, RSMo, and to enact in lieu thereof two new sections relating to income tax exemptions for military pensions.

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Section A. Sections 143.121 and 143.124, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 143.121 and 143.124, to read as follows: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 the taxpayer's federal adjusted gross income subject to the modifications in this section.

2. There shall be added to the 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 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

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.

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 pursuant to Section 168 of the Internal Revenue Code as amended by the Job 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 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, other than the deduction allowed by Section 172(b)(1)(G) and Section 172(i) of the Internal Revenue Code of 1986, as amended, for a net operating loss the taxpayer claims in the tax year in which the net operating loss occurred or carries forward for a period of more than twenty years and carries backward for more than two years. Any amount of net operating loss taken against federal income taxes but disallowed against Missouri income taxes pursuant to this paragraph since July 1, 2002, may be carried forward and taken against any loss on the Missouri income tax return for a period of not more than twenty years from the year of the initial loss.

3. There shall be subtracted from the 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 pursuant to the laws of the United States. The amount subtracted 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 the taxpayer's federal adjusted gross income or included in the 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 pursuant to this chapter of any annuity or other amount of income or gain which was properly included in income or gain and was taxed 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 section 135.357, RSMo, that would otherwise be included in federal adjusted gross income;

(g) The amount that would have been deducted in the computation of federal taxable income 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 pursuant to Section 168 of the Internal Revenue Code as amended by the Job Creation and Worker Assistance Act of 2002; **[**and**]**

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

(i) For all tax years beginning on or after January 1, 2006, the amount of any military retirement benefits included in federal adjusted gross income and not otherwise excluded therefrom.

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

143.124. 1. Other provisions of law to the contrary notwithstanding, 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**, other than military retirement benefits specifically subtracted from federal adjusted gross income under subsection 3 of section 143.121 and** 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, 2006, for purposes of this section, the terms annuity, pension, or retirement allowance shall not be defined to include military retirement benefits specifically subtracted from federal adjusted gross income under paragraph (i) of subsection 3 of section 143.121.** 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.

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**, except as otherwise provided in section 143.121,** 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 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.

10. The exemptions provided for in this section shall apply to any annuity, pension, or retirement allowance as defined in subsection 1 of this section to the extent that such amounts are included in the taxpayer's federal adjusted gross income and not otherwise deducted from the taxpayer's federal adjusted gross income in the calculation of Missouri taxable income. This subsection shall not apply to any individual who qualifies under federal guidelines to be one hundred percent disabled.

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