

SENATE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NOS. 1408 & 1514

AN ACT

To repeal sections 32.069 and 143.811, RSMo, and to enact in lieu thereof two new sections relating to interest on overpayments of taxes, with an emergency clause.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1           Section A. Sections 32.069 and 143.811, RSMo, are repealed  
2 and two new sections enacted in lieu thereof, to be known as  
3 sections 32.069 and 143.811, to read as follows:

4           32.069. Notwithstanding any other provision of law to the  
5 contrary, interest shall be allowed and paid on any refund or  
6 overpayment at the rate determined by section 32.068 only if the  
7 overpayment is not refunded within one hundred twenty days, or  
8 within ninety days in the case of taxes imposed by sections  
9 143.011 and 143.041, from the latest of the following dates:

10           (1) The last day prescribed for filing a tax return or  
11 refund claim, without regard to any extension of time granted;

12           (2) The date the return, payment, or claim is filed; or

13           (3) The date the taxpayer files for a credit or refund and  
14 provides accurate and complete documentation to support such  
15 claim.

16           143.811. 1. Under regulations prescribed by the director

1 of revenue, interest shall be allowed and paid at the rate  
2 determined by section 32.065, RSMo, on any overpayment in respect  
3 of the tax imposed by sections 143.011 to 143.996; except that,  
4 where the overpayment resulted from the filing of an amendment of  
5 the tax by the taxpayer after the last day prescribed for the  
6 filing of the return, interest shall be allowed and paid at the  
7 rate of six percent per annum. With respect to the part of an  
8 overpayment attributable to a deposit made pursuant to subsection  
9 2 of section 143.631, interest shall be paid thereon at the rate  
10 in section 32.065, RSMo, from the date of the deposit to the date  
11 of refund. No interest shall be allowed or paid if the amount  
12 thereof is less than one dollar.

13 2. For purposes of this section:

14 (1) Any return filed before the last day prescribed for the  
15 filing thereof shall be considered as filed on such last day  
16 determined without regard to any extension of time granted the  
17 taxpayer;

18 (2) Any tax paid by the taxpayer before the last day  
19 prescribed for its payment, any income tax withheld from the  
20 taxpayer during any calendar year, and any amount paid by the  
21 taxpayer as estimated income tax for a taxable year shall be  
22 deemed to have been paid by him on the fifteenth day of the  
23 fourth month following the close of his taxable year to which  
24 such amount constitutes a credit or payment.

25 3. For purposes of this section with respect to any  
26 withholding tax:

27 (1) If a return for any period ending with or within a  
28 calendar year is filed before April fifteenth of the succeeding

1 calendar year, such return shall be considered filed April  
2 fifteenth of such succeeding calendar year; and

3 (2) If a tax with respect to remuneration paid during any  
4 period ending with or within a calendar year is paid before April  
5 fifteenth of the succeeding calendar year, such tax shall be  
6 considered paid on April fifteenth of such succeeding calendar  
7 year.

8 4. If any overpayment of tax imposed by sections [143.011  
9 to 143.996] 143.061 and 143.071 is refunded within four months  
10 after the last date prescribed (or permitted by extension of  
11 time) for filing the return of such tax or within four months  
12 after the return was filed, whichever is later, no interest shall  
13 be allowed under this section on overpayment.

14 5. If any overpayment of tax imposed by sections 143.011  
15 and 143.041 is refunded within ninety days after the last date  
16 prescribed, or permitted by extension of time, for filing the  
17 return of such tax or within four months after the return was  
18 filed, whichever is later, no interest shall be allowed under  
19 this section on overpayment.

20 6. Any overpayment resulting from a carryback, including a  
21 net operating loss and a corporate capital loss, shall be deemed  
22 not to have been made prior to the close of the taxable year in  
23 which the loss arises.

24 [6.] 7. Any overpayment resulting from a carryback of a tax  
25 credit, including but not limited to the tax credits provided in  
26 sections 253.557 and 348.432, RSMo, shall be deemed not to have  
27 been made prior to the close of the taxable year in which the tax  
28 credit was authorized. In fiscal year 2003, the commissioner of

1 administration shall estimate the amount of any additional state  
2 revenue received pursuant to the provisions of this subsection  
3 and shall transfer an equivalent amount of general revenue to the  
4 schools of the future fund created in section 163.005, RSMo.

5 Section B. Because immediate action is necessary to ensure  
6 taxpayers receive refunds in a timely manner, section A of this  
7 act is deemed necessary for the immediate preservation of the  
8 public health, welfare, peace, and safety, and is hereby declared  
9 to be an emergency act within the meaning of the constitution,  
10 and section A of this act shall be in full force and effect upon  
11 its passage and approval.