

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0457S.01I  
 Bill No.: SB 133  
 Subject: Taxation and Revenue - Income  
 Type: Original  
 Date: January 3, 2023

Bill Summary: This proposal creates an income tax deduction for unborn children.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2027)
General Revenue*	\$0	\$0	\$0	\$0 or Unknown could exceed (\$4,000,000)
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0 or Unknown could exceed (\$4,000,000)</b>

\* Oversight notes that the proposed deduction would be disallowed as long as the federal deduction is set at \$0. The earliest this proposal could be implemented would be January 1, 2026 (FY 2027) assuming expiration of the Tax Cut and Jobs Act. Oversight notes the impact in FY 2027 as \$0 (Tax Cut and Jobs Act is extended) or Unknown could exceed (\$4,000,000) (Tax Cut and Jobs Act expires)

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2027)
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: () indicate costs or losses.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2027)
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2027)
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$0</b>

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>				
FUND AFFECTED	FY 2024	FY 2025	FY 2026	Fully Implemented (FY 2027)
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### **Section 143.161 Unborn Child Income Tax Deduction**

Officials from the **Department of Revenue (DOR)** note currently in statutes, a person is allowed an individual income tax deduction for the following:

- 143.161.1 dependency deduction
- 143.161.2 head of household deduction
- 143.161.3 stillbirth exemption.

DOR notes this proposal attempts to add another deduction (Section 143.161.4) to the list. It will allow a taxpayer with an unborn child to claim the dependency deduction in 143.161.1.

In December of 2017, the Tax Cuts and Jobs Act passed at the federal level set the dependency deduction at zero. HB 2540 adopted in 2018 by the Missouri General Assembly, added language to Missouri's dependency deduction that makes the state deduction zero if the federal deduction is zero. Because of the language of HB 2540, Missouri's dependent deduction went to zero in 2018. Therefore, adding this provision to statutes while the dependent deduction is zero will not have a fiscal impact.

However, the Tax Cut and Jobs Act is currently set to expire on January 1, 2026 if not readopted by the U.S. Congress. If Congress chooses to extend the zero dependent deduction the Department would not be able to implement this. If Congress chooses to let the Tax Cuts and Jobs Act expire, then the Department could implement this. It should be noted that the earliest this could be implemented is tax year 2026 (FY 2027 based on filing of the returns).

The Department notes that this allows the deduction for each "unborn child" but the term is not defined. The Department assumes the women would need to provide proof of the pregnancy in order to claim the deduction. The Department notes there are approximately 71,554 children born annually in Missouri. Which would result in \$85,864,800 (\$1,200 deduction \* 71,554 kids) being taken in deductions. At the current tax rate of 5.2% (TY 2023) this would result in a loss of state revenue of \$4,464,970. It should be noted that per SB 3 (2022) the tax rate is scheduled to drop in future years. The amount of revenue loss would depend on the tax rate at that time.

This would require the Department of Revenue to make changes to the MO-1040, to the website and to the individual income tax computer filing system. These changes are estimated at \$7,193.

**Oversight** assumes the **Department of Revenue** is provided with core funding to handle a certain amount of activity each year. Oversight assumes the DOR could absorb the computer

costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, DOR could request funding through the appropriation process. Officials from the DOR assume the proposal will have no fiscal impact on their organization.

Officials from the **Office of Administration - Budget and Planning (B&P)** note this proposal would grant a \$1,200 tax deduction for each unborn child in Missouri. The deduction shall be granted if the taxpayer would be eligible to receive the federal dependent deduction once the child is born. The deduction may not be granted in any year where the taxpayer can receive the federal dependent deduction.

B&P notes that per the federal Tax Cut and Jobs Act (TCJA, 2017), the federal dependent deduction is set at \$0. In addition, HB 2540 (2018) clarified that as long as the federal deduction is set at \$0, there is no Missouri deduction allowed. Therefore, B&P assumes that this deduction would also be disallowed as long as the federal deduction is set at \$0. B&P further notes that the TCJA is set to expire for tax year 2026 unless reauthorized by Congress.

B&P further notes that this proposal requires that a taxpayer be eligible for the federal dependent deduction once the child is born. However, stillbirths and other fetal deaths would not be eligible for the federal deduction. In addition, women giving their child up for adoption would also not be eligible for the federal dependent deduction once parental rights are terminated. Given that this deduction may be taken before the outcome of a pregnancy is known, B&P assumes that all pregnant women will qualify for this deduction.

B&P also notes that this proposal grants the \$1,200 deduction for each unborn child. Therefore, women carrying multiple children would be eligible for more than one \$1,200 deduction. For example, a women carrying twins would receive a \$2,400 deduction ( $\$1,200 \times 2$  unborn children).

On the other hand, women who are pregnant and have a live birth within the same tax year (October through December births) would not be eligible for this deduction, as they could receive the federal dependent deduction for the one tax year that they were pregnant.

Based on data published by DHSS, on average there were 78,551 pregnancies from 2016-2020. Therefore, B&P estimates that this proposal could exempt approximately \$94,260,720 in income ( $78,551 \times \$1,200$ ). At a top tax rate of 4.95%, this proposal could reduce TSR and GR by \$4,665,906 annually. At a top tax rate of 4.5%, this proposal could reduce TSR and GR by \$4,241,732.

However, as noted above this deduction will be \$0 as long as the federal dependent deduction is \$0. B&P is unable to determine when, if ever, the federal deduction may return, but the earliest would be tax year 2026. B&P notes that this deduction would not be claimed until taxpayers filed their annual tax return in April of the following year. As a result, the earliest this proposal could impact TSR and GR would be FY27 (for tax year 2026 pregnancies).

Therefore, B&P estimates that once SB 3 (2022) is fully implemented this proposal may reduce TSR and GR by \$0 (no federal deduction allowed) or \$4,241,732. Table 1 shows the potential impact by top tax rate.

Table 1: Estimated  
 Loss to GR

Tax Rate	GR Impact
4.95%	(\$4,665,906)
4.80%	(\$4,524,515)
4.70%	(\$4,430,254)
4.60%	(\$4,335,993)
4.50%	(\$4,241,732)

, **Oversight** will show DOR’s estimated impact in FY 2027 as an Unknown loss that could exceed \$4,000,000.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026	Fully Implemented (FY 2027)
<b>GENERAL REVENUE</b>				
<u>Revenue Loss – Unborn Child Income Tax Deduction §143.161 – p. 3-5</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0 or Unknown could exceed (\$4,000,000)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0 or Unknown could exceed (\$4,000,000)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026	Fully Implemented (FY 2027)
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

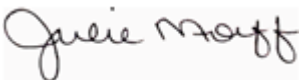
FISCAL DESCRIPTION

Current law authorizes a taxpayer to claim a \$1,200 exemption for each dependent for whom such taxpayer is entitled to a dependency exemption for federal tax purposes, provided such federal exemption is not equal to \$0. This act also authorizes a taxpayer to claim a \$1,200 exemption for each unborn child for which the taxpayer will be entitled to a dependency exemption for federal tax purposes once the unborn child is born. A taxpayer shall not claim such exemption in the same tax year that the taxpayer claims a dependency exemption for such child for federal tax purposes.

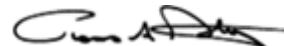
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Revenue  
Office of Administration - Budget and Planning



Julie Morff  
Director  
January 3, 2023



Ross Strobe  
Assistant Director  
January 3, 2023