

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1371S.01I
 Bill No.: SB 452
 Subject: Taxation and Revenue - Income
 Type: Original
 Date: March 3, 2023

Bill Summary: This proposal authorizes an income tax deduction for income received as overtime pay.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue	(\$82,937,676- \$318,375,160)	(\$80,417,438 to \$308,720,453)	(\$78,742,075 to \$302,288,777)
Total Estimated Net Effect on General Revenue	(\$82,937,676- \$318,375,160)	(\$80,417,438 to \$308,720,453)	(\$78,742,075 to \$302,288,777)

*The fiscal note reflects the assumptions that the SB 3 (2022) reductions are triggered consecutively.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>Other State Funds</u>	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

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

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on FTE	0	0	0

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.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 143.121 Overtime Tax Deduction

Officials from the **Department of Revenue (DOR)** note this proposal will allow a subtraction from federal adjusted gross income of 100 % of the overtime compensation a taxpayer receives. This proposal would become effective August 28, 2023, and would be implemented during the middle of a tax year. The first returns reporting this subtraction would be filed starting January 1, 2024 (FY 2024).

The Department reached out to the Office of Administration’s Division of Personnel to get the amount of overtime paid to state employees. Since state employees have the ability to be given time off in lieu of overtime, DOR hoped to show the state’s impact separately. The Division did not provide DOR with the data.

Since there is no single source for overtime pay, DOR collected data from a couple sources. Based on a Gallup Poll released in 2021, 52% of all workers in the U.S. work more than the 40 hour workweek. The Bureau of Labor Statistics (BLS) note Missouri has 2,741,069 workers who have an average salary of \$27.15 per hour.

Current estimates indicate that 85% of all workers are exempt from the federal overtime laws under the Fair Labor Standards Act (FLSA). Employees who are executive, administrative, professional or outside sales employees that are paid a salary are exempt employees. However, in some instances an exempt employee may receive overtime pay. However, for the simplicity of the fiscal note, DOR will assume if you are an exempt employee, you will **not** receive overtime. An estimate of the number of Missouri workers by hours worked.

Table 1: Estimated MO Workers by Hours of Overtime						
Hours Worked	< 40 hrs	40 hrs	41-49	50-59	60-69	70+
% of workers	8%	40%	13%	21%	11%	7%
Est. # MO workers	219,286	1,096,428	356,339	575,624	301,518	191,875
Est. # MO Workers - exempt (85%)	219,286	1,096,428	302,888	489,281	256,290	163,094
Est. # MO Workers - Overtime Eligible	0	0	53,451	86,344	45,228	28,781

Therefore, DOR can assume that 213,803 (53,451 + 86,344 + 45,228 + 28,781) workers could receive overtime pay and be eligible for this subtraction. Bringing the total number of hours of overtime paid to 139,613,608 to 236,894,147.

DOR notes that Missouri's minimum wage rate for 2023 is \$12 hour. BLS shows that Missouri has an average hourly salary of \$27.15. DOR will reflect a range of \$1,675,363,301 (minimum wage) to \$6,431,676,098 (BLS average). DOR notes that subtractions do not reduce revenue on a dollar for dollar basis but rather in proportion to the top tax rate applied. SB 3(2022) set the tax year 2023 individual income tax rate at 4.95%. SB 3 is projected to lower the rate to 4.5% over a period of years based on certain revenue growth. Therefore, DOR will show the impact over the implementation of SB 3.

Estimated Revenue Loss by Fiscal Year

	Tax Year (Fiscal Year)					
Tax Rate	2023 (FY24)		2024 (FY25)		2025 (FY26)	
	Low	High	Low	High	Low	High
4.95%	(\$82,930,483)	(\$318,367,967)	(\$82,930,483)	(\$318,367,967)	(\$82,930,483)	(\$318,367,967)
4.80%			(\$80,417,438)	(\$308,720,453)	(\$80,417,438)	(\$308,720,453)
4.70%					(\$78,742,075)	(\$302,288,777)
4.60%						
4.50%						

Estimated Revenue Loss by Fiscal Year

	Tax Year (Fiscal Year)					
Tax Rate	2026 (FY27)		2027 (FY28)		2028 (FY29)	
	Low	High	Low	High	Low	High
4.95%	(\$82,930,483)	(\$318,367,967)	(\$82,930,483)	(\$318,367,967)	(\$82,930,483)	(\$318,367,967)
4.80%	(\$80,417,438)	(\$308,720,453)	(\$80,417,438)	(\$308,720,453)	(\$80,417,438)	(\$308,720,453)
4.70%	(\$78,742,075)	(\$302,288,777)	(\$78,742,075)	(\$302,288,777)	(\$78,742,075)	(\$302,288,777)
4.60%	(\$77,066,712)	(\$295,857,101)	(\$77,066,712)	(\$295,857,101)	(\$77,066,712)	(\$295,857,101)
4.50%			(\$75,391,349)	(\$289,425,424)	(\$75,391,349)	(\$289,425,424)

This proposal will require changes to DOR's MO-A form, their website and their individual income tax computer system. These changes are estimated at \$7,193. While the Department assumes they could handle this subtraction with existing resources, should the number of errors or correspondence reach the levels to justify an FTE, DOR would seek that FTE through the appropriation process.

1 FTE Associate Customer Service Rep (\$31,200) for every 14,700 errors created

1 FTE Associate Customer Service Rep for every 5,700 pieces of correspondence generated

Oversight assumes the Department of Revenue is provided with core funding to handle a certain amount of activity each year. Oversight assumes DOR could absorb the costs for computer upgrades and the temporary employee costs related to this proposal. Oversight assumes DOR can absorb the administrative impact of this proposal.

Officials from the **Office of Administration - Budget and Planning (B&P)** note this proposal would allow a 100% subtraction for overtime compensation included in a taxpayer’s Federal Adjusted Gross Income (FAGI) when calculating their Missouri Adjusted Gross Income (MAGI). B&P notes that this proposal would become effective August 28, 2023. Therefore, B&P assumes that this proposal would be effective starting with tax year 2023, with annual income tax returns filed during FY24.

Based on a 2021 Gallup poll, 52% of workers in the U.S. work more than 40 hours per week. According to BLS data, there were 2,741,069 workers in Missouri during 2021, with an average hourly wage of \$27.15.

In addition, current estimates indicate that approximately 85% of all workers are exempt from the federal overtime law. B&P notes that some individuals may receive overtime even if their position could be technically exempt from the federal law. However, for the purpose of this fiscal note, B&P will assume that individuals exempt under federal law will not receive overtime pay. This could understate the potential impact from this proposal. Table 1 shows the estimated breakdown of Missouri workers by hours worked.

Table 1: Estimated MO Workers by Hours of Overtime

	< 40	40 hrs	41-49	50-59	60-69	70+
Hours Worked	hrs	40 hrs	41-49	50-59	60-69	70+
% of workers	8%	40%	13%	21%	11%	7%
Est. # MO workers	219,286	1,096,428	356,339	575,624	301,518	191,875
Est. # MO Workers - exempt (85%)	219,286	1,096,428	302,888	489,281	256,290	163,094
Est. # MO Workers - Overtime Eligible	0	0	53,451	86,344	45,228	28,781

Therefore, B&P estimates that approximately 213,803 workers in Missouri may receive overtime pay. Based on the data above, B&P estimates that this provision could exempt 139,613,608 to 236,894,147 hours in overtime from state income tax.

B&P notes that per data published by the BLS, the average hourly wage in Missouri was \$27.15 in 2021. However, B&P notes that the federal overtime law has a maximum income below the annual average Missouri wages. Therefore, for the purpose of this fiscal note, B&P will calculate a range using the current minimum wage of \$12 per hour and the BLS average wage of \$27.15 per hour.

Therefore, B&P estimates that this proposal may exempt \$1,675,363,301 to \$6,431,676,098 from state income tax. However, deductions do not reduce revenues on a dollar for dollar basis, but rather in proportion to the top tax rate applied. Therefore, B&P will show the estimated impacts throughout the implementation of the tax rate reductions from SB 3 (2022). Table 2 shows the estimated impact by year.

Table 2: Estimated Revenue Loss by Fiscal Year

	Tax Year (Fiscal Year)					
Tax Rate	2023 (FY24)		2024 (FY25)		2025 (FY26)	
	Low	High	Low	High	Low	High
4.95%	(\$82,930,483)	(\$318,367,967)	(\$82,930,483)	(\$318,367,967)	(\$82,930,483)	(\$318,367,967)
4.80%			(\$80,417,438)	(\$308,720,453)	(\$80,417,438)	(\$308,720,453)
4.70%					(\$78,742,075)	(\$302,288,777)
4.60%						
4.50%						

Table 2: Estimated Revenue Loss by Fiscal Year

	Tax Year (Fiscal Year)					
Tax Rate	2026 (FY27)		2027 (FY28)		2028 (FY29)	
	Low	High	Low	High	Low	High
4.95%	(\$82,930,483)	(\$318,367,967)	(\$82,930,483)	(\$318,367,967)	(\$82,930,483)	(\$318,367,967)
4.80%	(\$80,417,438)	(\$308,720,453)	(\$80,417,438)	(\$308,720,453)	(\$80,417,438)	(\$308,720,453)
4.70%	(\$78,742,075)	(\$302,288,777)	(\$78,742,075)	(\$302,288,777)	(\$78,742,075)	(\$302,288,777)
4.60%	(\$77,066,712)	(\$295,857,101)	(\$77,066,712)	(\$295,857,101)	(\$77,066,712)	(\$295,857,101)
4.50%			(\$75,391,349)	(\$289,425,424)	(\$75,391,349)	(\$289,425,424)

Oversight will show B&P and DOR’s projected fiscal estimated impacts of this proposal throughout the implementation of the tax rate reductions from SB 3 (2022) to show the maximum low and high impact of the proposal. The fiscal note reflects the assumptions that the SB 3 (2022) reductions are triggered consecutively.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE FUND			
Revenue Loss - §143.121 – Overtime Income Tax Deduction	<u>(\$82,937,676-</u> <u>\$318,375,160)</u>	<u>(\$80,417,438 to</u> <u>\$308,720,453)</u>	<u>(\$78,742,075 to</u> <u>\$302,288,777)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$82,937,676-</u> <u>\$318,375,160)</u>	<u>(\$80,417,438 to</u> <u>\$308,720,453)</u>	<u>(\$78,742,075 to</u> <u>\$302,288,777)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
	<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.

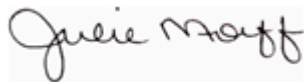
FISCAL DESCRIPTION

This act authorizes an income tax deduction for one hundred percent of any income received by a taxpayer as overtime compensation.

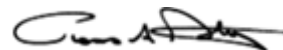
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Revenue
Office of Administration - Budget and Planning



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March 3, 2023



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March 3, 2023