

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5663H.011
 Bill No.: HB 2945
 Subject: Taxation and Revenue - Income; Taxation and Revenue - General; Tax Incentives;
 Business and Commerce; Department of Revenue
 Type: Original
 Date: January 28, 2026

Bill Summary: This proposal amends tax law to provide for additional subtractions for capital gains that are recharacterized as ordinary income by IRS.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND

FUND AFFECTED	FY 2027	FY 2028	FY 2029
General Revenue*	(Could substantially exceed \$48,844,503)	(Could substantially exceed \$33,554,638)	(Could substantially exceed \$33,127,660)
Total Estimated Net Effect on General Revenue	(Could substantially exceed \$48,844,503)	(Could substantially exceed \$33,554,638)	(Could substantially exceed \$33,127,660)

*Given the discrepancy in estimates between DOR and B&P as well as the lack of available information, Oversight is uncertain if the capital gains subtraction was captured in the fiscal impact for TAFP HB 594 & 504. Therefore, Oversight will show a loss from the capital gains subtraction for fiduciaries in this fiscal note.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS

FUND AFFECTED	FY 2027	FY 2028	FY 2029
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS

FUND AFFECTED	FY 2027	FY 2028	FY 2029
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)

FUND AFFECTED	FY 2027	FY 2028	FY 2029
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 2027	FY 2028	FY 2029
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

§§143.121 & 143.341 - Calculating Missouri Adjusted Gross Income

Officials from the **Department of Revenue (DOR)** note this bill changes how DOR calculates Missouri Adjusted Gross Income (MAGI) for individuals, and Missouri taxable income for trusts and estates, by allowing certain ordinary income in FAGI to be treated as a capital gain, effectively decoupling from the tax treatment of certain items called for by the Internal Revenue Code.

Under the IRC Sections 1245 & 1250 allow certain property when sold, to be treated as ordinary income rather than capital gain. This proposal would say that should it have been treated as capital gain if these 2 federal sections had not existed, then you can treat that property as capital gain under this proposal.

HB 594 & 508 adopted in 2025 granted a capital gain subtraction when calculating Missouri Adjusted Gross Income (MAGI) for calculating individual income tax. This subtraction went into effect starting January 1, 2025. Therefore, the language of this proposal would allow this property once treated as capital gains to be exempt from individual income tax.

This proposal would also allow estates and trusts that are subject to the IRC Sections 1245 & 1250 to be treated the same as the individual income tax.

DOR is unable to determine the amount of property that would be eligible for the capital gain subtraction under this proposal. DOR assumes any impact would be a loss to general revenue in an unknown amount. The amount could exceed \$250,000.

Officials from the **Office of Administration - Budget and Planning (B&P)** note this provision would allow taxpayers to subtract income that would be typically classified as capital gains, but for federal rules re-classifying that income as ordinary. B&P is unable to find any data on how much income may qualify under this subtraction. Therefore, this provision could have an unknown, may be significant, negative impact on TSR and GR beginning FY27 (for tax year 2026 income tax returns).

Oversight will show an unknown loss to general revenue from this provision that could be substantial.

§143.341 - Estates and Trusts

Officials from the **Department of Revenue (DOR)** note HB 594 & 508 when it passed only allowed the capital gain subtraction for individual income tax. At the time, the wording of the

language did not allow estates and trusts who file fiduciary tax to receive the same subtraction. It should be noted that fiduciaries use the same tax rate as individual income tax filers.

This proposal would expand the capital gain subtraction to trusts and estates. This proposal would be for all tax years starting January 1, 2026, even though this proposal would not become effective until August 28, 2026. Therefore, this proposal would impact FY 2027.

When DOR calculated the impact of the capital gains subtraction for HB 594 & 508, the estimated amount already included the amount of capital gain reported by individuals, estates and trusts, and pass-through entities. Therefore, this provision is not expected to result in any additional fiscal impact that is not already accounted for in the consensus revenue estimates.

DOR would need to modify the department's individual (MO-1040 & MO-A) and fiduciary (MO-1041) tax forms (\$2,200 each) as well as revise the department's individual and fiduciary income tax systems (\$7,547 each).

Oversight notes the estimated revenue loss for the capital gains subtraction in the fiscal note for the Truly Agreed To and Finally Passed (TAFP) HB 594 & 508 provided by DOR was approximately \$111 million annually.

Oversight requested a breakout of the fiduciary capital gains loss from this estimate. However, DOR indicated when they pulled the data for the capital gain, it included individuals, fiduciary & PTE. They ran the impact but did not separate out one of these from the others.

Officials from the **Office of Administration - Budget and Planning (B&P)** assume this provision would extend the capital gains subtraction to fiduciaries. B&P notes that the potential loss from this provision was already included in B&P's estimate for the total capital gains subtraction pass in HB 594 (2025). B&P estimates that of the total \$369.6 million impact, approximately \$34.6 million comes from fiduciaries. Therefore, this provision will not have an impact on TSR or GR beyond what was estimated for HB 594 (2025).

Oversight notes that officials from the Office of Administration - Budget and Planning did not respond to Oversight's request for fiscal impact for TAFP HB 594 & 508. Therefore, the \$369.6 million estimate was not included in the fiscal note for the capital gains subtraction passed in TAFP HB 594 & 508 (2025).

Given the discrepancy in estimates between DOR and B&P as well as the lack of available information, Oversight is uncertain if the fiduciary capital gains subtraction was captured in the fiscal impact for TAFP HB 594 & 504 (2025). Therefore, Oversight will show a loss from the capital gains subtraction for fiduciaries in this fiscal note.

For fiscal note purposes, Oversight assumes a top income tax rate of 4.7% in tax year 2026 (FY 2027) and future income tax rate reductions from SB 3 (2022) will trigger consecutively (4.6% in FY 2028 and 4.5% in FY 2029+).

Tax Year	GR Impact
2026 (4.7%)	\$34,600,000
2027 (4.6%)	\$33,863,830
2028 (4.5%)	\$33,127,660
2029 (4.5%)	\$33,127,660
2030 (4.5%)	\$33,127,660

Oversight notes that B&P uses a 42% in first fiscal year and 58% split in the second year to convert the income tax numbers from tax year to fiscal year.

Fiduciary Tax

Fiscal Year	Loss to GR
2027*	(\$48,822,809)
2028	(\$33,554,638)
2029	(\$33,127,660)

***Oversight** notes the proposed subtraction starts tax year 2026. FY27 will be impacted by 100% of the subtraction for tax year 2026 and a portion of the subtraction for tax year 2027.

<u>FISCAL IMPACT – State Government</u>	FY 2027 (10 Mo.)	FY 2028	FY 2029
GENERAL REVENUE			
<u>Revenue Loss</u> – DOR (§§143.121 & 143.341) Changes to MAGI and capital gains subtraction p.3	(Unknown, could be substantial)	(Unknown, could be substantial)	(Unknown, could be substantial)
<u>Revenue Loss</u> – DOR (§143.341) Fiduciary tax - capital gain subtraction to trusts and estates p.5	(\$48,822,809)	(\$33,554,638)	(\$33,127,660)
<u>Cost</u> – DOR (§§143.121 & 143.341) Form and computer upgrades p.4	(\$21,694)	\$0	\$0
ESTIMATED NET EFFECT ON GENERAL REVENUE	(Could substantially exceed \$48,844,503)	(Could substantially exceed \$33,554,638)	(Could substantially exceed \$33,127,660)

<u>FISCAL IMPACT – Local Government</u>	FY 2027 (10 Mo.)	FY 2028	FY 2029
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

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

FISCAL DESCRIPTION

Currently, Sections 143.121 and 143.341, RSMo, define how a resident individual’s Missouri adjusted gross income is computed by starting with Federal adjusted gross income and then applying specified additions and subtractions.

This bill revises these provisions to maintain the existing income tax structure while adding new statutory subtractions. The bill continues to define Missouri adjusted gross income based on Federal adjusted gross income with specified modifications but adds provisions that:

- (1) For all tax years beginning on or after January 1, 2026, treat a capital gain as including items of ordinary income for Federal tax purposes that, but for Internal Revenue Code Sections 1245 and 1250, would have been classified as a capital gain. This authorizes a subtraction for capital gains recharacterized as ordinary income.
- (2) For estates and trusts, for all tax years beginning on or after January 1, 2026, subtract 100% of all income reported as a capital gain for Federal income tax purposes and include items of ordinary income that would be capital gains absent application of Internal Revenue Code Sections 1245 and 1250.

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

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SOURCES OF INFORMATION

Department of Revenue

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January 28, 2026



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January 28, 2026