OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

S.B. 159
135th General Assembly

# Fiscal Note & Local Impact Statement

Click here for S.B. 159's Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Sen. O'Brien

**Local Impact Statement Procedure Required:** Yes

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## Highlights

- The bill authorizes a nonrefundable tax credit against the personal income tax (PIT) or commercial activity tax (CAT) for donations to a certified pregnancy resource center.
- LBO estimates that the proposal will cost the state between $3.0 million and $10.0 million per year in the form of decreased PIT and CAT receipts. This revenue loss would be shared by the GRF (96.60%), Local Government Fund (LGF, 1.70%), and Public Library Fund (PLF, 1.70%).

## Detailed Analysis

### Tax credit description

The bill authorizes a nonrefundable tax credit against the personal income tax (PIT) or commercial activity tax (CAT) for donations to a certified pregnancy resource center. Approved credits are for the amount of the underlying donation, but no more than $10.0 million in credits may be approved in a calendar year, and no more than $5.0 million in credits may be approved for donations to the same certified center in a calendar year. The credit may reduce up to 50% of the taxpayer's liability, before accounting for any other state tax credits. If the credit exceeds 50% of the tax liability, the unused amount may be carried forward and claimed against up to 50% of the taxpayer's liability for up to five subsequent years.

For credits against the income tax, if the tax credit certificate is issued to a pass-through entity (PTE), such as a limited liability company or partnership, it may be allocated amongst the PTE's owners. Once allocated amongst the owners, they may claim it against their individual income tax liability.

To receive the credit, a person must first apply to the Tax Commissioner for the credit. An application must state the amount of the donation, the tax against which the taxpayer will claim the credit, and any other information the Commissioner requires, and it must be submitted with a dated receipt or other document from the certified center verifying the donation. Pregnancy resource centers must apply to be certified by the Tax Commissioner as meeting certain criteria (a list of all the criteria can be found in the LSC bill analysis).

## Tax revenue analysis

LBO estimates that the proposal will cost the state between $3.0 million and $10.0 million per year in the form of decreased PIT and CAT receipts. This revenue loss would be shared by the GRF (96.60%), Local Government Fund (LGF, 1.70%), and Public Library Fund (PLF, 1.70%). The revenue effect could be towards the lower end of this range in the first few years after the credit becomes effective, as taxpayers are sometimes slow to recognize their eligibility for newly enacted credits. However, the value of this credit equals the cash amount donated, so there is considerable incentive for the credit to be utilized.

There is limited information to inform a fiscal estimate for the bill, which necessitates a broad range. Two other states have implemented proposals that are similar to the contents of the bill: Mississippi and Missouri. Mississippi enacted their version of the "pregnancy resource credit" only one year ago in 2022,[1] thus the budgetary impact of their policy is not yet known. On the other hand, Missouri has had a longstanding pregnancy resource credit that could primarily be claimed against their income tax, but the state revenue effect is not widely disseminated. The overall cap for Missouri's credit has been adjusted multiple times throughout its history; once in June 2019 when the cap was increased from $2.0 million to $3.5 million, and most recently in July 2021 where the cap was removed altogether. This most recent change was coupled with another adjustment in which taxpayers could claim 70% of their donations to pregnancy resource centers as a tax credit, an increase from 50%. Media sources reported that these changes have resulted in the state of Missouri authorizing more than $7.0 million in pregnancy resource credits within the first quarter of 2022 alone. It is possible that Ohio's fiscal effect will be similar to Missouri, but LBO cannot be certain as meaningful policy differences exist between Missouri's credit and the credit proposed in the bill.

There are currently 175 pregnancy resource centers in Ohio.[2] Generally, these centers tend to be tax-exempt organizations that file an annual information return with the Internal Revenue Service (IRS). Unfortunately, LBO could not find the individual returns for many of those centers. But the annual returns LBO could obtain from the IRS website suggests substantial variability in annual donations to pregnancy centers (some centers receive millions in donations, but others only receive thousands of dollars). While pregnancy resource centers must disclose the amount of donations they receive, they are not obligated to disclose where those donations are from. Thus, LBO cannot determine the share of donations from those that would not claim the credit, such as tax-exempt organizations (e.g., churches and nonprofits) or donors from outside the state of Ohio. It is entirely possible that current donations to qualified pregnancy

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[1] Mississippi's pregnancy resource credit is primarily applied against property, income, and insurance tax liabilities, and it initially had an overall credit cap at $3.5 million. This year, in 2023, the Mississippi House passed H.B. 468 that increased the cap to $10.0 million.

[2] According to information compiled by Ohio Right to Life. It is important to note that while there are 175 pregnancy resource centers in Ohio, it is unclear if all 175 centers will meet the criteria to be certified.

resource centers are sufficient to meet the annual credit cap of $10.0 million. Nevertheless, LBO cannot estimate the amount of donations that would qualify for the credit, so LBO cannot be certain of this outcome.

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