



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2025 Biennium

**Bill information:**

SB0124 - Revise corporate income tax apportionment (Hertz, Greg )

**Status:** As Amended in Senate Committee

- Significant Local Gov Impact     
 Needs to be included in HB 2     
 Technical Concerns  
 Included in the Executive Budget     
 Significant Long-Term Impacts     
 Dedicated Revenue Form Attached

### FISCAL SUMMARY

|   | <u>FY 2024<br/>Difference</u> | <u>FY 2025<br/>Difference</u> | <u>FY 2026<br/>Difference</u> | <u>FY 2027<br/>Difference</u> |
|---|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| <b>Expenditures:</b>                    |                               |                               |                               |                               |
| General Fund                            | \$0                           | \$0                           | \$0                           | \$0                           |
| <b>Revenue:</b>                         |                               |                               |                               |                               |
| General Fund                            | \$0                           | \$4,884,000                   | \$16,422,000                  | \$17,608,000                  |
| <b>Net Impact-General Fund Balance:</b> | <u>\$0</u>                    | <u>\$4,884,000</u>            | <u>\$16,422,000</u>           | <u>\$17,608,000</u>           |

**Description of fiscal impact:** SB 124 changes multi-state corporation income tax apportionment from a three factor with double-weighted sales apportionment, to single factor apportionment based on sales. The amendment delays the effective date until January 1, 2025. There are part-year revenue effects in FY 2025 of around \$4.9 million. Full year revenue impacts begin in FY 2026, with corporation income tax revenue estimated to increase by about \$10 million per year and individual income tax revenue from ownership of pass-through entities estimated to increase by \$6.5 million in FY 2026 and \$7.5 million in FY 2027.

### FISCAL ANALYSIS

**Assumptions:****Department of Revenue**

1. SB 124, as amended in the Senate Taxation Committee, changes Montana corporation income tax apportionment of multi-state businesses from double-weighted sales three-factor apportionment to single factor apportionment based on sales. A business's total net income would just be multiplied by the ratio of their receipts in Montana to their total receipts everywhere. The current law property and payroll factors will no longer apply.
2. This change in apportionment would have an impact on multistate C-corporations and pass-through entities with non-resident owners who do business in Montana.

- The amended applicability date for this bill is tax years beginning after December 31, 2024. The bill would go into effect beginning with TY 2025 for all C-corporations and pass-through entities.

*Corporate Income Tax Impact*

- To estimate the impact of this change, corporate income tax returns from TY 2018, TY 2019, and TY 2020 were modeled with the current double-weighted sales apportionment factor and the proposed single sales apportionment factor.
- The following table shows the modeled tax liabilities for those three tax years.

| Tax Year       | Three-Factor with Double-Weighted Sales | Single-Sales Factor (SB 124) | Change due to SB 124 | Percent Change |
|----------------|---|------------------------------|----------------------|----------------|
| 2018           | \$173,498,000                           | \$182,484,000                | \$8,986,000          | 5.2%           |
| 2019           | \$187,166,000                           | \$194,092,000                | \$6,926,000          | 3.7%           |
| 2020           | \$232,699,000                           | \$237,280,000                | \$4,581,000          | 2.0%           |
| <b>Average</b> | <b>\$197,787,667</b>                    | <b>\$204,618,667</b>         | <b>\$6,831,000</b>   | <b>3.6%</b>    |

- Due to the high volatility of corporate income tax collections, the average of these three years is used to estimate the annual impact of this bill going forward. The impact of SB 124 is an increase in corporate income tax collections of 3.6% over the HJ 2 estimates for FY 2025 through FY 2027.
- This bill would apply to tax years beginning after December 31, 2024, which will be TY 2025 for all corporations. Given the timing of estimated payments by corporations, it is assumed that revenue increases will begin in FY 2025 at 50% of the estimated annual impact, with the full impact beginning in FY 2026.
- The following table shows the current HJ 2 estimates for corporate income tax collections and the estimated additional corporate income tax revenue as a result of SB 124.

| Fiscal Year | HJ 2 Forecast | SB 124        | Revenue Impact |
|-------------|---------------|---------------|----------------|
| 2024        | \$277,207,000 | \$277,207,000 | \$0            |
| 2025        | \$271,356,000 | \$276,240,000 | \$4,884,000    |
| 2026        | \$275,598,000 | \$285,520,000 | \$9,922,000    |
| 2027        | \$280,764,000 | \$290,872,000 | \$10,108,000   |

**Pass-through Entities Impact (Individual Income Tax)**

- Estimating the impact of an apportionment factor shift on pass-through income (recorded as individual income tax) is significantly more complicated to estimate than the corporate income tax impact due to the tiers of various pass-through structures and the available data.
- Using TY 2019, TY 2020, and TY 2021 pass-through entity returns for multi-state entities paying the composite tax, the change from three-factor double-weighted sales to single-factor single weighted sales will increase individual income tax paid by these entities by about 3%.
- Applying that to the \$125.3 million pass-through income collections in FY 2022, the additional revenue under single sales would have been about \$3.8 million.
- The department does not have enough data to assess the impact of SB 124 on revenue collections from non-resident pass-through entity owners with Montana source income that do not pay composite tax. We assume that these taxpayers will have offsetting payments.
- Using the FY 2022 pass-through entity collections as the baseline and projecting the continued growth in pass-through income and composite tax, the department estimates that the additional income tax revenue from pass-through entities would be \$4.5 million in FY 2024 and increase \$1 million each year through FY 2027. Given the January 1, 2025 applicability date and timing of pass-through filing periods, this apportionment

change would not apply until TY 2025 for all pass-throughs. Therefore, the first significant revenue impact would take effect starting in FY 2026 when the composite taxes are paid for TY 2025.

14. The following table shows the estimated combined revenue impact for C corporations and pass-throughs.

| Fiscal Year | Corporate Income Tax Revenue | Pass-through Entities (PIT) Revenue Impact | Total Revenue Impact |
|-------------|------------------------------|--|----------------------|
| 2024        | \$0                          | \$0  | \$0                  |
| 2025        | \$4,884,000                  | \$0  | \$4,884,000          |
| 2026        | \$9,922,000                  | \$6,500,000                                | \$16,422,000         |
| 2027        | \$10,108,000                 | \$7,500,000                                | \$17,608,000         |

15. Due to the amended effective date, the Department of Revenue would be able to make the necessary form changes during the regularly scheduled maintenance at the end of the calendar year without significant additional costs.

|   | <u>FY 2024</u><br><u>Difference</u> | <u>FY 2025</u><br><u>Difference</u> | <u>FY 2026</u><br><u>Difference</u> | <u>FY 2027</u><br><u>Difference</u> |
|---|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| <b><u>Fiscal Impact:</u></b>  |                                     |                                     |                                     |                                     |
| <b>Department of Revenue</b>  |                                     |                                     |                                     |                                     |
| FTE   | 0.00                                | 0.00                                | 0.00                                | 0.00                                |
| <b><u>Expenditures:</u></b>   |                                     |                                     |                                     |                                     |
| Personal Services   | \$0                                 | \$0                                 | \$0                                 | \$0                                 |
| Operating Expenses  | \$0                                 | \$0                                 | \$0                                 | \$0                                 |
| <b>TOTAL Expenditures</b>   | <u>\$0</u>                          | <u>\$0</u>                          | <u>\$0</u>                          | <u>\$0</u>                          |
| <b><u>Funding of Expenditures:</u></b>  |                                     |                                     |                                     |                                     |
| General Fund (01)   | \$0                                 | \$0                                 | \$0                                 | \$0                                 |
| <b>TOTAL Funding of Exp.</b>  | <u>\$0</u>                          | <u>\$0</u>                          | <u>\$0</u>                          | <u>\$0</u>                          |
| <b><u>Revenues:</u></b>   |                                     |                                     |                                     |                                     |
| General Fund (01) - CIT   | \$0                                 | \$4,884,000                         | \$9,922,000                         | \$10,108,000                        |
| General Fund (01) - IIT   | \$0                                 | \$0                                 | \$6,500,000                         | \$7,500,000                         |
| <b>TOTAL Revenues</b>   | <u>\$0</u>                          | <u>\$4,884,000</u>                  | <u>\$16,422,000</u>                 | <u>\$17,608,000</u>                 |
| <b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b> |                                     |                                     |                                     |                                     |
| General Fund (01)   | \$0                                 | \$4,884,000                         | \$16,422,000                        | \$17,608,000                        |

NO SPONSOR SIGNATURE 1/30/23  
 Sponsor's Initials Date

ASO 1-27-23  
 Budget Director's Initials Date