



Fiscal Note 2027 Biennium

Bill#/Title: **SB0544.01: Revise income tax laws for net operating loss carryovers**

Primary Sponsor: **Greg Hertz**

Status: **As Introduced**

☐ Included in the Executive Budget

☐ Needs to be included in HB 2

☐ Significant Local Gov Impact

☒ Significant Long-Term Impacts

☐ Technical Concerns

☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

| | <u>FY 2026 Difference</u> | <u>FY 2027 Difference</u> | <u>FY 2028 Difference</u> | <u>FY 2029 Difference</u> |
|-----------------------------|--------------------------------------|--------------------------------------|--------------------------------------|--------------------------------------|
| Expenditures | | | | |
| General Fund (01) | \$0 | \$0 | \$0 | \$0 |
| Revenues | | | | |
| General Fund (01) | (\$96,000) | (\$58,000) | (\$48,000) | (\$48,000) |
| Net Impact | <u>(\$96,000)</u> | <u>(\$58,000)</u> | <u>(\$48,000)</u> | <u>(\$48,000)</u> |
| General Fund Balance | <u>(\$96,000)</u> | <u>(\$58,000)</u> | <u>(\$48,000)</u> | <u>(\$48,000)</u> |

Description of fiscal impact

SB 544 creates an optional transition adjustment for Montana net operating losses that cannot be carried forward as a result of the changes made by SB 399 from the 2021 Legislature. The proposed adjustment will reduce general fund revenue by \$461,000 in FY 2025 (not included in fiscal impact summary, but will impact HJ 2 revenue estimate), \$96,000 in FY 2026, \$58,000 in FY 2027 and \$48,000 in FY 2028 and FY 2029.

FISCAL ANALYSIS

Assumptions

Department of Revenue

1. The 2021 Legislature passed SB 399 which made significant changes to Montana's personal income tax. One of the changes was the elimination of Montana specific net operating loss (NOL) calculations and carryovers. The changes made by SB 399 applied starting tax year (TY) 2024. This change resulted in some taxpayers having remaining Montana specific NOL carryovers by TY 2024.
2. SB 544 creates a transition adjustment for Montana net operating loss (NOL) carryovers to allow taxpayers with unused Montana NOLs from before TY 2024 to elect to continue carrying forward the unused NOLs.
3. Taxpayers can only make this election for TY 2024. If a taxpayer does not claim this election by October 15, 2025, the taxpayer will be unable to make this election in future years. If the taxpayer does make an NOL election, the taxpayer can carryforward any unused Montana NOLs for up to 7 years.
4. The election created by this bill is available retroactively to TY 2024.
5. In TY 2023, more than 3,800 full-year resident taxpayers reported approximately \$317 million in Montana NOL carryovers.
6. The Department of Revenue's income tax model, with HJ 2 revenue assumptions, was modified to include the changes made by the proposed bill. The estimated income tax liability amounts for each tax year under the proposed bill were then compared to current law income tax liability forecasts.

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(continued)

7. Based on the department's income tax model, allowing taxpayers an optional carryforward adjustment could reduce the income tax liability of full-year resident taxpayers by \$869,000 before credits for TY 2024. For tax years 2025, 2026, 2027, 2028 and 2029, the tax liability of residents would decrease by \$182,000, \$110,000, \$90,000, \$90,000 and \$55,000, respectively.
8. The revenue estimates in HJ 2 assume that non-residents generate 6.1% of total income tax collections. It is assumed that non-residents will also increase the total NOL carryforward exemption amounts by 6.1% each year.
9. The NOL election created by SB 544 is only available to taxpayers who claim the election for TY 2024 before October 15, 2025. This requirement does not give taxpayers a significant amount of time to learn of the election, and to amend their 2024 return if required. Because of this, it is assumed that 50% of the possible deductions will not be claimed in TY 2024 and in future tax years.
10. With a tax liability reduction of \$869,000 for full-year resident taxpayers, a 6.1% non-resident adjustment, and a 50% application rate, the adjustment created by SB 544 will reduce income tax collections for TY 2024 by \$461,000 ($\$869,000 \times 1.061 \times 0.5$).
11. For tax years 2025 through 2028, the proposed bill will reduce income tax revenue by \$96,000, \$58,000, \$48,000 and \$48,000.
12. It is assumed that taxpayers will not change their withholding or estimated payments as a result of this election. With no changes to withholding or estimated payments, the reduction in revenue will occur when people file their taxes the following year.
13. The proposed changes will reduce general fund revenue in FY 2025 by \$461,000, FY 2026 by \$96,000, FY 2027 by \$58,000, FY 2028 by \$48,000 and FY 2029 by \$48,000.
14. The department does not expect to incur any significant additional costs as a result of this bill.

Fiscal Analysis Table

| | <u>FY 2026 Difference</u> | <u>FY 2027 Difference</u> | <u>FY 2028 Difference</u> | <u>FY 2029 Difference</u> |
|--|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| <u>Fiscal Impact</u> | | | | |
| <u>Expenditures</u> | | | | |
| <u>Funding of Expenditures</u> | | | | |
| <u>Revenues</u> | | | | |
| General Fund (01) | (\$96,000) | (\$58,000) | (\$48,000) | (\$48,000) |
| TOTAL Revenues | <u>(\$96,000)</u> | <u>(\$58,000)</u> | <u>(\$48,000)</u> | <u>(\$48,000)</u> |
| <u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures)</u> | | | | |
| General Fund (01) | <u>(\$96,000)</u> | <u>(\$58,000)</u> | <u>(\$48,000)</u> | <u>(\$48,000)</u> |

Significant Long-Term Impacts

1. Any remaining carry-forward loss deductions will be exhausted or forgone by TY 2031.

NO SPONSOR SIGNATURE

4/1/25



3/31/2025

Sponsor's Initials

Date

Budget Director's Initials

Date