



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:

SB0537 - Provide tax incentives for the sale of Montana-produced food (Small, Jason D)

Status: As Introduced

- 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</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$0	\$0	\$0	\$0
Revenue:				
General Fund	(\$2,100,125)	(\$10,500,625)	(\$10,500,625)	(\$10,500,625)
State Special Revenue	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>(\$2,100,125)</u>	<u>(\$10,500,625)</u>	<u>(\$10,500,625)</u>	<u>(\$10,500,625)</u>

Description of fiscal impact: SB 537 exempts income received from selling food produced in Montana from the state's personal and corporate income taxes.

FISCAL ANALYSIS

Assumptions:

Department of Revenue

- SB 537 exempts the income received from selling food produced in Montana from the state's personal and corporate income taxes. It also exempts the costs associated with purchasing the food from the state's personal and corporate income taxes. The exemption does not apply to food prepared for on-site consumption.
- The exemptions created by SB 537 apply to income tax years beginning after December 31, 2023.
- Based on the 2022 report "Economic Value and Impact of Local Food in Montana," prepared by Highland Economics, approximately \$36.5 million in Montana food products were sold to wholesalers in 2021, with an additional \$8 million sold to processors and \$40.7 million sold directly to consumers. In addition, wholesalers and processors each sold their Montana produced goods for an additional \$55.9 million in wholesale sales and \$117.8 million in retail sales.
- Based on the 2022 report, it is assumed that \$158,500,000 in net income from the sale of Montana produced food products will be generated each year and be exempt from personal and corporate income taxes.

5. It is assumed that half the income will be claimed by taxpayers on their personal income tax returns while the other half will be reported by corporate taxpayers on their corporate income tax returns.
6. It is assumed that the exempted income would have been taxed at 6.5% for the personal income tax and at 6.75% for the corporate income tax.
7. With \$79,250,000 in personal income tax income, and a tax rate of 6.5%, the proposed bill will reduce income tax revenue by \$5,151,250 each tax year.
8. With \$79,250,000 in corporate income tax income, and a tax rate of 6.75%, the proposed bill will reduce corporate income tax revenue by \$5,349,375 each tax year.
9. The combined reduction in income tax revenue each tax year is estimated to be \$10,500,625.
10. It is assumed that taxpayers will adjust estimated payments for the exemption, with 20% of the change in revenue occurring in TY 2024 occurring in FY 2024 and the remaining 80% of the revenue reduction occurring in FY 2025. The same distribution applies to all following tax years.
11. SB537 would reduce general fund revenue by \$2,100,125 in FY 2024, \$10,500,625 in FY 2025, FY 2026, and FY 2027.
12. The changes made by SB 537 can be made as part of the department’s annual change process. The department does not expect to incur significant additional costs because of this bill.

<u>Fiscal Impact:</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>
<u>Department of Revenue</u>	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>
FTE	0.00	0.00	0.00	0.00
<u>Expenditures:</u>				
Personal Services	\$0	\$0	\$0	\$0
TOTAL Expenditures	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
TOTAL Funding of Exp.	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Revenues:</u>				
General Fund (01)	(\$2,100,125)	(\$10,500,625)	(\$10,500,625)	(\$10,500,625)
TOTAL Revenues	<u>(\$2,100,125)</u>	<u>(\$10,500,625)</u>	<u>(\$10,500,625)</u>	<u>(\$10,500,625)</u>

Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	(\$2,100,125)	(\$10,500,625)	(\$10,500,625)	(\$10,500,625)
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Technical Notes:

Department of Revenue

1. The law appears to favor Montana products over out-of-state products. This could violate the U.S. Commerce Clause, Equal Protection and Due Process. In addition, the provisions on this bill could be considered to be acting as economic protectionism for in-state businesses by creating a protective tariff or customs duty. West Lynn Creamery, Inc. V. Healy, 512 U.S. 186, 193 (1994).

NO SPONSOR SIGNATURE

<i>Sponsor's Initials</i>	3/31/23 <i>Date</i>	 <i>Budget Director's Initials</i>	3-28-23 <i>Date</i>
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