



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2025 Biennium

**Bill information:**

HB0490 - Generally revise laws relating to independent contractor tax evasion and fraud (Gist, Steve )

**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>
<b>Expenditures:</b>				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue				
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$7,500	\$10,000	\$10,000	\$10,000
<b>Net Impact-General Fund Balance</b>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

**Description of fiscal impact:** HB 490 is estimated to have a small impact on fine revenues.

### FISCAL ANALYSIS

**Assumptions:**

- Under current statute, the Department of Labor and Industry (DLI) can charge a penalty of up to \$1,000 for independent contractor violations. DLI currently assesses a penalty of \$500 to \$1,000 for the first offense. DLI offers to waive the penalty for the first offense if a department-directed education course is taken.
- This legislation changes the penalties for independent contractor violations to \$1,000 for a first offense up to \$5,000 for a third or subsequent offense.
- Calendar year 2022 had an increase in violations. Penalties were waived if the contractor attended the department directed education course. In CY 2022, 55 citations were issued. There were 20 citations issued with a \$500 fine and 35 citations issued with a \$1,000 fine. There were no second or subsequent citations issued.
- Under HB 490, assuming the same number of citations are issued, the 20 citations that were assessed a \$500 fine would increase to a \$1,000 fine. Since the violations are tracked on a calendar year basis, it is assumed

that the fines are assessed equally across the year. Therefore, the assessments in a calendar year would be the same as in a fiscal year.

5. HB 490 is effective October 1, 2023, so FY 2024 would include 9 months of increased penalties (15) and subsequent years would include 20 penalties.
6. To the extent that contractors would choose to participate in the department-directed education program, the \$1,000 fine would be waived and penalties may be less.
7. In FY 2024, it estimated that fines would increase by \$7,500 and by \$10,000 in FY 2025 and subsequent years.

	<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>
<b><u>Fiscal Impact:</u></b>				
<b><u>Expenditures:</u></b>				
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>				
State Special Revenue (02)	\$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>				
State Special Revenue (02)	\$7,500	\$10,000	\$10,000	\$10,000
<b>TOTAL Revenues</b>	<u>\$7,500</u>	<u>\$10,000</u>	<u>\$10,000</u>	<u>\$10,000</u>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
State Special Revenue (02)	\$7,500	\$10,000	\$10,000	\$10,000

**Technical Notes:**

1. Section 2(3)(a)(iv) is unclear in that it refers to revocation of the offender’s “license” for up to 12 months. It is not clear whether the “license” intends to refer to the independent contractor exemption certificate” or other licenses which may be held by the individual.
2. Section 4(4) creates potential conflicts in the law. To the extent it is intended to provide rules of general applicability within workers’ compensation related to independent contractor status, the codification location, within statutes for the Uninsured Employers’ Fund, is not correct. The section further establishes a test for independent contractor status distinct from the common law and statutory independent contractor test in Montana. Specifically, the section imposes an obligation that the worker be outside the scope of the hiring entity’s business. This is distinct from the test set forth in 39-71-417, MCA, and applicable case law.

**NOT SIGNED BY SPONSOR**

Sponsor’s Initials

Date

Budget Director’s Initials

Date



2-21-23