



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2025 Biennium

**Bill information:**

SB0546 - Generally revise marijuana law (Regier, Keith )

**Status:** As Introduced

- |  |   |  |
|--|---|--|
| <input checked="" type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2  | <input checked="" type="checkbox"/> Technical Concerns   |
| <input type="checkbox"/> Included in the Executive Budget        | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> 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 - DOR Costs	(\$185,197)	(\$376,992)	(\$382,017)	(\$387,130)
State Special Revenue - Transfers to SSR/GF	(\$18,431,000)	(\$24,840,000)	(\$25,594,000)	(\$26,374,000)
State Special Revenue - DOJ Costs	\$168,975	\$168,975	\$165,313	\$167,793
<b>Revenue:</b>				
General Fund - distribution	(\$24,526,000)	(\$26,275,000)	(\$27,276,000)	(\$28,312,000)
General Fund - DOJ Fines	\$79,682	\$79,682	\$79,682	\$79,682
State Special Revenue - distributions	\$6,095,000	\$1,434,000	\$1,682,000	\$1,938,000
State Special Revenue - tax revenue collections	(\$18,616,000)	(\$25,217,000)	(\$25,976,000)	(\$26,761,000)
State Special Revenue - DOJ Drug Awareness	\$1,461,000	\$1,224,000	\$1,268,000	\$1,314,000
<b>Net Impact-General Fund Balance:</b>	<u>(\$24,446,318)</u>	<u>(\$26,195,318)</u>	<u>(\$27,196,318)</u>	<u>(\$28,232,318)</u>

**Description of fiscal impact:** SB 546 would eliminate adult-use marijuana and increase the tax rate on medical marijuana from 4% to 20%, as well as making other significant changes to the requirements on medical marijuana. The bill is estimated to decrease distributions to the general fund by \$25 to \$28 million per year.

### FISCAL ANALYSIS

**Assumptions:**

**Department of Revenue (DOR)**

1. SB 546 makes significant changes to the Montana Marijuana Regulation and Taxation Act. The most significant proposed changes are:
  - a. Eliminating adult-use dispensaries and prohibit sales of marijuana to anyone other than registered cardholders over the age of 21.

- b. Increasing the tax rate on medical marijuana from 4% to 20% and increasing the annual registered cardholder fee from \$20 to \$50. The bill prohibits a physician from providing written certification for a cardholder through telemedicine.
  - c. Changes the distribution of the revenue from the marijuana state special revenue including the addition of 5% to a new drug awareness and education state special revenue account.
  - d. Reduces the monthly allowance a registered cardholder may purchase from five ounces to one ounce of usable marijuana.
  - e. Reducing potency limits on marijuana and marijuana products including limiting “intoxicating THC in a flower or concentrate to 10%, limiting the amount of total THC in a marijuana product to 100 milligrams per package, 10 milligrams per capsule and 5 milligrams per single serving of an edible.
  - f. Increasing the minimum age for a marijuana worker permit from 18 to 21.
  - g. Restricts the personal use and cultivation of marijuana to one mature marijuana plant and one seedling prohibits possession of edible marijuana products with more than 100 milligrams of THC in them.
  - h. Specifying the language to be included on the ballot of any election to allow or prohibit a specific marijuana business category in a specific jurisdiction.
2. The changes made in this bill are expected to significantly decrease total marijuana sales and tax revenues in Montana. There would no longer be any adult-use marijuana sales and medical marijuana sales are assumed to be 20% lower than the current HJ 2 estimates, but with the tax increase from 4% to 20%, medical marijuana tax collections would be 400% of current HJ 2 estimates. License fee revenue is also expected to decrease by 25% each year because the number of dispensaries would be expected to decline due to the decrease in demand. The effective date of this bill would be October 1, 2023, so all of these changes would take place after the 1<sup>st</sup> quarter of FY 2024. The following table shows the estimated license fee and tax revenue under current law (HJ 2 estimates) and under SB 546.

HJ2 and SB 546 Marijuana License Fee and Tax Revenue Estimates (millions)						
Fiscal Year	HJ2 License Fee Revenue	HJ2 MM revenue	HJ2 AUM Revenue	SB 546 License Fee Revenue	SB 546 MM Revenue	SB 546 AUM Revenue
2024	\$4.640	\$6.248	\$42.017	\$3.480	\$20.304	\$10.504
2025	\$4.788	\$6.448	\$43.363	\$3.591	\$25.791	\$0.000
2026	\$4.932	\$6.642	\$44.668	\$3.699	\$26.566	\$0.000
2027	\$5.081	\$6.842	\$46.017	\$3.811	\$27.369	\$0.000

3. The following table shows the total estimated marijuana revenue to be available for distribution from the marijuana state special revenue account under HJ 2 and this bill and the total decrease because of this bill.

Total Estimate Marijuana Revenue Collections (millions)			
Fiscal Year	HJ2 Marijuana Revenue	SB 546 Marijuana Revenue	Change in Total Marijuana Revenue
2024	\$52.904	\$34.288	(\$18.616)
2025	\$54.599	\$29.382	(\$25.217)
2026	\$56.242	\$30.266	(\$25.976)
2027	\$57.941	\$31.180	(\$26.761)

4. SB 546 also makes two changes to the distribution of the revenue from marijuana state special revenue account. The distribution to the HEART fund is changed from a flat \$6 million per year to 50% of the revenue for distribution after the Department of Revenue (DOR) costs are taken out and a new distribution is created

of 5% to the drug awareness and education account. The following table shows the estimated changes in distributions to all the accounts because of SB 546. The veterans account and crime control account would have no change to their distributions.

Change in Revenue Distributions due to SB 546 (millions)									
FY	SB 546		Heart Fund	FWP Habitat	Drug Awareness Account	State Parks	Trails & Rec	Nongame wildlife	General Fund
	Marijuana Revenue	DOR Costs							
2024	(\$18.616)	(\$0.185)	\$8.612	(\$2.486)	\$1.461	(\$0.497)	(\$0.497)	(\$0.497)	(\$24.526)
2025	(\$25.217)	(\$0.377)	\$6.239	(\$3.768)	\$1.224	(\$0.754)	(\$0.754)	(\$0.754)	(\$26.275)
2026	(\$25.976)	(\$0.382)	\$6.684	(\$3.919)	\$1.268	(\$0.784)	(\$0.784)	(\$0.784)	(\$27.276)
2027	(\$26.761)	(\$0.387)	\$7.144	(\$4.075)	\$1.314	(\$0.815)	(\$0.815)	(\$0.815)	(\$28.312)

- Total general fund revenue is estimated to decrease by \$24,526,000 in FY 2024, \$26,275,000 in FY 2025, \$27,276,000 in FY 2026, and \$28,312,000 in FY 2027. Total state special revenue to the accounts shown above is estimated to increase by \$6,095,000 in FY 2024, \$1,434,000 in FY 2025, \$1,628,000 in FY 2026, and \$1,938,000 in FY 2027. The significant decrease in general fund revenue and slight increase in state special revenue is mainly due to the large increase in distributions to the HEART fund as a result of going from \$6 million per year to 50% of available revenue.
- The necessary changes to the seed-to-sale tracking system and integrated revenue information system would be expected to be made during normal maintenance and the Department of Revenue would be able to reduce the number of positions in Cannabis Control Division by 4.00 FTE beginning halfway through FY 2024. The reduction in administrative costs would be \$185,197 in FY 2024, \$376,992 in FY 2025, \$382,017 in FY 2026, and \$387,130 in FY 2027. These cost savings are shown in the table above and would flow through to the distributions from the marijuana state special revenue account.

**Department of Justice (DOJ)**

- The Montana Highway Patrol (MHP) assumes citations would revert back to their pre-legalization numbers.
- Between 2017 and 2021, there were an average of 253 first offense marijuana citations written per year. The first offense citation has a fine of \$585. MHP assumes that an increase in citation revenue of \$148,005 would be received. (253 citations x \$585 = \$148,005)
- Between 2017 and 2021, there were an average of 12 second offense marijuana citations written per year. The second offense has a fine of \$585. MHP assumes that an increase in citation revenue of \$7,020 would be received. (12 citations x \$585 = \$7,020)
- Between 2017 and 2021, there were an average of 4 third offense citations written per year. The third offense has a fine of \$1,085. MHP assumes that an increase in citation revenue of \$4,340 would be received. (4 citations x \$1085 = \$4,340)
- Half of the revenue received goes to the state general fund and half goes to the county in which the citation was written. MHP assumes the total amount of citation revenue that would be received by the general fund would be \$79,682. (\$148,005 + \$7,020 + \$4,340 = \$159,365)(\$159,365 / 2 = \$79,682)
- Under SB 546, 5% of the marijuana tax revenue would go to DOJ and be deposited into a drug awareness and education account. This account will be used to provide awareness and education programs in schools for youth drug prevention. Based on HJ2 revenue estimates, the drug awareness and education account will receive \$1.461 million in FY 2024, \$1.224 million in FY 2025, \$1.268 million in FY 2026, and \$1.314 million in FY 2027.
- The Division of Criminal Investigation (DCI) assumes that a 1 FTE program manager and a .5 FTE fiscal technician will be needed to implement this new program.
- In FY 2024, DCI assumes that \$107,420 will be needed for personal services for the program manager and \$3,052 will be needed for operating set up costs. Operating costs of \$7,339 will be needed each fiscal year.

15. In FY 2024, DCI assumes that \$40,772 will be needed for personal services for the fiscal technician and \$3,052 will be needed for operating set up costs. Operating costs of \$7,339 will be needed for each fiscal year.

**Department of Public Health and Human Services (DPHHS)**

16. As the table in Assumption 4 indicates, DPHHS will receive additional transfers of revenue into the HEART fund. Without additional appropriation, DPHHS does not expect to change any current spending plans for HEART dollars.

**Department of Fish, Wildlife & Parks (FWP)**

17. As the table in Assumption 4 indicates, transfers to FWP accounts will decrease. Any planned work and/or spending from the impacted accounts will be prioritized by the agency.

	<u>FY 2024 Difference</u>	<u>FY 2025 Difference</u>	<u>FY 2026 Difference</u>	<u>FY 2027 Difference</u>
<b><u>Fiscal Impact:</u></b>				
FTE	(0.50)	(2.50)	(2.50)	(2.50)
<b><u>Expenditures:</u></b>				
Personal Services	(\$20,205)	(\$194,012)	(\$196,162)	(\$198,347)
Operating Expenses	\$3,983	(\$14,005)	(\$20,542)	(\$20,990)
Transfers to General Fund	(\$24,526,000)	(\$26,275,000)	(\$27,276,000)	(\$28,312,000)
Transfers to State Special	\$6,095,000	\$1,434,000	\$1,682,000	\$1,938,000
<b>TOTAL Expenditures</b>	<b>(\$18,447,222)</b>	<b>(\$25,049,017)</b>	<b>(\$25,810,704)</b>	<b>(\$26,593,337)</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	(\$18,447,222)	(\$25,055,121)	(\$25,810,704)	(\$26,593,337)
<b>TOTAL Funding of Exp.</b>	<b>(\$18,447,222)</b>	<b>(\$25,055,121)</b>	<b>(\$25,810,704)</b>	<b>(\$26,593,337)</b>
<b><u>Revenues:</u></b>				
General Fund (01) - Tax Revenue Loss	(\$24,526,000)	(\$26,275,000)	(\$27,276,000)	(\$28,312,000)
General Fund (01) - DOJ	\$79,682	\$79,682	\$79,682	\$79,682
State Special Revenue (02) - distributions to accounts	\$6,095,000	\$1,434,000	\$1,682,000	\$1,938,000
State Special Revenue (02) - tax revenue collections	(\$18,616,000)	(\$25,217,000)	(\$25,976,000)	(\$26,761,000)
State Special Revenue (02) - DOJ	\$1,461,000	\$1,224,000	\$1,268,000	\$1,314,000
<b>TOTAL Revenues</b>	<b>(\$35,506,318)</b>	<b>(\$48,754,318)</b>	<b>(\$50,222,318)</b>	<b>(\$51,741,318)</b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	(\$24,446,318)	(\$26,195,318)	(\$27,196,318)	(\$28,232,318)
State Special Revenue (02)	\$7,387,222	\$2,496,121	\$2,784,704	\$3,084,337

**Effect on County or Other Local Revenues or Expenditures:**

1. SB 546 would eliminate adult-use marijuana sales which would also eliminate the local-option taxes on adult-use marijuana. The only remaining local option taxes would be 3% on medical marijuana so the local marijuana revenues would decrease significantly.

**Technical Notes:**

**Department of Revenue and The Office of Budget and Program Planning**

1. The revenue effects presented in this fiscal note are based on HJ 2 revenue projections. The Governor’s budget includes assumptions based on the Governor’s revenue estimates. The following table includes the impact of SB 546 if the Governor’s revenue estimates for cannabis tax are used.

Tax Revenue Change by Fiscal Year Relative to SB 546 using Governor's Revenue Estimates		
Fiscal Year	State Special Change (Millions)	General Fund Change (Millions)
2024	(\$2.856)	(\$46.975)
2025	(\$22.164)	(\$56.184)
2026	(\$24.151)	(\$58.511)
2027	(\$24.820)	(\$60.502)

- 2. SB 546 does not remove the definition of consumer, which is a term unique to adult-use marijuana, so it should be amended out.
- 3. SB 546 does not provide an appropriation to expend the increases in estimated revenue to the HEART state special revenue account.

**NO SPONSOR SIGNATURE**

*3/29/23*

*NO*

*3-29-23*

Sponsor’s Initials

Date

Budget Director’s Initials

Date