GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

Bill #	HB0701	**Title:**	Generally revise marijuana laws
Primary Sponsor:	Hopkins, Mike	**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

	FY 2022 Difference	FY 2023 Difference	FY 2024 Difference	FY 2025 Difference
Expenditures:				
General Fund	$1,551,696	$981,806	$976,819	$982,418
State Special Revenue	$14,148,377	$7,155,570	$8,267,781	$8,301,087
Federal Special Revenue	$19,000,000	$19,000,000	$19,000,000	$19,000,000
Revenue:				
General Fund (01)	$9,394,650	$30,324,650	$42,204,650	$49,324,650
SSR - FWP (02)	$1,290,000	$1,950,000	$1,950,000	$1,950,000
SSR - HEART (02)	$6,000,000	$6,000,000	$6,000,000	$6,000,000
SSR - Transfer to HEART & FWP	$0	$0	$0	$0
SSR - AUM tax revenue (02)	$8,690,000	$32,580,000	$43,980,000	$51,310,000
SSR - MM tax revenue (02)	$6,200,000	$5,580,000	$5,020,000	$4,520,000
SSR - License Fees (02)	$3,900,000	$4,290,000	$6,440,000	$6,760,000
SSR - MMP/Pain Mgmt Funds from DPI	$4,856,017	$0	$0	$0
Federal Special Revenue (03)	$19,000,000	$19,000,000	$19,000,000	$19,000,000
Net Impact-General Fund Balance:	$7,842,954	$29,342,844	$41,227,831	$48,342,232

Description of fiscal impact: HB 701 revises the regulation of both adult-use and medical marijuana, combining administration of adult-use and medical under the Department of Revenue (DOR), changing the revenue distribution, delaying the licensing start date, providing for local opt-in, allowing for a local-option marijuana tax, and creating the Healing and Ending Addiction through Recovery and Treatment (HEART) Fund. The costs contained in this fiscal note include those necessary to implement the full adult-use marijuana program in accordance with statute as passed in I-190, and as amended by HB 701. A crosswalk from I-190 to HB 701 can be found in Technical Note #10 of this fiscal note.

FISCAL ANALYSIS

Assumptions:

Department of Revenue (DOR)

1. This bill revises the regulation and taxation of both adult-use and medical marijuana.
2. Some of the notable changes this bill makes that are relevant to the estimates in this fiscal note include:
   a. Transferring the administration of the medical marijuana licensing and tracking from the Department of Public Health and Human Services to the Department of Revenue.
   b. Revising the specific license types required to participate in the production or sale of marijuana and setting the license fees.
   c. Delaying the licensing start date for current medical marijuana licensees to January 1, 2022, and the application start date for new licensees to July 1, 2023.
   d. Changing the distribution of the adult-use marijuana tax revenue, medical marijuana tax revenue, and marijuana license fee revenue.
   e. Requiring counties to opt-in through a local election to allow adult-use marijuana dispensaries in the county and allowing a local-option tax of up to 5 percent to be implemented by counties.
   f. Encouraging dispensaries to utilize a cashless payment system at the point of sale and requiring licensees to purchase tracking tags for seed-to-sale tracking, instead of the Department of Revenue providing them.

DOR: Sales Tax Revenue – Adult-use Marijuana

3. The current law tax on adult-use marijuana is 20 percent and the current law revenue estimates are in the table below. These estimates were generated using the estimated potential sales in Montana published in a September 2020 report by the University of Montana Bureau of Business and Economic Research as a starting point for the potential demand in calendar year (CY) 2022. A downward adjustment was made for CY 2022 based on initial supply limitations as a result of only current medical marijuana licensees being allowed to sell adult-use marijuana for the first year. Moderate growth rates based on the growth of legal marijuana sales in Washington, Oregon, California, Colorado, Nevada, and Alaska of 60%, 20%, and 10% were used to project the annual sales for CY 2023, CY 2024 and CY 2025, respectively. The calendar year sales were then converted to fiscal year (FY) sales, and both are presented in the table below, along with the estimated tax revenue and the general fund and state special revenue portions. These estimates are based on the assumption that sales would begin January 1, 2022.

Current Law I-190 (millions)					
Year	CY Sales	FY Sales	Tax Revenue (20%)	General Fund Revenue (10.5%)	State Special Revenue
2022	$130.3	$65.2	$13.03	$1.37	$11.66
2023	$208.5	$169.4	$33.88	$3.56	$30.33
2024	$250.2	$229.4	$45.87	$4.82	$41.06
2025	$275.2	$262.7	$52.55	$5.52	$47.03

4. Under current law, the state special revenue would be allocated for the following purposes: wildlife habitat and state parks, local government commerce, veteran services, Medicaid rate increases, and drug addiction treatment.
5. HB 701 delays the start of adult-use licensing from October 1, 2021 to January 1, 2022. It is assumed that most current medical marijuana providers would be licensed and able to begin sales by March 1, 2022.
6. This bill also extends the moratorium where only current medical marijuana licensees can get licensed to sell adult-use marijuana until July 1, 2023. This is assumed to slow the growth in calendar year sales. The HB 701 estimated calendar year sales, presented in the following table, assume 10 months of sales in CY 2022 and adjusted growth rates of 50%, 25%, and 10% for CY 2023, CY 2024, and CY 2025. The table also includes

the sales adjusted to fiscal years, the tax revenue (20%), and the estimated revenue from medical marijuana sales and license fees, which would all be deposited in the marijuana state special revenue account. The medical marijuana tax revenue, license fee revenue, and DPHHS transfers are detailed in the next three sections.

HB 701 Proposed Law - sales begin March 1, 2022 (millions)

Year	CY sales	FY Sales	AUM Tax Revenue (20%)	MM Tax Revenue (4%)	License Fee Revenue	DPHHS Fund Transfers
2022	$108.6	$43.4	$8.69	$6.20	$3.90	$4.86
2023	$195.5	$162.9	$32.58	$5.58	$4.29	$0.00
2024	$244.4	$219.9	$43.98	$5.02	$6.44	$0.00
2025	$268.8	$256.6	$51.31	$4.52	$6.76	$0.00

7. This bill requires counties or municipalities to opt-in through approval by the qualified electors to allow growing, manufacturing, and selling of adult-use in the county or municipality. It is assumed that the 28 counties with a passing vote total for I-190 would have an election and opt-in. These counties make up almost 90% of the state's population, and it is assumed this provision would not significantly impact the adult-use marijuana sales estimates in this fiscal note.

DOR: Sales Tax Revenue - Medical Marijuana

8. Under current law, the medical marijuana tax is 4 percent and will decrease to 2 percent starting October 1, 2021. HB 701 keeps the medical marijuana tax at 4 percent, indefinitely.
9. Current medical marijuana sales tax collections for FY 2021 are projected to be about $6.2 million, which imputes to about $155 million in sales at a 4 percent tax rate. With the legalization of adult-use marijuana, it is assumed that medical marijuana sales will remain at $155 million for FY 2022 and then start declining at 10 percent per year beginning in FY 2023. The following table shows the estimated revenue under current law, this bill, and the change in revenue because of this bill (all values are in millions).

FY	Medical Marijuana Sales	Current Law Tax Revenue	Proposed Law Tax Revenue	Change in Revenue
2022	$155.0	$3.88	$6.20	$2.33
2023	$139.5	$2.79	$5.58	$2.79
2024	$125.6	$2.51	$5.02	$2.51
2025	$113.0	$2.26	$4.52	$2.26

10. Beginning January 1, 2022, the medical marijuana tax revenue will be deposited in the marijuana state special revenue account and the current distribution of medical marijuana tax revenue will be repealed. Prior to then, any excess revenue in the medical marijuana state special revenue account would be transferred to the marijuana state special revenue account on July 1, 2021 and December 31, 2021.

DOR: License Fee Revenue

11. This bill includes the following license types required for participation in the marijuana industry and the corresponding initial annual fees:
    a. Cultivator licenses in 11 tiers based on number of locations and total square footage of cultivation, with fees from $1,000 to $27,000,
    b. Manufacturing licenses in three tiers based on monthly production of concentrate with fees of $5,000, $10,000 or $20,000,
    c. Dispensary licenses with a fee of $5,000 per location,

d. Testing laboratory licenses with a fee to be established by the department through rules,
e. Transporter licenses, which must be renewed every two years, and the fee will be established by the department through rule, and
f. Combined-use Marijuana licenses include a tier 1 canopy license and one dispensary license and may be issued to each of the eight federally recognized tribes in the state for use within 25 miles of the boundary of the relevant reservation.

This bill also requires any individual employed by a marijuana licensee to apply for and obtain a marijuana worker permit to work in the industry. The department may establish an application fee for this permit.

12. From January 1, 2022 to June 30, 2023, the department may only accept applications and issue cultivator licenses, manufacturing licenses, and dispensary licenses to individuals who were medical marijuana licensees as of November 3, 2020. Beginning July 1, 2023, the department shall begin accepting applications and issuing licenses to those who did not qualify previously.
13. Based on the current medical marijuana licensees and expected growth in the industry, the license fee revenue to be collected by the department is estimated to be approximately $3.9 million in FY 2022, $4.3 million in FY 2023, $6.4 million in FY 2024, and $6.8 million in FY 2025.

DOR: Fund Balances from DPHHS

14. Section 86 of HB 701 eliminates the transfer from the Medical Marijuana state special revenue account to the Pain Management Education and Treatment state special account. In addition, the section transfers the balance of the funds in the Medical Marijuana account to DOR on December 31, 2021. As a result, DPHHS expenditures are reduced by $2,560,195 in FY 2021, with an offsetting increase to the DOR.
15. Section 87 of HB 701 transfers the balance of the Pain Management Education and Treatment account to the DOR Marijuana account on July 1, 2021. The resulting transfer decreases expenditures in DPHHS by $2,295,822 with an offsetting increase to the DOR.

DOR: Distribution of Revenue

16. The distribution under this bill starts with the revenue from adult-use and medical marijuana taxes and license fees being deposited in the marijuana state special revenue account. The revenue from the account is first used to cover the administrative costs to the department, and then at the end of the fiscal year, the remainder is distributed as follows:
    a. $6 million to the marijuana Healing and Ending Addiction through Recovery and Treatment (HEART) fund account established in 17-6-606 in the Department of Public Health and Human Services.
    b. Of the remainder, 12% up to $1.95 million is split evenly between the state park account, trails and recreational facilities account, and the nongame wildlife account within the Department of Fish, Wildlife and Parks.
    c. The remainder to the general fund.
17. The following table shows the estimated amount of revenue to be distributed to each account under this bill. The total revenue for distribution is the sum of the adult-use tax, medical tax, license fee revenues, and transfers from DPHHS from the above sections. The administrative costs are detailed in the next section.

HB 701 Distribution of Estimated Revenue

FY	Total Revenue	DOR Costs	HEART Fund	Total to 3 FWP Accounts	General Fund Revenue
2022	$23.65	$6.93	$6.00	$1.29	$9.43
2023	$42.45	$4.14	$6.00	$1.95	$30.36
2024	$55.44	$5.25	$6.00	$1.95	$42.24
2025	$62.59	$5.28	$6.00	$1.95	$49.36

DOR: Costs

18. For the purposes of this fiscal note, the following costs are the total costs to implement and administer the Montana Marijuana Regulation and Taxation Act, not the change in costs as a result of this bill relative to current law.
19. The department will create a new marijuana division with the following personnel (FTE) beginning in FY 2022: 1 administrator, 1 bureau chief (increasing to 2 in FY 2023), 2 unit managers, 2 management analysts, 4 compliance specialists, 13 investigators, 2 auditors, 1 compliance officer (starting January 1, 2022), 1 administrative specialist, 3 registered cardholder positions, 1 paralegal assistant, and 1 education specialist. Additional costs for this division include travel, vehicles, firearms, and phones for investigators.
20. Of the 31.5 FTE in this division in FY 2022 and 33 FTE in FY 2023, 22 will be transferred from the DPHHS medical marijuana program. Other divisions in the department will also need to hire additional staff, and those positions are outlined below.
21. The Director's Office will add 1 paralegal assistant and 1 administrative law judge starting January 1, 2022, and 1 public relation specialist for the full FY 2022.
22. The Information Management Collections Division within the department will add 1 computer operator starting January 1, 2022, increasing to 2 in FY 2024, and 1 collections specialist beginning in FY 2024.
23. The Business and Income Tax unit within the department will add 1 new tax examiner in FY 2022, increasing to 5 in FY 2024, with travel and vehicles.
24. The Technology Services Division (TSD) within the department will add 2 computer system analysts beginning in FY 2024.
25. The department will have a one-time contracted services cost in FY 2022 of $3 million to get the new tax type and licensing added to the integrated revenue information system and annual costs of $65,000 for the medical cardholder system licensing.
26. The department will also be responsible for a $40 per month tracking system reporting fee for each provider, and the licensees will be responsible for providing the tracking tags for each plant and package or product in the seed-to-sale tracking system. Total estimated costs to the department for the tracking system fees are $129,600 for FY 2022, $129,600 for FY 2023, $388,800 for FY 2024, and $388,800 for FY 2025.
27. Total estimated costs to the department are $6,930,492 in FY 2022, $4,136,011 in FY 2023, $5,248,216 in FY 2024, and $5,281,515 in FY 2025.
28. This bill appropriates $6,176,726 in FY 2022 and $7,715,437 in FY 2023 from the marijuana state special revenue account to cover the costs to the department. (See technical note #1).

Department of Public Health and Human Services (DPHHS)

29. Section 48 subsection 4(a) of HB 701 transfers $6 million of revenue to the Healing and Ending Addiction through Recovery and Treatment (HEART) fund at the end of each fiscal year, beginning in FY 2022, assuming revenues are sufficient. DPHHS is appropriated $6 million in state special funds per year of the biennium from the HEART fund, and $19 million in federal funds per year in federal special revenue funds. These appropriations are to be included as part of the base budget for the biennium beginning July 1, 2023.

DPHHS: Medical Marijuana Program (MMP)

30. Section 98 of HB 701 repeals the entirety of the Medical Marijuana Program (MMP), currently authorized in Title 50, Chapter 46, Part 3 of Montana Code Annotated (MCA) on January 1, 2022.
31. Per Section 106 (2), there are identified sections that would be effective upon passage and approval of HB 701. Those sections that impact the current Medical Marijuana Program include: 83(2) (8b), 84, and 85. The impact involves eliminating registered medical card holders from being self-providers. This change would require a licensing system update. Currently, the individual applying to be a cardholder is asked if they are "growing for their own use". Based on that information, individuals are issued cards that indicate the individual is a self-provider. Cardholders that are self-providers are then prevented from purchasing product from other licensed providers. These system updates can be made under the current vendor contract at no additional charge.

32. All functions of the MMP, which include inspection and licensure of medical marijuana providers and the issuance of registry identification cards to Montana residents with debilitating medical conditions, will transfer to the Department of Revenue (DOR) on July 1, 2021. This includes 22.0 FTE and associated personal services budget authority, operational budget authority, IT Systems, etc.
33. MMP currently utilizes Complia for the licensing of providers and cardholders and Metrc for seed to sale tracking of marijuana products. The contracts for these systems are currently renewed through 2/28/2022. This fiscal note assumes that DOR will utilize these same systems.
34. Section 86 eliminates the fiscal year end transfer (any excess funds above $250,000) from the Medical Marijuana state special revenue account to the Pain Management Education and Treatment special revenue account, beginning with transfers made in FY 2022. This results in a reduction of $2,310,195 in FY 2022 and $1,620,630 in FY 2023 through FY 2025 that would have transferred to the Pain Management fund but would remain in the Medical Marijuana state special account.
35. Section 86 transfers the fund balance of the Medical Marijuana state special account to the Marijuana state special revenue account (managed by DOR) on July 1, 2021 and any remaining fund balance on December 31, 2021. This is estimated to result in a one-time transfer of $2,560,195 in FY 2022 to the Marijuana special revenue account managed by DOR.
36. Section 87 transfers the balance of the Pain Management special revenue account to the Marijuana state special revenue account on July 1, 2021. Transfers made to this account were $545,459 in FY 2020 (excess balance related to FY 2019), and $1,750,363 in FY 2021 (excess balance related to FY 2020). This is estimated to result in a one-time transfer of $2,295,822 in FY 2022 to the Marijuana special revenue account managed by DOR. See Technical Note #2.

DPHHS: Public Health and Safety Division

37. Section 51(2)(a) requires the state laboratory to endorse, instead of license, a testing laboratory prior to the testing laboratory applying for licensure or renewal with DOR. The state laboratory estimates two additional testing laboratories would open over the next two years. Testing laboratories must be inspected once a year. Each inspection is estimated to cost $221 for hotel, motor pool, and per diem for a total cost of $442 per year.
38. The state laboratory estimates 20 pages of associated rule changes in the passage of this bill at $50 per page for a cost of $1,000 in FY 2022.
39. Medical marijuana tax and fee revenue will no longer be collected by DPHHS. However, the summary tables for DPHHS do not reflect a reduction in revenue. Instead, the medical marijuana tax and fee revenue are included in the DOR summary table.

Department of Justice (DOJ)

40. DOJ expects an increase in DUI cases from the passage of HB 701. Based on numbers reported from Washington state and Denver, CO, the Department of Justice estimates there will be an increase of 77% (2692 cases) that will be processed through the Forensic Science Division (FSD) toxicology section. The increase in DUI cases will also influence the intake section in the FSD.
41. Based on the assumption of increased cases, it is estimated that the Department of Justice will require 4.5 FTE in the Forensic Science Division. The FTE consist of the following expenses:
    a. For FY 2022, DOJ will need 2.00 FTE forensic scientist with an overall expense of $208,029, of which $161,170 is personal services and $46,859 operating. Within the operating costs, $22,001 are one-time costs and $24,858 are ongoing.
    b. An additional 2.50 FTE forensic scientists will be needed beginning in FY 2023.
42. Non-FTE related operating costs associated with a single DUI drug case is $46.77/Case. The increase of 2692 cases would result in an operations expense increase of $125,905 a year. ($46.77*2692=$125,905)
43. Based on new marijuana provider facilities, there will be an increase in fire inspections required. It is estimated that the increased workload of inspections and administrative process associated with the inspections throughout the year will result in a need of 5.0 FTE in the Division of Criminal Investigation of the Department of Justice. The FTE consist of the following expenses:

a. An additional 2.0 FTE deputy fire marshal and 1.0 FTE administrative assistant with an overall expense of $233,039 in FY 2022, of which $182,100 is personal services and $50,939 is operating. Withing the operating costs, $22,001 is OTO and $28,938 are ongoing.
b. An additional 2.00 FTE fire marshals will be needed beginning in FY 2023.
c. Travel expenses are estimated to cost $8,400 a year and rent is estimated at $35,000 a year.

44. An average of 942 citations were written for misdemeanor marijuana possession in 2018-2020.
45. Section 13 of this bill states that marijuana products or paraphernalia must be stored in a trunk, back seat, or glove box of a vehicle and cannot be visible.
46. Montana Highway Patrol (MHP) assumes that 25% of the average paraphernalia citations written (approximately 235 citations written) would still be written due to violations mentioned in Section 13.
47. Half of the revenue received from citations goes to the general fund and half goes to the county in which the citation was written.
48. MHP assumes a decrease of $35,350 each fiscal year due to the implementation of the bill. (942 citations x 75% = 707 fewer citations x $100 = -$70,700 / 2 = -$35,350)
49. Section 91 adds the ability to test oral fluid for marijuana. To be able to do that, oral fluid testers would need to be purchased for each uniformed employee. These testers are similar to the PBT testers that each trooper uses to test for alcohol. MHP assumes $900,000 would be needed to purchase additional testers. ($4500 x 200 devices = $900,000)
50. Oral fluid testing kits would also need to be purchased. MHP assumes that 625 test kits would be needed each year for a total annual cost of $15,625.
51. It is expected that provisions of this bill will be challenged, and the Legal Services Division (LSD) will be called in to litigate any lawsuits on behalf of the state. It is expected that litigation will span over a two-year period, resulting in an estimated at $15,000 in FY 2022 and $24,000 in FY 2023 in expenses, which includes deposition fees, outside consultation, and exhibit costs.

Department of Fish, Wildlife and Parks (FWP)

52. HB 701 revises the tax distribution. Following the distribution to the HEART Fund, 12 percent of the remaining revenue, capped at $1.95 million, will go to FWP.
53. The funds to FWP will be distributed in equal proportions to the state park account, trails and recreation facilities account, and nongame wildlife account.
54. If the funds are available, the bill appropriates for each year of the 2023 biennium up to $650,000 to the state park account, up to $650,000 to the trails and recreation facilities account, and up to $650,000 to the nongame wildlife account.
55. Based on estimates by the Department of Revenue, FWP will receive tax revenue of $1.29 million in FY 2022, and $1.95 million each year for FY 2023, FY 2024, and FY 2025. The analysis in this fiscal note assumes FWP will fully expend the revenue received in each year.

Legislative Branch (LEG)

56. HB 701, Section 27, assigns legislative monitoring and oversight for medical marijuana to the Economic Affairs Interim Committee (EAIC).
57. The EAIC has eight members.
58. The EAIC shall identify issues to require future legislative attention and develop legislation.
59. Sections 29 and 47 assign all the Revenue Interim Committee duties in relation to the Montana Marijuana Regulation and Taxation Act to the EAIC.
60. HB 701 adds duties to an existing interim committee. It is assumed that Legislative Services Division will absorb the additional meetings with existing staffing.
61. HB 701 does not provide an expiration date for the additional duties added to the EAIC.
62. The effective date of HB 701 is January 1/2022. For the purposes of this fiscal note, it is assumed that there will be three additional one-day meetings in Helena added to the EAIC for the 2023 biennium. Two meetings in FY 2022 and one meeting in FY 2023.

63. For the 2025 biennium, it's assumed that there will be three additional one-day meetings in Helena. Two meetings in FY 2024 and one meeting in FY 2025.
64. Personal services and operating costs for HB 701 are $10,698 in FY 2022, $4,029 in FY 2023, $10,858 in FY 2024, and $4,090 in FY 2025.
65. If additional funding is not included in HB 2, then EAIC will need to absorb the additional duties within their regular budget. This may limit the other discretionary study activities that the committee could conduct.

Department of Corrections (DOC)

66. HB 701 would amend the language of Title 16, Chap. 12 of the Montana Code Annotated, where the recently passed marijuana legalization initiative I-190 has been codified. I-190 legalized the possession, purchase, use, ingestion, distribution without consideration or cultivation in certain circumstances by persons 21 years of age or older.
67. Section 17 of HB 701 would continue the existing prohibition on persons in the custody of the DOC or under supervision by the Department from holding medical marijuana registry cards.
68. Section 45 of this legislation would continue the current limitation that does not permit consumption or possession of marijuana or paraphernalia on the grounds of any correctional facility.
69. Section 52 would prohibit persons in the custody of or under the supervision of the Department from receiving a license to be a cultivator, manufacturer, medical marijuana dispensary, adult-use dispensary, or testing laboratory.

Judiciary

70. Sections 41, 46, and 58 provide for department of revenue actions related to the rejection of license applications, fines, suspension or revocation for unlawful conduct by licensees, and license suspension or revocation related to inspections of licensed premises. Review of department actions must be conducted by the department of revenue's office of dispute resolution.
71. Decisions by Department of Revenue's office of dispute resolution may be appealed by filing a complaint with the district court of the first judicial district.
72. Adding an additional hearing will further increase judicial workload in the first judicial district. However, the Judicial Branch is unable to estimate the impact on judicial workload or the fiscal impact. The cumulative impact of such legislation may eventually require additional judicial resources because the court dockets in the first judicial district are currently full.

DOR	FY 2022 Difference	FY 2023 Difference	FY 2024 Difference	FY 2025 Difference
Fiscal Impact:				
FTE	35.00	38.00	46.00	46.00
Expenditures:				
Personal Services	$2,938,529	$3,254,569	$3,963,943	$4,014,671
Operating Expenses	$3,991,963	$881,442	$1,284,273	$1,266,844
TOTAL Expenditures	$6,930,492	$4,136,011	$5,248,216	$5,281,515
Funding of Expenditures:				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$6,930,492	$4,136,011	$5,248,216	$5,281,515
TOTAL Funding of Exp.	$6,930,492	$4,136,011	$5,248,216	$5,281,515
Revenues:				
General Fund (01)	$9,430,000	$30,360,000	$42,240,000	$49,360,000
State Special Revenue - AUM tax revenue	$8,690,000	$32,580,000	$43,980,000	$51,310,000
State Special Revenue - MM tax revenue	$6,200,000	$5,580,000	$5,020,000	$4,520,000
State Special Revenue - License Fees	$3,900,000	$4,290,000	$6,440,000	$6,760,000
SSR - MMP/Pain Mgmt Funds from DPHHS	$4,856,017	$0	$0	$0
TOTAL Revenues	$33,076,017	$72,810,000	$97,680,000	$111,950,000
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	$9,430,000	$30,360,000	$42,240,000	$49,360,000
State Special Revenue (02)	$16,715,525	$38,313,989	$50,191,784	$57,308,485

DPHHS	FY 2022 Difference	FY 2023 Difference	FY 2024 Difference	FY 2025 Difference
Fiscal Impact:				
FTE	(22.00)	(22.00)	(22.00)	(22.00)
Expenditures:				
Personal Services	($1,479,413)	($1,480,729)	($1,480,729)	($1,480,729)
Operating Expenses	($2,448,719)	($2,449,712)	($2,449,706)	($2,449,699)
Benefits for HEART Fund	$25,000,000	$25,000,000	$25,000,000	$25,000,000
Benefits for Pain Management	($1,000,000)	($1,000,000)	($1,000,000)	($1,000,000)
Transfers MMP/Pain Mgmt Funds to DOR	$4,856,017	$0	$0	$0
TOTAL Expenditures	$24,927,885	$20,069,559	$20,069,565	$20,069,572
Funding of Expenditures:				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	$5,927,885	$1,069,559	$1,069,565	$1,069,572
Federal Special Revenue (03)	$19,000,000	$19,000,000	$19,000,000	$19,000,000
TOTAL Funding of Exp.	$24,927,885	$20,069,559	$20,069,565	$20,069,572
Revenues:				
General Fund (01)	$0	$0	$0	$0
State Special Revenue - (02)	$0	$0	$0	$0
SSR - HEART Appropriation	$6,000,000	$6,000,000	$6,000,000	$6,000,000
Federal Special Revenue - HEART Match (03)	$19,000,000	$19,000,000	$19,000,000	$19,000,000
TOTAL Revenues	$25,000,000	$25,000,000	$25,000,000	$25,000,000
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	$0	$0	$0	$0
State Special Revenue (02)	($5,927,885)	($1,069,559)	($1,069,565)	($1,069,572)
Federal Special Revenue (03)	$0	$0	$0	$0

DOJ	FY 2022 Difference	FY 2023 Difference	FY 2024 Difference	FY 2025 Difference
Fiscal Impact:				
FTE	4.00	9.50	9.50	9.50
Expenditures:				
Personal Services	$343,270	$715,051	$725,776	$736,663
Operating Expenses	$1,197,728	$262,726	$240,185	$241,665
TOTAL Expenditures	$1,540,998	$977,777	$965,961	$978,328
Funding of Expenditures:				
General Fund (01)	$1,540,998	$977,777	$965,961	$978,328
TOTAL Funding of Exp.	$1,540,998	$977,777	$965,961	$978,328
Revenues:				
General Fund (01)	($35,350)	($35,350)	($35,350)	($35,350)
TOTAL Revenues	($35,350)	($35,350)	($35,350)	($35,350)
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($1,576,348)	($1,013,127)	($1,001,311)	($1,013,678)

FWP	FY 2022 Difference	FY 2023 Difference	FY 2024 Difference	FY 2025 Difference
Fiscal Impact:				
Expenditures:				
Expenditures - FWP	$1,290,000	$1,950,000	$1,950,000	$1,950,000
TOTAL Expenditures	$1,290,000	$1,950,000	$1,950,000	$1,950,000
Funding of Expenditures:				
State Special Revenue (02)	$1,290,000	$1,950,000	$1,950,000	$1,950,000
TOTAL Funding of Exp.	$1,290,000	$1,950,000	$1,950,000	$1,950,000
Revenues:				
State Special Revenue (02)	$1,290,000	$1,950,000	$1,950,000	$1,950,000
TOTAL Revenues	$1,290,000	$1,950,000	$1,950,000	$1,950,000
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
State Special Revenue (02)	$0	$0	$0	$0

LEG	FY 2022 Difference	FY 2023 Difference	FY 2024 Difference	FY 2025 Difference
Fiscal Impact:				
Expenditures:				
Personal Services	$2,879	$1,439	$2,922	$1,461
Operating Expenses	$7,819	$2,590	$7,936	$2,629
TOTAL Expenditures	$10,698	$4,029	$10,858	$4,090
Funding of Expenditures:				
General Fund (01)	$10,698	$4,029	$10,858	$4,090
TOTAL Funding of Exp.	$10,698	$4,029	$10,858	$4,090
Revenues:				
General Fund (01)	$0	$0	$0	$0
TOTAL Revenues	$0	$0	$0	$0
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($10,698)	($4,029)	($10,858)	($4,090)

STATEWIDE SUMMARY	FY 2022 Difference	FY 2023 Difference	FY 2024 Difference	FY 2025 Difference
Fiscal Impact:				
FTE	17.00	25.50	33.50	33.50
Expenditures:				
Personal Services	$1,805,265	$2,490,330	$3,211,912	$3,272,066
Operating Expenses	$2,748,791	($1,302,954)	($917,312)	($938,561)
Benefits for HEART Fund	$25,000,000	$25,000,000	$25,000,000	$25,000,000
Benefits for Pain Management	($1,000,000)	($1,000,000)	($1,000,000)	($1,000,000)
Transfers MMP/Pain Mgmt Funds to DOR	$4,856,017	$0	$0	$0
Expenditures - FWP	$1,290,000	$1,950,000	$1,950,000	$1,950,000
TOTAL Expenditures	$34,700,073	$27,137,376	$28,244,600	$28,283,505
Funding of Expenditures:				
General Fund (01)	$1,551,696	$981,806	$976,819	$982,418
State Special Revenue (02)	$14,148,377	$7,155,570	$8,267,781	$8,301,087
Federal Special Revenue (03)	$19,000,000	$19,000,000	$19,000,000	$19,000,000
TOTAL Funding of Exp.	$34,700,073	$27,137,376	$28,244,600	$28,283,505
Revenues:				
General Fund (01)	$9,394,650	$30,324,650	$42,204,650	$49,324,650
SSR - FWP (02)	$1,290,000	$1,950,000	$1,950,000	$1,950,000
SSR - HEART (02)	$6,000,000	$6,000,000	$6,000,000	$6,000,000
SSR - AUM tax revenue (02)	$8,690,000	$32,580,000	$43,980,000	$51,310,000
SSR - MM tax revenue (02)	$6,200,000	$5,580,000	$5,020,000	$4,520,000
SSR - License Fees (02)	$3,900,000	$4,290,000	$6,440,000	$6,760,000
SSR - MMP/Pain Mgmt Funds from DPHHS	$4,856,017	$0	$0	$0
Federal Special Revenue (03)	$19,000,000	$19,000,000	$19,000,000	$19,000,000
TOTAL Revenues	$59,330,667	$99,724,650	$124,594,650	$138,864,650
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	$7,842,954	$29,342,844	$41,227,831	$48,342,232
State Special Revenue (02)	$16,787,640	$43,244,430	$55,122,219	$62,238,913
Federal Special Revenue (03)	$0	$0	$0	$0

Effect on County or Other Local Revenues or Expenditures:

1. This bill allows for a local option adult-use marijuana tax of up to 5% if approved by the voters. Local-option tax revenue would be distributed as follows:
   a. 50% to the county,
   b. 45% distributed between the municipalities within the county based on relative population,
   c. 5% to the Department of Revenue for administrative costs associated with the local-option tax.

   It is unknown which counties would enact the local-option tax, so there are no revenue estimates for it included in this fiscal note. For reference, if all counties that opted in to allow the sale of adult-use marijuana also enacted the local option tax at 5%, then the total local-option tax revenue would be 25% of the estimated adult-use tax revenue in this bill.

Technical Notes:

Department of Revenue

1. The appropriation amounts in Section 102 of the bill should be amended to match the estimated costs to the department in this fiscal note.

Department of Public Health and Human Services

2. This fiscal note assumes DPHHS fully expends the appropriation from the HEART fund and matching federal special revenue. If revenues to the HEART fund do not support planned expenditures, expenditures will be reduced.
3. As of 4/1/2021, the HB 2 present law adjustment requested for $1 million per year of Pain Management expenditures, as included in the Governor's budget, has not been approved.
4. Section 51(5) requires the state laboratory to test marijuana and marijuana products. Marijuana is designated as a Schedule 1 drug under the federal Controlled Substances Act (21 U.S.C. § 801 et seq). Under federal law, the state laboratory cannot test marijuana or marijuana products unless it registers with the federal Drug Enforcement Agency (DEA) as an analytical lab. This registration imposes a number of responsibilities for the registrant related to subjects such as storage, inventory, receiving, and usage of a controlled substance. The state laboratory receives a significant amount of federal funding. All federal grantees or recipients of federal contracts of $100,000 or more are subject to the Drug-Free Workplace Act. The Act requires grantees and contractors to prepare and distribute a formal drug-free workplace statement and establish awareness programs, and also requires notification and direct action in response to drug violations by covered employees. See 41 U.S.C.§ 8102; 8103. Failure to comply with the Act can be grounds for suspension, termination, or debarment for the purposes of federal grants or contracts per 41 U.S.C. § 8102(b) & 8103(b). If the state laboratory were to test marijuana or marijuana products without being registered with the DEA as an analytical lab, its federal funding would be jeopardized under the Drug-Free Workplace Act.
5. Section 62 contains language modifying how tobacco settlement funds may be used. Existing statutory language allowing for the funds to be used for tobacco related disease has been stricken. In lieu of disease, the bill inserts the word "cessation." A significant portion of funding is currently used for tobacco disease, cessation, and prevention. It is not clear whether this language change is intended to preclude the Department from continuing to use the funding for tobacco related disease and self-management, including stroke, asthma, and hypertension.
6. If the intent of section 62(3)(c) is not to include the $500,000 as an increase to current funding for the purposes listed, the funding currently provided to tribes for tobacco disease prevention is approximately $670,000. If the intent of the legislature is to only allow $500,000, PHSD would show a $170,000 reduction in expenses.
7. The MMP currently operated by DPHHS is moved as of July 1 to DOR (FY2022). There are several accounting and operational procedures that must take place in DPHHS accounting records to close out FY 2021, concurrent with the new operation of the program in DOR. These activities will not be completed until the end of July, 2021.

Legislative Branch

8. If meetings are held remotely, travel costs would not be incurred, reducing the fiscal note by $7,769 in the 2023 biennium and $7,886 in the 2025 biennium.

Department of Justice (DOJ)

9. The Department of Justice has no source of funding available to pay damages in the event the agency loses a case. In the event of a large agency loss, additional appropriation would be needed.

Office of Budget and Program Planning (OBPP)

10. The following table represents the change in revenue allocations between present law as it was passed by the electorate in I-190, and the proposed changes in HB 701 without regard to the changes to the medical marijuana program:

Present Law I-190 Revenue Collection and Allocation (millions)									
FY	Distributable Revenue	General Fund 10.5%	HEART Fund	FWP Allocation	State Special Revenue Total	FWP SSRs	DPHHS SSRs	Military Affairs SSR	Commerce SSR
2022	$13.03	$1.37	$0.00	$0.00	$11.66	$6.45	$2.61	$1.30	$1.30
2023	$33.88	$3.56	$0.00	$0.00	$30.32	$16.77	$6.78	$3.39	$3.39
2024	$45.87	$4.82	$0.00	$0.00	$41.05	$22.71	$9.17	$4.59	$4.59
2025	$52.54	$5.52	$0.00	$0.00	$47.02	$26.01	$10.51	$5.25	$5.25
Total	$145.32	$15.26	$0.00	$0.00	$130.06	$71.93	$29.06	$14.53	$14.53

HB 701 Revenue Collection and Allocation (millions)									
FY	Distributable Revenue	General Fund	HEART Fund	FWP Allocation	State Special Revenue Total	FWP SSRs	DPHHS SSRs	Military Affairs SSR	Commerce SSR
2022	$16.72	$9.44	$6.00	$1.29	$0.00	$0.00	$0.00	$0.00	$0.00
2023	$38.31	$30.36	$6.00	$1.95	$0.00	$0.00	$0.00	$0.00	$0.00
2024	$50.19	$42.24	$6.00	$1.95	$0.00	$0.00	$0.00	$0.00	$0.00
2025	$57.32	$49.37	$6.00	$1.95	$0.00	$0.00	$0.00	$0.00	$0.00
Total	$162.54	$131.41	$24.00	$7.14	$0.00	$0.00	$0.00	$0.00	$0.00

Revenue Impacts of HB 670 (millions)									
FY	Distributable Revenue	General Fund	HEART Fund	FWP Allocation	SSR Total	FWP SSRs	DPHHS SSRs	Military Affairs SSR	Commerce SSR
2022	$3.69	$8.07	$6.00	$1.29	($11.66)	($6.45)	($2.61)	($1.30)	($1.30)
2023	$4.43	$26.80	$6.00	$1.95	($30.32)	($16.77)	($6.78)	($3.39)	($3.39)
2024	$4.32	$37.42	$6.00	$1.95	($41.05)	($22.71)	($9.17)	($4.59)	($4.59)
2025	$4.78	$43.85	$6.00	$1.95	($47.02)	($26.01)	($10.51)	($5.25)	($5.25)
Total	$17.22	$116.15	$24.00	$7.14	($130.06)	($71.93)	($29.06)	($14.53)	($14.53)

M H	4-6-21	KA	4-5-21
Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*