



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2023 Biennium

Bill # HB0603

Title: Provide for Montana Innocence Inquiry Commission

Primary Sponsor: Trebas, Jeremy

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 2022 Difference</u>	<u>FY 2023 Difference</u>	<u>FY 2024 Difference</u>	<u>FY 2025 Difference</u>
<b>Expenditures:</b>				
General Fund	\$242,072	\$430,844	\$438,162	\$445,615
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
<b>Net Impact-General Fund Balance:</b>	<u>(\$242,072)</u>	<u>(\$430,844)</u>	<u>(\$438,162)</u>	<u>(\$445,615)</u>

**Description of fiscal impact:** This bill provides for the Montana Innocence Inquiry Commission, which will review credible claims of factual innocence and will be attached to the Judicial Branch office of the court administrator. Fiscal impacts for the Judicial Branch are associated with setting up and staffing the commission. Office of Public Defender (OPD) anticipates costs to the state will increase based on the potential appointment of a public defender but the agency is unable to quantify this impact.

### FISCAL ANALYSIS

#### Assumptions:

#### **Judicial Branch**

1. It is assumed that the Judicial Branch HB 2 budget will provide funding for the ongoing personal services, operating, and investigative costs related to the commission.
2. Section 6 provides for the commission to employ a director, who must be an attorney, and related staff. Additional staff is assumed to include 1.00 FTE for an office administrator (clerical staff), 1.00 FTE for an investigator, and 1.00 FTE for a court reporter.

3. Section 4 of the bill requires the commission to hold its initial meeting no later than January 31, 2022. It is assumed that staff will be hired and working as of January 1, 2022 and 0.50 FTE will be required for each position in FY 2022.
4. FY 2023 data for similar positions was used to estimate the costs for the director, office administrator and court reporter. Cost estimates for the investigator are based on SABHRS pay expenditure data for a Department of Justice Division of Criminal Investigation crime investigator.
5. The cost (salary and benefits) of the positions for half a year in FY 2022 is estimated as follows: attorney director \$50,490, office administrator \$35,310, investigator \$38,193, and court reporter \$38,183, for a total of \$162,176 for 2.00 FTE (4 positions for 6 months of the fiscal year).
6. The cost (salary and benefits) of the positions in FY 2023 is estimated as follows: attorney director \$100,980, office administrator \$70,620, investigator \$76,386, and court reporter \$76,366, for a total of \$324,352 for 4.00 FTE (4 positions for a full fiscal year).
7. One-time startup costs include the standard new employee package of a desk, chair, bookshelf, and file cabinet for \$6,400 (\$1,600 x 4 employees); computers at \$4,800 (\$1,200 x 4 employees); one set of MCA books for \$750; the cost of a copier/scanner/fax machine at \$4,500, employee recruitment ads for a total of \$200; court reporting equipment at \$10,000. Total one-time startup costs are estimated at \$26,650.
8. The commission staff will also incur annual ongoing operating costs which are based on FY 2019 actuals and are estimated as follows: data network charges at \$1,020 per employee; office supplies at \$462 per employee; subscription to online legal research for the office \$1,800; copy costs \$48 per employee; communications \$542 per employee; books and reference materials \$775; court reporter equipment maintenance \$645. Fiscal year 2019 actuals were used to build these estimates as FY 2020 actuals contain potential impacts related to COVID19.
9. Operating costs for FY 2022 will be incurred for six months of the year for a total of \$5,754; FY 2023 operating costs are estimated at \$11,508.
10. The commission staff will require an office location, which is assumed to be located in a private/non-state building. Office space is estimated at 3,000 square feet and would include three offices, a conference room and storage space. The estimated lease rate per square foot is estimated at \$16.89 for a total annual cost of \$57,000. Lease costs for six months in FY 2022 is calculated at \$28,500 (3,000 square feet x \$16.89/2), and for FY 2023 the cost is \$57,000 (3,000 square feet x 16.89). Lease costs are assumed to increase 3% each year starting in FY 2024.
11. Section 5 provides for the reimbursement of travel expenses for the commission members. Travel costs are based on the following assumptions: mileage will be paid at the high rate of .56 per mile for an estimated 350 miles round trip for a cost of \$196 per hearing; meals for each two-day hearing are estimated at \$53.50; lodging costs are estimated at \$112 for one night (standard rate of \$96 + tax). Estimated total travel for each trip per traveler is \$362. This is an estimated average cost of travel as the Judicial Branch recognizes that some travel will be more expensive, and some will be less depending on the distances to be traveled.
12. It is assumed that the commission members will meet four times per year (two times as required by section 4 part (3) plus an additional two times to review conduct inquiries). Travel costs for FY 2022 will be \$5,792 and for FY 2023 will be \$11,584.
13. Sections 8 and 12 provide for the commission to compel the attendance of witnesses and subject physical evidence to forensic and DNA testing as necessary. It is assumed that the commission will incur the costs of these services and tests.
14. It is assumed that the commission will perform two inquiries in FY 2022 and four in each fiscal year thereafter. Each inquiry will incur witness costs estimated at \$3,500 (expert witness fees plus travel), DNA testing of \$2,500 (based on basic Serology plus DNA analysis) and toxicology testing at \$600, for total costs per inquiry of \$6,600. DNA testing and toxicology rates are based on estimates provided by the State Crime Lab. The Judicial Branch recognizes that some costs may depend on each individual inquiry. As these costs are variable, the Judicial Branch has no way to provide more accurate estimates.

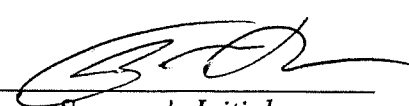
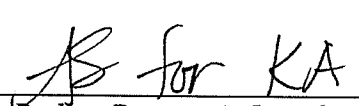
15. Total costs for each fiscal year are as follows:

- a. FY 2022 = \$242,072 (\$162,176 personal services + \$26,650 one-time startup + \$5,754 operating + \$28,500 office space lease + \$5,792 commission travel + \$13,200 variable inquiry costs).
- b. FY 2023 = \$430,844 (\$324,352 personal services + \$11,508 operating + \$57,000 office space lease + \$11,584 commission travel + \$26,400 variable inquiry costs).
- c. FY 2024 = \$438,162 (\$329,217 personal services + \$11,681 operating + \$58,710 office space lease + \$11,758 commission travel + \$26,796 variable inquiry costs), costs are FY 2023 increased by 1.5% inflation, with the exception of the lease cost, which in increased by 3%.
- d. FY 2025 = \$445,615 (\$334,156 personal services + \$11,856 operating + \$60,471 office space lease + \$11,934 commission travel + \$27,198 variable inquiry costs), costs are FY 2024 increased by 1.5% inflation, with the exception of the lease cost, which in increased by 3%.

**Office of Public Defender (OPD)**

16. OPD assumes language presented in Section 8, part 5 may increase caseloads for our attorneys, however without knowing how the commission will determine the convicted person’s indigency or the extent of the agency’s involvement in the process OPD is unable to quantify fiscal impact.

	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
<b><u>Fiscal Impact:</u></b>				
FTE	2.00	4.00	4.00	4.00
<b><u>Expenditures:</u></b>				
Personal Services	\$162,176	\$324,352	\$329,217	\$334,156
Operating Expenses	\$79,896	\$106,492	\$108,945	\$111,459
<b>TOTAL Expenditures</b>	<u>\$242,072</u>	<u>\$430,844</u>	<u>\$438,162</u>	<u>\$445,615</u>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$242,072	\$430,844	\$438,162	\$445,615
<b>TOTAL Funding of Exp.</b>	<u>\$242,072</u>	<u>\$430,844</u>	<u>\$438,162</u>	<u>\$445,615</u>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
<b>TOTAL Revenues</b>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	(\$242,072)	(\$430,844)	(\$438,162)	(\$445,615)


3-01-21
 for KA
3/1/21

*Sponsor's Initials*
*Date*
*Budget Director's Initials*
*Date*