



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Pension Fund Fiscal Note 2023 Biennium

**Bill #** HB0670

**Title:** Generally revise laws to implement recreational marijuana program

**Primary Sponsor:** Skees, Derek

**Status:** As Introduced-Revised

**Retirement Systems Affected:**  
 Teachers                     
 Public Employees                     
 Highway Patrol                     
 Police  
 Sheriffs                                     
 Firefighters                     
 Volunteer Firefighters                     
 Game Wardens                     
 Judges

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

Check the box if "Yes".

- Has this legislation been reviewed by the legislative interim committee?
- Has the cost of this legislation been calculated by the system's actuary?
- Does this legislation include full funding for any benefit revisions?

PERS	July 1, 2020 Current System	July 1, 2020 With Changes	Increase/ (Decrease)
Present Value of Actuarial Accrued Liability	\$8,234,002,983	\$8,234,002,983	\$0
Present Value of Actuarial Assets	\$6,099,398,162	\$6,099,398,162	\$0
Unfunded Actuarial Accrued Liability (UAAL)	\$2,134,604,821	\$2,134,604,821	\$0
Amortization Period (years) of UAAL	35.00	35.00	0.00
Change in normal costs	9.81%	9.81%	0.00%

JRS	July 1, 2020 Current System	July 1, 2020 With Changes	Increase/ (Decrease)
Present Value of Actuarial Accrued Liability	\$67,934,098	\$67,934,098	\$0
Present Value of Actuarial Assets	\$110,638,941	\$110,638,941	\$0
Unfunded Actuarial Accrued Liability (UAAL)	(\$42,704,843)	(\$42,704,843)	\$0
Amortization Period (years) of UAAL	0.00	0.00	0.00
Change in normal costs	23.86%	23.86%	0.00%

	July 1, 2020	July 1, 2020	Increase/ (Decrease)
<b>HPORS</b>	<b>Current System</b>	<b>With Changes</b>	
Present Value of Actuarial Accrued Liability	\$245,915,150	\$245,915,150	\$0
Present Value of Actuarial Assets	\$158,658,054	\$158,658,054	\$0
Unfunded Actuarial Accrued Liability (UAAL)	\$87,257,096	\$87,257,096	\$0
Amortization Period (years) of UAAL	39.00	39.00	0.00
Change in normal costs	23.38%	23.38%	0.00%
<b>GWPORS</b>	<b>Current System</b>	<b>With Changes</b>	<b>Increase/ (Decrease)</b>
Present Value of Actuarial Accrued Liability	\$264,744,609	\$264,744,609	\$0
Present Value of Actuarial Assets	\$221,948,510	\$221,948,510	\$0
Unfunded Actuarial Accrued Liability (UAAL)	\$42,796,099	\$42,796,099	\$0
Amortization Period (years) of UAAL	40.00	40.00	0.00
Change in normal costs	15.44%	15.44%	0.00%
<b>MPORS</b>	<b>Current System</b>	<b>With Changes</b>	<b>Increase/ (Decrease)</b>
Present Value of Actuarial Accrued Liability	\$666,098,580	\$666,098,580	\$0
Present Value of Actuarial Assets	\$471,328,235	\$471,328,235	\$0
Unfunded Actuarial Accrued Liability (UAAL)	\$194,770,345	\$194,770,345	\$0
Amortization Period (years) of UAAL	16.00	16.00	0.00
Change in normal costs	25.57%	25.57%	0.00%
<b>SRS</b>	<b>Current System</b>	<b>With Changes</b>	<b>Increase/ (Decrease)</b>
Present Value of Actuarial Accrued Liability	\$493,241,768	\$493,241,768	\$0
Present Value of Actuarial Assets	\$400,719,971	\$400,719,971	\$0
Unfunded Actuarial Accrued Liability (UAAL)	\$92,521,797	\$92,521,797	\$0
Amortization Period (years) of UAAL	21.00	21.00	0.00
Change in normal costs	15.77%	15.77%	0.00%
<b>FURS</b>	<b>Current System</b>	<b>With Changes</b>	<b>Increase/ (Decrease)</b>
Present Value of Actuarial Accrued Liability	\$612,294,224	\$612,294,224	\$0
Present Value of Actuarial Assets	\$499,180,209	\$499,180,209	\$0
Unfunded Actuarial Accrued Liability (UAAL)	\$113,114,015	\$113,114,015	\$0
Amortization Period (years) of UAAL	8.00	8.00	0.00
Change in normal costs	24.88%	24.88%	0.00%

**Fiscal Note Request – As Introduced Revised**

*(continued)*

<b>PERS</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
	<b>July 1, 2020</b>	<b>July 1, 2021</b>	<b>July 1, 2022</b>	<b>July 1, 2023</b>	<b>July 1, 2024</b>
Employee Contribution Rate	7.90%	7.90%	7.90%	7.90%	7.90%
State & MUS Employer Contribution R:	8.87%	8.97%	9.07%	9.17%	9.17%
State Contribution Rate	0.00%	0.00%	0.00%	0.00%	0.00%
Local Govt Contribution Rate	8.77%	8.87%	8.97%	9.07%	9.07%
State Contribution Rate	0.10%	0.10%	0.10%	0.10%	0.10%
School District Contribution Rate	8.50%	8.60%	8.70%	8.80%	8.80%
State Contribution Rate	0.37%	0.37%	0.37%	0.37%	0.37%
<b>TOTAL Contribution Rate</b>	<b>16.77%</b>	<b>16.87%</b>	<b>16.97%</b>	<b>17.07%</b>	<b>17.07%</b>

<b>JRS</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
	<b>July 1, 2020</b>	<b>July 1, 2021</b>	<b>July 1, 2022</b>	<b>July 1, 2023</b>	<b>July 1, 2024</b>
Employee Contribution Rate	7.00%	7.00%	7.00%	7.00%	7.00%
Employer Contribution Rate	25.81%	25.81%	25.81%	25.81%	25.81%
State Contribution Rate	0.00%	0.00%	0.00%	0.00%	0.00%
<b>TOTAL Contribution Rate</b>	<b>32.81%</b>	<b>32.81%</b>	<b>32.81%</b>	<b>32.81%</b>	<b>32.81%</b>

<b>HPORS</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
	<b>July 1, 2020</b>	<b>July 1, 2021</b>	<b>July 1, 2022</b>	<b>July 1, 2023</b>	<b>July 1, 2024</b>
Employee Contribution Rate	13.05%	13.05%	13.05%	13.05%	13.05%
Employer Contribution Rate	28.15%	28.15%	28.15%	28.15%	28.15%
State Contribution Rate	10.18%	10.18%	10.18%	10.18%	10.18%
<b>TOTAL Contribution Rate</b>	<b>51.38%</b>	<b>51.38%</b>	<b>51.38%</b>	<b>51.38%</b>	<b>51.38%</b>

<b>GWPORS</b>	<b>FY 2021</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
	<b>July 1, 2020</b>	<b>July 1, 2021</b>	<b>July 1, 2022</b>	<b>July 1, 2023</b>	<b>July 1, 2024</b>
Employee Contribution Rate	10.56%	10.56%	10.56%	10.56%	10.56%
Employer Contribution Rate	9.00%	10.05%	10.05%	10.05%	10.05%
State Contribution Rate	0.00%	0.00%	0.00%	0.00%	0.00%
<b>TOTAL Contribution Rate</b>	<b>19.56%</b>	<b>20.61%</b>	<b>20.61%</b>	<b>20.61%</b>	<b>20.61%</b>

**Fiscal Note Request – As Introduced Revised**

(continued)

MPORS	FY 2021 July 1, 2020	FY 2022 July 1, 2021	FY 2023 July 1, 2022	FY 2024 July 1, 2023	FY 2025 July 1, 2024
Employee Contribution Rate	9.00%	9.00%	9.00%	9.00%	9.00%
Employer Contribution Rate	14.41%	14.41%	14.41%	14.41%	14.41%
State Contribution Rate	29.37%	29.37%	29.37%	29.37%	29.37%
<b>TOTAL Contribution Rate</b>	<b>52.78%</b>	<b>52.78%</b>	<b>52.78%</b>	<b>52.78%</b>	<b>52.78%</b>

SRS	FY 2021 July 1, 2020	FY 2022 July 1, 2021	FY 2023 July 1, 2022	FY 2024 July 1, 2023	FY 2025 July 1, 2024
Employee Contribution Rate	10.495%	10.495%	10.495%	10.495%	10.495%
Employer Contribution Rate	13.115%	13.115%	13.115%	13.115%	13.115%
State Contribution Rate	0.00%	0.00%	0.00%	0.00%	0.00%
<b>TOTAL Contribution Rate</b>	<b>23.61%</b>	<b>23.61%</b>	<b>23.61%</b>	<b>23.61%</b>	<b>23.61%</b>

FURS	FY 2021 July 1, 2020	FY 2022 July 1, 2021	FY 2023 July 1, 2022	FY 2024 July 1, 2023	FY 2025 July 1, 2024
Employee Contribution Rate	10.70%	10.70%	10.70%	10.70%	10.70%
Employer Contribution Rate	14.36%	14.36%	14.36%	14.36%	14.36%
State Contribution Rate	32.61%	32.61%	32.61%	32.61%	32.61%
<b>TOTAL Contribution Rate</b>	<b>57.67%</b>	<b>57.67%</b>	<b>57.67%</b>	<b>57.67%</b>	<b>57.67%</b>

**FISCAL SUMMARY**

	FY 2022 <u>Difference</u>	FY 2023 <u>Difference</u>	FY 2024 <u>Difference</u>	FY 2025 <u>Difference</u>
<b>Expenditures:</b>				
General Fund	\$4,573,721	\$18,245,539	\$22,951,728	\$26,277,819
State Special Revenue	\$6,032,629	\$1,784,365	\$2,202,398	\$2,498,742
<b>Revenue:</b>				
General Fund (01)	\$3,190,000	\$14,690,000	\$18,120,000	\$20,760,000
State Special Revenue - MM & Pain Mgmt	(\$2,008,837)	(\$4,473,100)	(\$4,473,100)	(\$4,473,100)
State Special Revenue - AUM Tax	(\$11,660,000)	(\$30,330,000)	(\$41,060,000)	(\$47,030,000)
State Special Revenue - MM Tax	\$1,160,000	\$4,190,000	\$3,770,000	\$3,390,000
State Special Revenue - License Fees	\$3,900,000	\$5,900,000	\$6,400,000	\$6,800,000
Other Marijuana Trust Fund	\$2,280,000	\$9,120,000	\$11,470,000	\$13,140,000
Other PERS Trust Fund	\$4,560,000	\$18,240,000	\$22,940,000	\$26,270,000
<b>Net Impact-General Fund Balance:</b>	<u>(\$1,383,721)</u>	<u>(\$3,555,539)</u>	<u>(\$4,831,728)</u>	<u>(\$5,517,819)</u>

**Description of fiscal impact:** HB 670 revises laws related to the regulation and taxation of marijuana by decreasing the tax on adult-use marijuana from 20 percent to 15 percent and increasing the tax rate on medical marijuana to 5 percent. This bill distributes the adult-use marijuana tax revenue to the marijuana trust fund and the public employee retirement systems (PERS). 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 670. A crosswalk from I-190 to HB 670 can be found in Technical Note #11 of this fiscal note.

## FISCAL ANALYSIS

**Assumptions:**

**Public Employee Retirement System (PERS)**

1. The actuary was provided the adult-use marijuana sales and tax revenue estimates for HB 670 by the Department of Revenue that will be allocated to the public retirement systems. They are shown in the table below by fiscal year:

Fiscal Year	Projected Revenue (millions)
2022	\$4.56
2023	\$18.24
2024	\$22.94
2025	\$26.27

2. By July 1 of each year starting in 2022, the Public Employee Retirement Administration as defined in 19-2-303, based on each system’s share of total vested enrollees as determined by the most recent actuarial valuation for the retirement systems completed pursuant to 19-2-405 will receive two-thirds of tax revenue from Marijuana tax revenue for all seven defined benefit systems (PERS, JRS, MPORS, GWPORS, SRS, FURS, HPORS).
3. This fiscal note excludes VFCA and the DC Disability OPEB plan.
4. For each system noted above, except for HPORS, the members become vested upon completion of five years of service. For HPORS, members hired prior to July 1, 2013 are vested upon the completion of five years of service while members hired on or after July 1, 2013 are vested upon the completion of ten years of service.
5. Each system’s number of vested enrollees and the percentage of the total number of vested enrollees is shown in the table below. The actuary assumed these percentages will remain constant in the future:

	Number of Vested Enrollees	Percentage of Total
<b>PERS</b>	43,867	88%
<b>HPORS</b>	510	1%
<b>GWPORS</b>	1,070	2%
<b>FURS</b>	1,209	2%
<b>JRS</b>	108	1%
<b>SRS</b>	1,646	3%
<b>MPORS</b>	1,439	3%
<b>Total</b>	49,849	100%

6. As recommended by Department of Revenue, the actuary assumed the tax revenue would grow by 10% in fiscal year 2026 and 5% for fiscal years 2027 to 2030 and 2.5% for fiscal years 2031 and beyond.
7. The actuary performed these calculations based upon the data, actuarial methods and assumptions used in the Actuarial Valuations as of June 30, 2020 of each of the systems.
8. The fiscal impact presented in the report assumes that this bill is the only amendment being considered. If other changes are also adopted, the fiscal impact associated with this bill could be different.

**Department of Revenue (DOR)**

- 9. HB 670 revises the regulation and taxation of both adult-use and medical marijuana.
- 10. Some of the changes this bill makes include transferring the administration of the medical marijuana licensing and tracking to the Department of Revenue, increasing the tax rate on medical marijuana to 5%, decreasing the tax rate on adult-use marijuana to 15%, changing the distribution of the adult-use marijuana tax revenue, allowing medical marijuana tax revenue to be used to cover the costs of this act, and delaying the start date for licensing and sales.

**DOR - Sales Tax Revenue – Adult-use Marijuana**

11. The current law tax on adult-use marijuana is 20% 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 CY 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.

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

- 12. 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.
- 13. This bill decreases the tax rate to 15%, delays the start of adult-use sales from January 1, 2022 to March 15, 2022, and removes the year-long moratorium where only current medical marijuana licensees can get licensed to sell adult-use marijuana. The current medical marijuana licensees would be allowed to start selling adult-use marijuana immediately on March 15, 2022, while the new licensees would be allowed to start applying for licenses at that time, and would not be able to start selling until their applications are approved.
- 14. The removal of the year-long moratorium is assumed to increase supply and monthly sales in CY 2022 by 20%, and the March 15, 2022 start date would reduce months of sales in CY 2022 from 12 months to nine and a half months. The combination of these adjustments results in a slight decrease in estimated sales for CY 2022 from \$130.3 million to \$123.8 million. It is assumed that sales in CY 2023-2025 would not change from current law. The CY sales are adjusted to FY sales with only three and a half months of sales occurring in FY 2022. The following table shows the estimated sales and tax revenue under this bill.

HB 670 Proposed Law (millions)					
Year	CY sales	FY Sales	Tax Revenue (15%)	Marijuana Trust Fund (1/3)	Transfer to PERS (2/3)
2022	\$123.8	\$45.6	\$6.84	\$2.28	\$4.56
2023	\$208.5	\$182.4	\$27.37	\$9.12	\$18.24
2024	\$250.2	\$229.4	\$34.40	\$11.47	\$22.94
2025	\$275.2	\$262.7	\$39.41	\$13.14	\$26.27

15. As can be seen in the table above, this bill changes the distribution of the adult-use marijuana tax revenue with one-third going to the Marijuana revenue trust fund and two-thirds going to the public employee retirement systems (PERS). For this fiscal note, it is assumed that two-thirds of the tax revenue would be deposited in the general fund, before it is appropriated to PERS. Section 2 of HB 670 includes a new statutory appropriation for the two-thirds of the tax revenue to the PERS.

**DOR - Sales Tax Revenue - Medical Marijuana**

- 16. Under current law, the medical marijuana tax is 4% and will decrease to 2% starting October 1, 2021. This bill would increase the medical marijuana tax to 5% on March 15, 2022.
- 17. 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% tax rate. With the legalization of adult-use marijuana, it is assumed that medical marijuana sales will start declining at 10% 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	\$5.04	\$1.16
2023	\$139.5	\$2.79	\$6.98	\$4.19
2024	\$125.6	\$2.51	\$6.28	\$3.77
2025	\$113.0	\$2.26	\$5.65	\$3.39

18. The medical marijuana tax revenue would be deposited in the medical marijuana state special revenue account and used for the purpose of administering the Montana Marijuana Regulation and Taxation Act. This bill repeals the current distribution of medical marijuana tax revenue.

**DOR – Revenue Costs**

- 19. 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.
- 20. The department will create a new marijuana division with the following personnel (FTE) beginning in FY 2022: 1 administrator, 2 bureau chiefs, 2 unit managers, 2 management analysts, 4 licensing specialists, 16 investigators, 1 chemist, 2 auditors, 1 compliance officer, 1 administrative specialist, and 1 education specialist. Additional costs for this division include travel, vehicles, firearms, and phones for investigators.
- 21. Of the 33 FTE in this division in FY 2023, 19 will be transferred from the DPHHS medical marijuana program.
- 22. The director’s office will add 1 administrative law judge (beginning January 1, 2022), 1 paralegal assistant and 1 public relation specialist in FY 2022.
- 23. The information management collections division within the department will add 1 collections specialist and 2 computer operators beginning with the third quarter of FY 2022.

24. The business and income tax unit within the department will need to hire 1 new tax examiner in FY 2022, increasing to 5 in FY 2023, with travel.
25. The technology services division within the department will hire 2 computer system analysts beginning in FY 2022 and will have a one-time contracted services cost in FY 2022 of \$3 million to get the new tax type added to the integrated revenue information system and annual costs of \$65,000 for system licensing.
26. The department will also be responsible for a \$40 per month tracking system reporting fee for each provider and providing the tracking tags for each plant and package or product in the seed-to-sale tracking system. Tags are \$0.45 per plant and \$0.25 for a package tag. Total estimated costs for these fees and tags are \$604,600 for FY 2022, \$1,338,800 for FY 2023, \$1,705,900 for FY 2024 and \$1,943,400 for FY 2025.
27. Total estimated costs to the department are \$8,041,024 in FY 2022, \$6,257,016 in FY 2023, \$6,675,042 in FY 2024, and \$6,971,379 in FY 2025.
28. It is assumed that these costs will be covered by a combination of the medical marijuana tax revenue and the license fee revenue in the medical marijuana state special revenue account. It is assumed that the license fee revenue under this bill would be approximately \$3.9 million in FY 2022, \$5.9 million in FY 2023, \$6.4 million in FY 2024, and \$6.8 million in FY 2025.

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

29. Section 72 of HB 670 repeals the entirety of the Medical Marijuana Program (MMP), currently authorized in Title 50, Chapter 46, Part 3 of Montana Code Annotated (MCA) on March 14, 2022.
30. Sections 64-67 amend the current MMP, effective on passage and approval. These amendments could have a small fiscal impact in relation to IT updates but can be absorbed within existing department resources.
31. New Section 5 defines the purpose of the revised MMP and defines “Department” as DPHHS for New Sections 6 through 17.
32. DPHHS will still be required to issue registry identification cards to Montana residents who have debilitating medical conditions. These individuals will submit applications and DPHHS will review for requirements prior to issuing a card. In order to perform these functions, DPHHS will need to maintain 3.0 FTE, print and mail services, related operational costs, and IT system costs for the licensing system (Complia).
33. The remaining functions of the MMP, which include inspection and licensure of medical marijuana providers, will transfer to the Department of Revenue (DOR). This includes 19.0 FTE and associated personal services budget authority, operational budget authority, IT Systems, etc.
34. Section 74 covers the transition of the MMP currently at DPHHS to the Department of Revenue (DOR) on March 14, 2022. For purposes of this fiscal note, 71% of applicable expenditures are assumed to take place in DPHHS in FY 2022, and the remaining expenditures (29%) are assumed to take place in DOR. Due to the delayed implementation of HB 670, the actual reduction in FTE in FY 2022 is 5.0 FTE.
35. DPHHS expenditures for the MMP will be reduced by \$1,008,837 in FY 2022, and \$3,473,100 in FY 2023 through FY 2025.
36. Section 67 eliminates the transfer of excess funds to the Pain Management Education and Treatment special revenue account at the end of the fiscal year, effective upon passage and approval.
37. The Pain Management and Education Treatment state special revenue fund (50-46-346) is repealed, upon passage and approval. This reduces expenditures by \$1 million per year in FY 2022 through FY 2025.
38. The state laboratory assumes the testing lab licensing would continue under Complia, the current licensing software, and the seed to sale tracking software, Metric. It is assumed these costs would be maintained by DOR.
39. Section 38 (5) states it is the responsibility of the state laboratory to facilitate fingerprint and background checks on all owners and employees of a testing laboratory. The DPHHS Medical Marijuana Program currently provides this service for the state laboratory. This service is included in the licensing of marijuana providers and is being transferred to Department of Revenue. It is assumed that the Department of Revenue would undertake the act of fingerprinting and background checks as part of the program transfer, as the state



laboratory is not equipped, nor receives any license fee revenue, to facilitate the fingerprint and background checks.

40. 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.

**Department of Corrections (DOC)**

41. HB 670 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.
42. Section 27 of HB 670 would eliminate subsection 16-12-106(10), MCA, which currently provides that “[a] person currently under parole, probation or other state supervision or released awaiting trial or other hearing may not be punished or otherwise penalized solely for conduct that is permitted by this chapter.” This would provide the ability for the Courts, Board of Pardons and Parole, and the Probation and Parole Division to provide restrictions and sanctions on offenders for possession and use of marijuana.
43. Current law still states felons cannot hold a license for a dispensary.

**Legislative Branch**

44. HB 670 Section 31 creates a “Marijuana Regulation and Taxation Interim Committee” (committee) for legislative monitoring.
45. Section 31 (5) adds 11 legislative members to the committee.
46. The committee shall identify issues to require future legislative attention and develop legislation.
47. The committee will provide administrative rule review for the divisions of the Department of Revenue that administer the Montana Alcohol Beverage Code and the Montana Marijuana and Taxation act.
48. Legislative Services Division legal staff that reviews Montana Department of Revenue administrative rules would absorb their duties within the existing budget.
49. HB 670 may require additional research staff to organize meetings and provide administrative support.
50. It is unknown how many bills are seeking to add to the duties of the Legislative Services Division. The fiscal note of each bill is prepared based on the effect of each individual bill. However, when viewed as a package, the cumulative effect of passage of more than one bill would require additional analysis and may require additional resources. LSD may not be able to absorb these duties.
51. HB 670 does not provide an expiration date.
52. For the purposes of this fiscal note, it is assumed that there will be three one-day meetings in Helena for the 2023 biennium.
53. For the 2025 biennium, it is assumed that there will be three one-day meetings in Helena. It is assumed that Administrative Rule review would not occur very often, and three meetings will be sufficient to discuss legislation for the 2027 biennium.
54. The costs to the Legislative Branch are \$13,721 in FY 2022, \$5,539 in FY 2023, \$11,728 in FY 2024, and \$7,819 in FY 2025. fiscal impact for HB 670 is as follows:

**Statutory Appropriation Checklist**

55. 17-7-508, MCA, requires analysis of the statutory appropriation relative to the guidance in 17-1-508(3), MCA, to be published in the fiscal note. In reviewing and establishing statutory appropriations, the legislature shall consider the following guidelines. Answer yes or no to each of the following guidelines regarding the statutory appropriation:

	<u>YES</u>	<u>NO</u>
a. The money is from a continuing, reliable, and estimable source.	x	
b. The use of the appropriation or the expenditure occurrence is predictable and reliable.	x	
c. The authority exists elsewhere.		x
d. An alternative appropriation method is available, practical, or effective.	x	
e. It appropriates state general fund money for purposes other than paying for emergency services.		x
f. The money is used for general purposes.		x
g. The legislature wishes to review expenditure and appropriation levels each biennium.		x
h. An expenditure cap and sunset date are excluded.	x	

<b>PERS</b>	<b>FY 2022</b>	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>
<b><u>Fiscal Impact:</u></b>				
<b><u>Expenditures:</u></b>				
TOTAL Expenditures	\$0	\$0	\$0	\$0
<b><u>Funding of Expenditures:</u></b>				
TOTAL Funding of Exp.	\$0	\$0	\$0	\$0
<b><u>Revenues:</u></b>				
Other PERS Trust Fund	\$4,560,000	\$18,240,000	\$22,940,000	\$26,270,000
TOTAL Revenues	\$4,560,000	\$18,240,000	\$22,940,000	\$26,270,000
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$0	\$0	\$0
Federal Special Revenue (03)	\$0	\$0	\$0	\$0
Other	\$4,560,000	\$18,240,000	\$22,940,000	\$26,270,000

<b>DOR</b>	<b>FY 2022 Difference</b>	<b>FY 2023 Difference</b>	<b>FY 2024 Difference</b>	<b>FY 2025 Difference</b>
<b><u>Fiscal Impact:</u></b>				
FTE	40.00	46.00	46.00	46.00
<b><u>Expenditures:</u></b>				
Personal Services	\$3,426,488	\$3,981,188	\$4,032,182	\$4,083,935
Operating Expenses	\$4,614,536	\$2,275,828	\$2,642,860	\$2,887,444
SA to PERS	\$4,560,000	\$18,240,000	\$22,940,000	\$26,270,000
<b>TOTAL Expenditures</b>	<b>\$12,601,024</b>	<b>\$24,497,016</b>	<b>\$29,615,042</b>	<b>\$33,241,379</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$4,560,000	\$18,240,000	\$22,940,000	\$26,270,000
State Special Revenue (02)	\$8,041,024	\$6,257,016	\$6,675,042	\$6,971,379
Other	\$0	\$0	\$0	\$0
<b>TOTAL Funding of Exp.</b>	<b>\$12,601,024</b>	<b>\$24,497,016</b>	<b>\$29,615,042</b>	<b>\$33,241,379</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$3,190,000	\$14,690,000	\$18,120,000	\$20,760,000
State Special Revenue (02)	\$0	\$0	\$0	\$0
State Special Revenue - AUM Tax (02)	(\$11,660,000)	(\$30,330,000)	(\$41,060,000)	(\$47,030,000)
State Special Revenue - MM Tax (02)	\$1,160,000	\$4,190,000	\$3,770,000	\$3,390,000
State Special Revenue - License Fees (02)	\$3,900,000	\$5,900,000	\$6,400,000	\$6,800,000
Other Marijuana Trust Fund	\$2,280,000	\$9,120,000	\$11,470,000	\$13,140,000
<b>TOTAL Revenues</b>	<b>(\$1,130,000)</b>	<b>\$3,570,000</b>	<b>(\$1,300,000)</b>	<b>(\$2,940,000)</b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	(\$1,370,000)	(\$3,550,000)	(\$4,820,000)	(\$5,510,000)
State Special Revenue (02)	(\$14,641,024)	(\$26,497,016)	(\$37,565,042)	(\$43,811,379)
Other	\$2,280,000	\$9,120,000	\$11,470,000	\$13,140,000

DPHHS	<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	(5.00)	(19.00)	(19.00)	(19.00)
<b><u>Expenditures:</u></b>				
Personal Services	(\$384,819)	(\$1,328,179)	(\$1,328,179)	(\$1,328,179)
Operating Expenses	(\$623,576)	(\$2,144,472)	(\$2,144,465)	(\$2,144,458)
Benefits	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)
<b>TOTAL Expenditures</b>	<b>(\$2,008,395)</b>	<b>(\$4,472,651)</b>	<b>(\$4,472,644)</b>	<b>(\$4,472,637)</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	(\$2,008,395)	(\$4,472,651)	(\$4,472,644)	(\$4,472,637)
<b>TOTAL Funding of Exp.</b>	<b>(\$2,008,395)</b>	<b>(\$4,472,651)</b>	<b>(\$4,472,644)</b>	<b>(\$4,472,637)</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue - MM Pgm (02)	(\$2,008,837)	(\$4,473,100)	(\$4,473,100)	(\$4,473,100)
<b>TOTAL Revenues</b>	<b>(\$2,008,837)</b>	<b>(\$4,473,100)</b>	<b>(\$4,473,100)</b>	<b>(\$4,473,100)</b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$2,008,395	\$4,472,651	\$4,472,644	\$4,472,637

LEG BRANCH	<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>				
<b><u>Expenditures:</u></b>				
Personal Services	\$3,959	\$1,979	\$3,615	\$2,410
Operating Expenses	\$9,762	\$3,560	\$8,113	\$5,409
<b>TOTAL Expenditures</b>	<b>\$13,721</b>	<b>\$5,539</b>	<b>\$11,728</b>	<b>\$7,819</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$13,721	\$5,539	\$11,728	\$7,819
<b>TOTAL Funding of Exp.</b>	<b>\$13,721</b>	<b>\$5,539</b>	<b>\$11,728</b>	<b>\$7,819</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
<b>TOTAL Revenues</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	(\$13,721)	(\$5,539)	(\$11,728)	(\$7,819)

<b>STATEWIDE SUMMARY</b>	<b>FY 2022 Difference</b>	<b>FY 2023 Difference</b>	<b>FY 2024 Difference</b>	<b>FY 2025 Difference</b>
<b><u>Fiscal Impact:</u></b>				
<b>FTE</b>	35.00	27.00	27.00	27.00
<b><u>Expenditures:</u></b>				
Personal Services	\$3,045,628	\$2,654,988	\$2,707,618	\$2,758,166
Operating Expenses	\$4,000,722	\$134,916	\$506,508	\$748,395
Pain Management Pgm	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)	(\$1,000,000)
SA to PERS	\$4,560,000	\$18,240,000	\$22,940,000	\$26,270,000
<b>TOTAL Expenditures</b>	<b>\$10,606,350</b>	<b>\$20,029,904</b>	<b>\$25,154,126</b>	<b>\$28,776,561</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$4,573,721	\$18,245,539	\$22,951,728	\$26,277,819
State Special Revenue (02)	\$6,032,629	\$1,784,365	\$2,202,398	\$2,498,742
Federal Special Revenue (03)	\$0	\$0	\$0	\$0
Other	\$0	\$0	\$0	\$0
<b>TOTAL Funding of Exp.</b>	<b>\$10,606,350</b>	<b>\$20,029,904</b>	<b>\$25,154,126</b>	<b>\$28,776,561</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$3,190,000	\$14,690,000	\$18,120,000	\$20,760,000
State Special Revenue - MM & Pain Mgmt (02)	(\$2,008,837)	(\$4,473,100)	(\$4,473,100)	(\$4,473,100)
State Special Revenue - AUM Tax (02)	(\$11,660,000)	(\$30,330,000)	(\$41,060,000)	(\$47,030,000)
State Special Revenue - MM Tax (02)	\$1,160,000	\$4,190,000	\$3,770,000	\$3,390,000
State Special Revenue - License Fees (02)	\$3,900,000	\$5,900,000	\$6,400,000	\$6,800,000
Federal Special Revenue (03)	\$0	\$0	\$0	\$0
Other Marijuana Trust Fund	\$2,280,000	\$9,120,000	\$11,470,000	\$13,140,000
Other PERS Trust Fund	\$4,560,000	\$18,240,000	\$22,940,000	\$26,270,000
<b>TOTAL Revenues</b>	<b>\$1,421,163</b>	<b>\$17,336,900</b>	<b>\$17,166,900</b>	<b>\$18,856,900</b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	(\$1,383,721)	(\$3,555,539)	(\$4,831,728)	(\$5,517,819)
State Special Revenue (02)	(\$14,641,466)	(\$26,497,465)	(\$37,565,498)	(\$43,811,842)
Federal Special Revenue (03)	\$0	\$0	\$0	\$0
Other	\$6,840,000	\$27,360,000	\$34,410,000	\$39,410,000

**Long-Term Impacts:**

1. Increasing the non-employee contribution does not impact the liabilities of each of the systems, however it does provide an additional source of revenue to finance each of the system’s unfunded actuarial accrued liability. The amortization periods of each of the system’s as of June 30, 2020 and the amortization periods as of June 30, 2020 reflecting the additional revenue included in HB 670 are showing in the table below:

	Amortization Period	Amortization Period Reflecting HB 670
PERS	35	26
HPORS	39	36
GWPORS	40	29
FURS	8	8
JRS	0	0
SRS	21	19
MPORS	16	15

2. The revenue noted in HB 670 reduces the amortization period for each of the systems except for FURS and JRS. Please note JRS has no unfunded actuarial accrued liability, therefore the amortization period is zero.

**Technical Notes:**

**Department of Revenue**

1. Section 2 does not specify where the tax revenue is deposited before it is appropriated to PERS. For this fiscal note, it is assumed to be general fund revenue that is then transferred to the PERS trust funds via the new statutory appropriation.
2. Section 20 (1)(a) states that the tax is applicable on gross sales of marijuana products for consumption, use, or resale in the regular course of business. The inclusion of resale in this description could subject the product to the tax at multiple stages along the production process.
3. Section 31 creates a new interim committee but does not amend 5-5-202, MCA, to include that interim committee as one authorized by the legislature.
4. The department would need an appropriation to spend out of the old and new medical marijuana accounts.
5. Section 74, line 13 should say “merger” instead of “merge”.

**Department of Public Health and Human Services**

6. The Pain Management and Education Treatment state special revenue fund (50-46-346) is repealed upon passage and approval. It is unclear what happens to any unspent cash remaining in the account.

**Legislative Branch**

7. Section 31 (6) requires the reports be provided to the Transportation Interim Committee. It is unclear why this is necessary. The Department of Agriculture is concerned with Section 23 (23) (b) Registered permission means a location licensed for outdoor cultivation, production, manufacturing, wholesale or retail sale.

**Department of Agriculture**

8. Outdoor grow can potentially impact the integrity of the Department of Agriculture’s Federally approved Hemp program.
9. Hemp is a federally approved agricultural commodities and it will be difficult for hemp producers to regulate levels of THC levels when cross contamination occurs.

**Legislative Branch**

10. If meetings are held remotely, travel costs would not be incurred, reducing the fiscal note by \$10,682 in the 2023 Biennium and \$10,842 in the 2025 Biennium.

**Fiscal Note Request – As Introduced Revised**

**Office of Budget and Program Planning**

11. 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 670 without regard to the changes to the medical marijuana program:

Present Law I-190 Revenue Collection and Allocation (millions)									
FY	Total Revenue	General Fund 10.5%	PERS Allocation	Trust Fund 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
<b>Total</b>	<b>\$145.32</b>	<b>\$15.26</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$130.06</b>	<b>\$71.93</b>	<b>\$29.06</b>	<b>\$14.53</b>	<b>\$14.53</b>

HB 670 Revenue Collection and Allocation (millions)									
FY	Total Revenue	General Fund/ PERS	PERS Allocation	Trust Fund Allocation	State Special Revenue Total	FWP SSRs	DPHHS SSRs	Military Affairs SSR	Commerce SSR
2022	\$6.84	\$0.00	\$4.56	\$2.28	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2023	\$27.36	\$0.00	\$18.24	\$9.12	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2024	\$34.40	\$0.00	\$22.94	\$11.47	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2025	\$39.41	\$0.00	\$26.27	\$13.14	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total</b>	<b>\$108.01</b>	<b>\$0.00</b>	<b>\$72.01</b>	<b>\$36.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

Revenue Impacts of HB 670 (millions)									
FY	Total Revenue	General Fund	PERS Allocation	Trust Fund Allocation	SSR Total	FWP SSRs	DPHHS SSRs	Military Affairs SSR	Commerce SSR
2022	(\$6.19)	(\$1.37)	\$4.56	\$2.28	(\$11.66)	(\$6.45)	(\$2.61)	(\$1.30)	(\$1.30)
2023	(\$6.52)	(\$3.56)	\$18.24	\$9.12	(\$30.32)	(\$16.77)	(\$6.78)	(\$3.39)	(\$3.39)
2024	(\$11.47)	(\$4.82)	\$22.94	\$11.47	(\$41.05)	(\$22.71)	(\$9.17)	(\$4.59)	(\$4.59)
2025	(\$13.14)	(\$5.52)	\$26.27	\$13.14	(\$47.02)	(\$26.01)	(\$10.51)	(\$5.25)	(\$5.25)
<b>Total</b>	<b>(\$37.31)</b>	<b>(\$15.26)</b>	<b>\$72.01</b>	<b>\$36.00</b>	<b>(\$130.06)</b>	<b>(\$71.93)</b>	<b>(\$29.06)</b>	<b>(\$14.53)</b>	<b>(\$14.53)</b>

**NOT SIGNED BY SPONSOR**

Sponsor's Initials

4/8/21  
Date

LA  
Budget Director's Initials

4.5.21  
Date