



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:

SB0516 - Provide for the Preserving Fertility Act (Gross, Jen)

Status: As Introduced

- Significant Local Gov Impact
 Needs to be included in HB 2
 Technical Concerns
 Included in the Executive Budget
 Significant Long-Term Impacts
 Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>
Expenditures:				
General Fund	\$214,083	\$562,399	\$588,336	\$611,471
State Special Revenue	\$15,800	\$15,800	\$15,800	\$15,800
Federal Special Revenue	\$695,120	\$1,444,661	\$1,525,688	\$1,597,272
Other	\$67,150	\$67,150	\$68,157	\$69,179
Revenue:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$15,800	\$15,800	\$15,800	\$15,800
Federal Special Revenue	\$695,120	\$1,444,661	\$1,525,688	\$1,597,272
Other	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>(\$214,083)</u>	<u>(\$562,399)</u>	<u>(\$588,336)</u>	<u>(\$611,471)</u>

Description of fiscal impact: SB 516 generally revises laws related to fertility preservation services for people diagnosed with cancer, requires insurance coverage of fertility preservation services, and creates a voluntary assessment for cancer screening efforts. In addition to requiring the state to defray the costs of payments made by Qualified Health Plans, there are also fiscal impacts to the State Employee Group Benefits Plan, the Montana University System Employee Benefits Plan, and the state's Medicaid program.

SB 516 also allows the Department of Public Health and Human Services to receive a donation of \$1 or more if a person wishes to donate to a program supporting cancer screening upon registering a motor vehicle. These donations would be used by the department to support cancer screening efforts.

FISCAL ANALYSIS

Assumptions:

Public Health and Human Services

1. The Department of Public Health and Human Services estimates that the revenue collected from Section 9(6)(d) would be \$15,800 per year. This revenue estimate is based on a five-year average from the traumatic brain injury fund referenced in Section 9(6)(c). This revenue will be used in efforts to support cancer screening.
2. Fertility preservation services are not a service allowed through the Medicaid State Plan. Therefore, the department assumes implementation of this bill will require an 1115 Demonstration Waiver through the Centers for Medicare & Medicaid Services (CMS) with approval and implementation effective on January 1, 2024.
3. The 1115 waiver is a five-year approval from CMS. Based off past workload to implement and monitor current waivers, the department will require an additional 0.50 FTE Program Specialist. The program specialist position will be responsible for drafting the waiver, leading public hearings, monitoring waiver requirements, collecting and analyzing waiver data, and completing quarterly reporting. It is estimated that the position will cost \$38,024 in FY 2024 (\$34,198 in salaries and benefits, \$1,026 in operating costs, and \$2,800 in one-time-only costs) and \$35,334 in FY 2025 (\$34,305 in salaries and benefits and \$1,029 in operating costs). These costs are Medicaid administrative services that receive Federal Medical Assistance Percentage (FMAP) of 50% general fund and 50% federal funds for personal services.
4. The department assumes individuals with their first cancer treatment between the ages of 12-35 will be eligible to receive fertility preservation services. The department reviewed claims data over the past five years to estimate the number of eligible individuals that met this criterion. The five-year average in total was 720 females and 309 males (328 females and 123 males for standard Medicaid, 360 females and 167 males for Medicaid Expansion, and 32 females and 19 males for Healthy Montana Kids Plus).
5. The department assumes an annual caseload growth rate of approximately 2.4%. This assumption is based on data from Utah's 1115 demonstration waiver for fertility preservation services.
6. Based on a research article in the American Society of Clinical Oncology Daily News, the department assumes 23% of eligible females and 17.5% of eligible males will move forward with fertility preservation services prior to cancer treatment.
7. The estimated cost of fertility preservation services varies widely by data source. The department assumes the cost of fertility preservation services in FY 2023 is \$7,485 based on data from Utah's 1115 demonstration waiver.
8. The department assumes an annual cost growth rate of 3% starting in FY 2024. This assumption is based on data from Utah's 1115 demonstration waiver for fertility preservation services.
9. The department assumes these services will be eligible for federal reimbursement.
10. The table below also shows the estimated benefit expenditures by fiscal year, FMAP by eligibility group, and estimated impacts by funding source based on assumptions 5-10 above:

	SFY 2024	SFY 2025	SFY 2026	SFY 2027
STANDARD MEDICAID				
Total Eligible Female Population (2.4% growth each	164	336	344	352
Female Recipients Participating - 23.0%	23.0%	23.0%	23.0%	23.0%
Total Female Recipients Participating	38	77	79	81
Total Eligible Male Population (2.4% growth each year)	62	126	129	132
Male Recipients Participating - 17.5%	17.5%	17.5%	17.5%	17.5%
Total Male Recipients Participating	11	22	23	23
Annual Cost of Retrieval (3% inflation factor each year)	7,709.55	7,940.84	8,179.06	8,424.43
Estimated Expenditures SB 516	377,768	786,143	834,264	876,141
MEDICAID EXPANSION				
Total Eligible Female Population (2.4% growth each	180	369	377	387
Female Recipients Participating - 23.0%	23.0%	23.0%	23.0%	23.0%
Total Female Recipients Participating	41	85	87	89
Total Eligible Male Population (2.4% growth each year)	84	171	175	179
Male Recipients Participating - 17.5%	17.5%	17.5%	17.5%	17.5%
Total Male Recipients Participating	15	30	31	31
Annual Cost of Retrieval (3% inflation factor each year)	7,709.55	7,940.84	8,179.06	8,424.43
Estimated Expenditures SB 516	431,735	913,196	965,129	1,010,932
HMK (CHIP)				
Total Eligible Female Population (2.4% growth each	16	33	34	34
Female Recipients Participating - 23.0%	23.0%	23.0%	23.0%	23.0%
Total Female Recipients Participating	4	8	8	8
Total Eligible Male Population (2.4% growth each year)	25	50	51	53
Male Recipients Participating - 17.5%	17.5%	17.5%	17.5%	17.5%
Total Male Recipients Participating	4	9	9	9
Annual Cost of Retrieval (3% inflation factor each year)	7,709.55	7,940.84	\$ 8,179.06	\$ 8,424.43
Estimated Expenditures SB 516	61,676	134,994	139,044	143,215
Benefits Impact of SB 516	\$ 871,179	\$ 1,834,333	\$ 1,938,437	\$ 2,030,288
Estimated Impact by Eligibility Group				
Standard Medicaid	\$ 377,768	\$ 786,143	\$ 834,264	\$ 876,141
Medicaid Expansion	\$ 431,735	\$ 913,196	\$ 965,129	\$ 1,010,932
HMK Plus	\$ 61,676	\$ 134,994	\$ 139,044	\$ 143,215
FMAP				
	SFY 2024	SFY 2025	SFY 2026	SFY 2027
State - Standard Medicaid	36.09%	35.88%	35.88%	35.88%
Federal - Standard Medicaid	63.91%	64.12%	64.12%	64.12%
State - Medicaid Expansion	10.00%	10.00%	10.00%	10.00%
Federal - Medicaid Expansion	90.00%	90.00%	90.00%	90.00%
State - HMK Plus	25.23%	25.15%	25.15%	25.15%
Federal - HMK Plus	74.77%	74.85%	74.85%	74.85%
FUNDING				
	SFY 2024	SFY 2025	SFY 2026	SFY 2027
State - Standard Medicaid	\$ 136,336	\$ 282,068	\$ 299,334	\$ 314,359
Federal - Standard Medicaid	\$ 241,432	\$ 504,075	\$ 534,930	\$ 561,782
State - Medicaid Expansion	\$ 43,174	\$ 91,320	\$ 96,513	\$ 101,093
Federal - Medicaid Expansion	\$ 388,562	\$ 821,876	\$ 868,616	\$ 909,839
State - HMK Plus	\$ 15,561	\$ 33,951	\$ 34,970	\$ 36,019
Federal - HMK Plus	\$ 46,115	\$ 101,043	\$ 104,074	\$ 107,196
State - Total	\$ 195,071	\$ 407,339	\$ 430,816	\$ 451,471
Federal - Total	\$ 676,108	\$ 1,426,994	\$ 1,507,621	\$ 1,578,817

Department of Administration

11. The current population covered by the State Employee Group Benefits Plan (SOM Plan) is 28,707.
12. Members diagnosed with cancer in child-bearing years requiring treatment causing infertility is 9, based on State of Montana claims data for FY 2022 using three criteria:
 - a. cancer diagnosis
 - b. member age from 18 to 40, and
 - c. cancer treatment claims greater than \$25,000.

13. Based on anecdotal historical occurrences for the state of Montana, the estimated percentage of identified members electing infertility preservation is 20%.
14. Estimated identified members electing infertility preservation per year is 1.8 (9 x 20%), and the average net cost of each fertility preservation service is \$7,500 based on historical SOM Plan costs for similar services.
15. The estimated number of fertility preservation services per member is 2.1 based on average number of cycles per Fertility IQ and Pacific Fertility Center of Los Angeles.
16. The average annual cost of storage is \$500 based on historical SOM Plan costs for similar services.
17. The number of years of storage is 8 based on typical storage duration.
18. Estimated total fertility preservation cost per identified member is \$19,750 (7,500 x 2.1 + 500 x 8).
19. For fiscal years 2024 and 2025, the net annual cost is \$35,550 (1.8 x 19,750). This amount has been inflated by 1.5% for fiscal years 2026 and 2027.

Montana University System

20. The current population covered by the Montana University System’s Employee Benefits Plan is 14,963.
21. Members diagnosed with cancer in child-bearing years requiring treatment causing infertility is 8
22. The estimated percentage of identified members electing infertility preservation is 20%.
23. The estimated identified members electing infertility preservation per year is 1.6 (8 x 20%), and the average net cost of each fertility preservation service is \$7,500.
24. The estimated number of fertility preservation services per member is 2.1 based on average number of cycles per Fertility IQ and Pacific Fertility Center of Los Angeles.
25. The average annual cost of storage is \$500.
26. The number of years of storage is 8 based on typical storage duration.
27. Estimated total fertility preservation cost per identified member is \$19,750 (7,500 x 2.1 + 500 x 8).
28. For fiscal years 2024 and 2025, the net annual cost is \$31,600 (1.6 x 19,750). This amount has been inflated by 1.5% for fiscal years 2026 and 2027.

State Auditor’s Office

29. Per 45 CFR § 155.170 of the Affordable Care Act, the state of Montana is required to pay the costs of certain state benefit mandates (mandates) enacted after December 31, 2011, that (1) apply to Qualified Health Plans (QHPs) sold in the individual and small group markets, on and off-exchange; and (2) are in addition to the essential health benefits and which relate to specific care, treatment, or services. States are not required to defray benefit mandates that do not relate to specific care, treatment, or services. The federal government has identified six benefit mandates that would not require defrayal pertaining to (1) provider types; (2) cost-sharing; (3) reimbursement methods; (4) delivery methods; (5) dependent coverage; and (6) compliance with federal requirements.
30. SB 516, effective January 1, 2024, requires coverage of “standard fertility preservation services” as defined therein. For purposes of the defrayal analysis, SB 516 applies to fully insured QHP individual and small group policies issued by a health insurance issuer (an insurer, a health service corporation, or a health maintenance organization), sold on- and off-exchange. Applying the framework at 45 CFR § 155.170, the Commissioner of Securities and Insurance, Office (State Auditor’s Office) has concluded the mandate in SB 516 will require the state of Montana to defray the associated costs of the benefit.
31. The State Auditor’s Office can satisfy the requirements of SB 516 with existing staff.
32. Due to the office’s daily interaction with issuers, it will be more efficient for the office to reimburse issuers with general fund dollars, after the office has received the appropriate issuer documentation.
33. With SB 516’s effective date of January 1, 2024, the office will not begin reimbursing issuers until FY 2025.
34. Three issuers sell QHPs in the individual and/or small group markets in Montana. The State Auditor’s Office asked each issuer to provide a cost estimate (based on an annual calculation) associated with the “standard fertility preservation services” benefit according to the following information:
 - Precise benefit, coverage, and limitation parameters as identified in NEW SECTION 3 in SB516 (using the applicable definitions in NEW SECTION 2).

- The estimated percentage of the issuer’s QHP individual and small group membership that will use the benefit – identifying total membership by individual and small group lines of business and applicable percentages.
 - The cost estimate associated with the benefit, which cost estimate reflects the application of projected deductibles, coinsurance, and copayments per NEW SECTION 3(2).
35. Issuer #1 identified that it was not clear from its reading of SB 516 “whether the costs associated with implantation services of In Vitro Fertilization (IFV) should be included in the coverage mandate.” Based on the same, the issuer included two cost estimates, one pertaining to coverage of “standard fertility preservation services” and one pertaining to coverage of “standard fertility preservation services” and IVF services. The State Auditor’s Office advised the issuer that the office does not believe the bill can be reasonably read to require coverage of IVF Implantation. For purposes of this fiscal note, the State Auditor’s Office included only the issuer’s cost estimate as it pertains to coverage of “standard fertility preservation services.”
36. The State Auditor’s Office has not repeated each issuer’s assumptions, qualifiers, limitations, exclusions, and/or methodologies that may have been included as part of their submission. Below are the cost estimates for each of the issuers.

Issuer	Individual QHP Membership	Small Group QHP Membership	Total QHP Individual and Small Group Membership	Annualized Cost Estimate
Issuer #1	26,000	25,000	51,000	\$75,000
Issuer #2	11,176	15,851	27,027	\$51,891
Issuer #3	22,672	3,978	26,650	\$10,502
TOTAL ANNUALIZED COST ESTIMATE TO STATE:				\$137,393

37. These costs have been inflated by 1.5% for fiscal years 2026 and 2027.

	<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>
<u>Fiscal Impact:</u>				
FTE	0.50	0.50	0.50	0.50
<u>Expenditures:</u>				
Personal Services	\$34,198	\$34,305	\$35,065	\$35,834
Operating Expenses	\$19,626	\$16,829	\$16,868	\$16,875
Benefits - Medicaid	\$871,179	\$1,834,333	\$1,938,437	\$2,030,288
Benefits - SOM Plan	\$35,550	\$35,550	\$36,083	\$36,624
Benefits - MUS Plan	\$31,600	\$31,600	\$32,074	\$32,555
Benefits - State Auditor	\$0	\$137,393	\$139,454	\$141,546
TOTAL Expenditures	\$992,153	\$2,090,010	\$2,197,981	\$2,293,722

<u>Funding of Expenditures:</u>				
General Fund (01)	\$214,083	\$562,399	\$588,336	\$611,471
State Special Revenue (02)	\$15,800	\$15,800	\$15,800	\$15,800
Federal Special Revenue (03)	\$695,120	\$1,444,661	\$1,525,688	\$1,597,272
Other - Proprietary	\$67,150	\$67,150	\$68,157	\$69,179
TOTAL Funding of Exp.	\$992,153	\$2,090,010	\$2,197,981	\$2,293,722

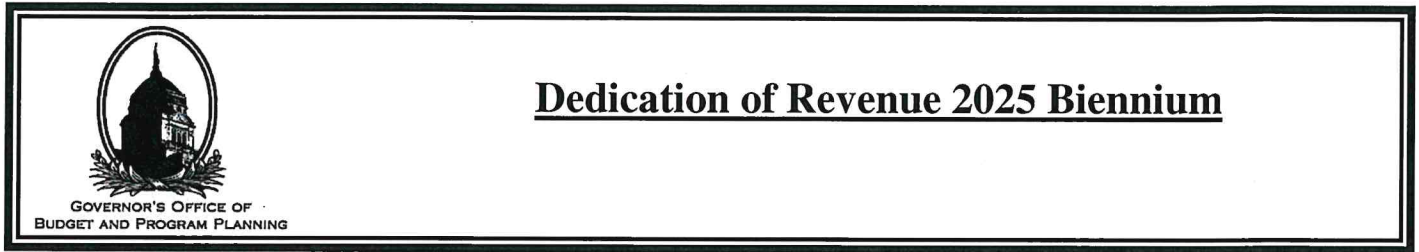
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$15,800	\$15,800	\$15,800	\$15,800
Federal Special Revenue (03)	\$695,120	\$1,444,661	\$1,525,688	\$1,597,272
Other - Proprietary	\$0	\$0	\$0	\$0
TOTAL Revenues	\$710,920	\$1,460,461	\$1,541,488	\$1,613,072

<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$214,083)	(\$562,399)	(\$588,336)	(\$611,471)
State Special Revenue (02)	\$0	\$0	\$0	\$0
Federal Special Revenue (03)	\$0	\$0	\$0	\$0
Other - Proprietary	(\$67,150)	(\$67,150)	(\$68,157)	(\$69,179)

Technical Notes:

1. SB 516 does not provide the Department of Health and Human Services with an appropriation to spend the revenue collected from Section 9(6)(d).
2. Fertility preservation is not a service currently allowed under the Medicaid State Plan and would be contingent on approval of the Medicaid 1115 demonstration waiver by CMS. Approval will require evidence of budget neutrality over the demonstration period. Without CMS approval, the department will not receive the federal match for fertility preservation services, and all associated benefit costs would be 100% general fund. While the State of Utah submitted an 1115 waiver for these services, the department could not find any state that has received CMS approval of fertility preservation services under Medicaid.

NO SPONSOR SIGNATURE 3/29/23 [Signature] 3-28-23
 Sponsor's Initials Date Budget Director's Initials Date



Dedication of Revenue 2025 Biennium

17-1-507, MCA.

- a) **Are there persons or entities that benefit from this dedicated revenue that do not pay? (please explain)** Yes, the revenue source is an optional \$1 or more donation upon registering a motor vehicle to the program supporting cancer screening. A person not registering a motor-vehicle or opting out of the optional donation could still benefit from the revenue source.
- b) **What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?** No special information exists except SB 516 directing the revenue proceeds being collected through the donation to be directed to the cancer screening state special revenue account. The advantage of using the state special revenue account is that the interest earned on the account can be used for cancer screening efforts.
- c) **Is the source of revenue relevant to current use of the funds and adequate to fund the program activity that is intended? Yes / No (if no, explain)** Yes, the source of revenue is relevant to the use of the funds per the proposed legislation and program activity is dependent on the revenue in the fund.
- d) **Does the need for this state special revenue provision still exist? Yes No (Explain)** Yes, the proposed legislation creates the need for the fund. The revenue collected in the fund will be used per the provisions of SB 516.
- e) **Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please Explain)** No, the dedicated revenue account is for a single specific purpose and budgets and expenditures are dependent on the revenue in the account.
- f) **Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please Explain)** Yes, the dedicated revenue source for cancer screening efforts is established per SB 516 which, if passed, has been heard and approved by both chambers of the legislature.
- g) **How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please Explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)** The dedicated revenue provisions does not result in accounting/auditing efficiencies or inefficiencies. The department already has processes set up to track and expend from a similar dedicated revenue source (traumatic brain injury) with a similar source of revenue (\$1 donation from motor vehicle registrations).