



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2027 Biennium

Bill#/Title: **HB0472.01: Revise laws related to state settlement money**

Primary Sponsor: **Jane Gillette**

Status: **As Introduced**

☐ Included in the Executive Budget

☒ Needs to be included in HB 2

☐ Significant Local Gov Impact

☐ Significant Long-Term Impacts

☒ Technical Concerns

☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>	<u>FY 2028</u> <u>Difference</u>	<u>FY 2029</u> <u>Difference</u>
Expenditures				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	(\$45,185,000)	(\$26,328,000)	(\$24,458,000)	(\$21,699,000)
Revenues				
General Fund (01)	\$45,185,000	\$26,328,000	\$24,458,000	\$21,699,000
State Special Revenue (02)	(\$45,185,000)	(\$26,328,000)	(\$24,458,000)	(\$21,699,000)
Net Impact	<u>\$45,185,000</u>	<u>\$26,328,000</u>	<u>\$24,458,000</u>	<u>\$21,699,000</u>
General Fund Balance				

Description of fiscal impact

HB 472 modifies the handling of settlement proceeds, generally requiring they be deposited into the state general fund, with exceptions for certain cases and allowing gubernatorial discretion with reporting requirements. The provisions in HB 472 would prevent the Department of Public Health and Human Services (DPHHS) and the Department of Justice (DOJ) from receiving future payments under current settlement agreements and preclude the department from receiving payments from future settlement agreements.

FISCAL ANALYSIS

Assumptions

Department of Public Health and Human Services (DPHHS)

- HB 472 requires DPHHS to direct all settlements received after July 1, 2025 to be deposited into the general fund. The 40% of the tobacco master settlement agreement that is directed to the tobacco trust fund is exempt from the diversion in HB 472.
- DPHHS receives funds from the Opioid Settlement Agreements, as well as from the JUUL Settlement Agreement. These settlements arose from claims under the Consumer Protection or Unfair Trade Practices Acts. As such, unless the Governor determines otherwise, if HB 472 is adopted, DPHHS would no longer receive payments under those settlement agreements.
 - The total future payments to the department based on the JUUL settlement agreement are \$708,467 in FY 2026 and \$2,172,632 in FY 2027.
 - The total future payments to the department related to the Opioid settlement agreements are estimated at \$2,327,243 in FY 2026, \$2,338,879 in FY 2027, \$2,373,962 in FY 2028, and \$2,409,572 in FY 2029. A portion of the tobacco settlement funds that DPHHS receives will be diverted to the general fund. One state special revenue fund receives 17% of the annual tobacco settlement proceeds is used as state

matching funds to maximize federal funds to provide health insurance to children. The other state special revenue fund receives 32% of the annual tobacco settlement proceeds and is used to fund statewide programs for youth tobacco disease prevention and to help adults quit tobacco use.

3. For the fiscal analysis table, tobacco settlement impacts are reflected in Operating Expenses, while JUUL and Opioid settlements are reflected in Grants. The following tables provide additional detail on the tobacco settlement impacts, the JUUL and Opioid settlements, and a summary of total impacts to DPHHS:

Present Law HJ 2 Tobacco Settlement Distribution (millions)					
FY	Total	Tobacco Trust	Prevention	HMK	Total GF
2026	25.237	10.095	8.076	4.290	2.776
2027	23.837	9.535	7.628	4.052	2.622
2028	24.383	9.753	7.802	4.145	2.682
2029	20.488	8.195	6.556	3.483	2.254

HB 472 Tobacco Settlement Distribution (millions)					
FY	Total	Tobacco Trust	Prevention	HMK	Total GF
2026	25.237	10.095	0.000	0.000	15.142
2027	23.837	9.535	0.000	0.000	14.302
2028	24.383	9.753	0.000	0.000	14.630
2029	20.488	8.195	0.000	0.000	12.293

Change in Tobacco Settlement Distribution (millions)						
FY	Total	Tobacco Trust	Prevention	HMK	Total GF	Total SSR
2026	-	(0.000)	(8.076)	(4.290)	12.366	-12.366
2027	-	(0.000)	(7.628)	(4.052)	11.680	-11.680
2028	-	(0.000)	(7.802)	(4.145)	11.948	-11.948
2029	-	(0.000)	(6.556)	(3.483)	10.039	-10.039

Present Law DPHHS Settlement Distribution (millions)			
FY	JUUL	Opioid	Total GF
2026	0.708	2.327	-
2027	2.173	2.339	-
2028	-	2.374	-
2029	-	2.410	-

HB 472 DPHHS Settlement Distribution (millions)			
FY	JUUL	Opioid	Total GF
2026	-	-	3.036
2027	-	-	4.512
2028	-	-	2.374
2029	-	-	2.410

Change in Settlement Distribution (millions)				
FY	JUUL	Opioid	Total GF	Total SSR
2026	(0.708)	(2.327)	3.036	-3.036
2027	(2.173)	(2.339)	4.512	-4.512
2028	-	(2.374)	2.374	-2.374
2029	-	(2.410)	2.410	-2.410

Department of Justice (DoJ)

It is assumed that HB 472 would impact the following settlements under the Office of Consumer Protection:

4. Opioid settlements

- a. The Office of Consumer Protection manages the State's litigation related to unlawful practices in the manufacturing, marketing, sale, and distribution of opioids.
- b. The executive committee states and settling parties agreed to use an outside settlement fund administrator to calculate annual payments and administer disbursement of funds to the states.
- c. Each settling state must operate three settlement funds: an abatement accounts fund, a state fund, and a subdivision fund. In Montana, these funds are the Montana Opioid Abatement Trust (MOAT), the state share, and the subdivision share. As required by the settlement agreements, 70% of funds go to the MOAT, 15% goes to the state, and 15% goes to subdivisions. The state share is then equally divided between the Department of Public Health and Human Services and the Department of Justice.
- d. 85% of all funds received from a settlement must go to approved opioid abatement strategies over the course of that settlement. Failure to reach this 85% target opens the state to enforcement of the settlement agreement.
- e. HB 472, Section 2, applies to opioid settlements entered into before July 1, 2025, where the state will receive payments after July 1, 2025.
- f. Current settlement agreements include scheduled payments out to July 2038.
- g. The State is estimated to receive \$126,000,000 to MOAT, the state, and subdivisions under current opioid settlement agreements. To date, MOAT has received, or is scheduled to receive prior to July 1, 2025, \$30,890,191.66; the state has received \$8,201,142.61 in this period; and subdivisions received

\$7,170,731.45 (estimated). The remaining difference of \$79,946,477.83 under current settlement agreements would be subject to HB 472's provisions.

- h. Redirecting funds from the current settlement funds to the state general fund may risk bringing the state out of compliance with its 85% abatement obligations and other settlement terms.
- i. Because opioid settlements follow an agreed upon structure between the multi-state coalition bringing these claims and the participating subdivisions, Montana's ability to participate in future settlements could be jeopardized by HB 472. In order for Montana to join these settlements, Montana is required to represent its laws allow for the operation of the settlement funds and that it will be able to demonstrate compliance with settlement terms such as the 85% abatement target.
- j. The State and participating subdivisions entered into a memorandum of understanding to effectuate the terms of the settlements and settlement structures to create the MOAT. HB 472 likely requires renegotiating that memorandum of understanding. It is unclear what happens if the State and participating subdivisions are unable to reach a new agreement.

5. Other Settlements

- a. The Office of Consumer Protection entered into 12 non-opioid settlements between 2021 and 2024. These settlements totaled \$7,563,300. This money was recovered under 30-14-143.
- b. HB 472, Section 2 applies to one ongoing settlement agreement entered, but where the State has not received full payment. In that settlement, \$2,657,142.51 will be paid to the State after July 1, 2025. The terms of that settlement direct funds to a specific use. Those funds are currently deposited in a special revenue fund to the credit of the department to be used according to the terms of the settlement. Directing funds received after July 1, 2025, could place the State out of compliance with the terms of that settlement agreement.

6. Tobacco Enforcement Settlements

- a. The Department of Justice enforces Title 16, Chapter 11, Part 5 – Tobacco Products Reserve Fund -- Enforcement. HB 472, Section 1(2)(b) applies to monies recovered and deposited according to 16-11-509(6), MCA. It is unclear whether HB 472, Section 1(2)(b) applies to penalties, fees, and costs under 16-11-509(7) because those monies are not deposited in the Montana tobacco settlement trust fund.
 - b. HB 472, Section 1(2)(b) applies to monies deposited in the Montana tobacco settlement trust fund, not to a settlement itself. It is unclear how HB 472 applies to settlements reached prior to a court determination of a violation in 16-11-509(6), MCA. The Department understands this to mean that under HB 472, all tobacco settlements reached without a court determination of a violation will be deposited in the general fund.
7. For the analysis of the impact of HB 472, DOJ provided the following estimates of upcoming settlements:
- a. Johnson and Johnson settlement: DOJ expects \$885,714 each year for FY 2026 through FY2028.
 - b. Amneal Pharmaceuticals settlement: DOJ expects 10 payments of \$9,250,000. While DOJ does not know when the timing of the first and subsequent payments, for the purpose of this analysis, the payments begin in FY 2026 and recur annually each fiscal year for the forecast period.
 - c. Cencora settlement: DOJ expects a payment of \$3,567,480 in FY 2026.
 - d. McKinsey Opioid settlement: DOJ expects one final payment of \$79,667 in FY 2026.
 - e. Purdue Pharmacy settlement: DOJ expects \$16 million sometime after the implementation of HB 472, however the timing of the payment is not known. For the purposes of this analysis, the payment is received in FY 2026.
8. For the fiscal impact table, all changes are reflected in Operating Expenses. The following tables provide additional detail on the DOJ settlement impacts:

Present Law DOJ Settlement Distribution (millions)						
FY	Johnson & Johnson	Amneal Pharm.	Cencora	McKinsey	Purdue Pharm.	Total GF
2026	0.886	9.250	3.567	0.080	16.000	0
2027	0.886	9.250	0.000	0.000	0.000	0
2028	0.886	9.250	0.000	0.000	0.000	0
2029	0.000	9.250	0.000	0.000	0.000	0

HB 472 DOJ Settlement Distribution (millions)						
FY	Johnson & Johnson	Amneal Pharm.	Cencora	McKinsey	Purdue Pharm.	Total GF
2026	0.000	0.000	0.000	0.000	0.000	29.783
2027	0.000	0.000	0.000	0.000	0.000	10.136
2028	0.000	0.000	0.000	0.000	0.000	10.136
2029	0.000	0.000	0.000	0.000	0.000	9.250

Change in Settlement Distribution (millions)							
FY	Johnson & Johnson	Amneal Pharm.	Cencora	McKinsey	Purdue Pharm.	Total GF	Total SSR
2026	-0.886	-9.250	-3.567	-0.080	-16.000	29.783	-29.783
2027	-0.886	-9.250	0.000	0.000	0.000	10.136	-10.136
2028	-0.886	-9.250	0.000	0.000	0.000	10.136	-10.136
2029	0.000	-9.250	0.000	0.000	0.000	9.250	-9.250

Fiscal Analysis Table

Department of Justice

FY 2026
DifferenceFY 2027
DifferenceFY 2028
DifferenceFY 2029
Difference**Fiscal Impact****Expenditures**

Operating Expenses	(\$29,783,000)	(\$10,136,000)	(\$10,136,000)	(\$9,250,000)
TOTAL Expenditures	(\$29,783,000)	(\$10,136,000)	(\$10,136,000)	(\$9,250,000)

Funding of Expenditures

State Special Revenue (02)	(\$29,783,000)	(\$10,136,000)	(\$10,136,000)	(\$9,250,000)
TOTAL Funding of Expenditures	(\$29,783,000)	(\$10,136,000)	(\$10,136,000)	(\$9,250,000)

Revenues

General Fund (01)	\$29,783,000	\$10,136,000	\$10,136,000	\$9,250,000
State Special Revenue (02)	(\$29,783,000)	(\$10,136,000)	(\$10,136,000)	(\$9,250,000)
TOTAL Revenues	\$0	\$0	\$0	\$0

Net Impact to Fund Balance (Revenue minus Funding of Expenditures)

State Special Revenue (02)	\$0	\$0	\$0	\$0
General Fund (01)	\$29,783,000	\$10,136,000	\$10,136,000	\$9,250,000

Department of Public Health and Human Services

	<u>FY 2026 Difference</u>	<u>FY 2027 Difference</u>	<u>FY 2028 Difference</u>	<u>FY 2029 Difference</u>
<u>Fiscal Impact</u>				
<u>Expenditures</u>				
Operating Expenses	(\$12,366,000)	(\$11,680,000)	(\$11,948,000)	(\$10,039,000)
Grants	(\$3,036,000)	(\$4,512,000)	(\$2,374,000)	(\$2,410,000)
TOTAL Expenditures	(\$15,402,000)	(\$16,192,000)	(\$14,322,000)	(\$12,449,000)
<u>Funding of Expenditures</u>				
State Special Revenue (02)	(\$15,402,000)	(\$16,192,000)	(\$14,322,000)	(\$12,449,000)
TOTAL Funding of Expenditures	(\$15,402,000)	(\$16,192,000)	(\$14,322,000)	(\$12,449,000)
<u>Revenues</u>				
General Fund (01)	\$15,402,000	\$16,192,000	\$14,322,000	\$12,449,000
State Special Revenue (02)	(\$15,402,000)	(\$16,192,000)	(\$14,322,000)	(\$12,449,000)
TOTAL Revenues	\$0	\$0	\$0	\$0
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures)</u>				
State Special Revenue (02)	\$0	\$0	\$0	\$0
General Fund (01)	\$15,402,000	\$16,192,000	\$14,322,000	\$12,449,000

STATEWIDE SUMMARY

	<u>FY 2026 Difference</u>	<u>FY 2027 Difference</u>	<u>FY 2028 Difference</u>	<u>FY 2029 Difference</u>
<u>Fiscal Impact</u>				
TOTAL Fiscal Impact	0.00	0.00	0.00	0.00
<u>Expenditures</u>				
Operating Expenses	(\$42,149,000)	(\$21,816,000)	(\$22,084,000)	(\$19,289,000)
Grants	(\$3,036,000)	(\$4,512,000)	(\$2,374,000)	(\$2,410,000)
TOTAL Expenditures	(\$45,185,000)	(\$26,328,000)	(\$24,458,000)	(\$21,699,000)
<u>Funding of Expenditures</u>				
State Special Revenue (02)	(\$45,185,000)	(\$26,328,000)	(\$24,458,000)	(\$21,699,000)
TOTAL Funding of Expenditures	(\$45,185,000)	(\$26,328,000)	(\$24,458,000)	(\$21,699,000)
<u>Revenues</u>				
General Fund (01)	\$45,185,000	\$26,328,000	\$24,458,000	\$21,699,000
State Special Revenue (02)	(\$45,185,000)	(\$26,328,000)	(\$24,458,000)	(\$21,699,000)
TOTAL Revenues	\$0	\$0	\$0	\$0
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures)</u>				
State Special Revenue (02)	\$0	\$0	\$0	\$0
General Fund (01)	\$45,185,000	\$26,328,000	\$24,458,000	\$21,699,000

Technical Concerns

1. The fiscal note makes assumptions on both the timing of anticipated settlements as well as the estimated amounts of the settlements. Variance in the timing and amounts of the settlements could significantly shift the actual impacts to the general fund and state special funds.

NOT SIGNED BY SPONSOR

Sponsor's Initials

Date



Budget Director's Initials

2/20/2025

Date