



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2027 Biennium

Bill#/Title: **HB0407.02 (003): Create the kratom consumer protection act**

Primary Sponsor: Nelly Nicol Status: As Amended in House Committee

☐ 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><br><u>Difference</u> | <u>FY 2027</u><br><u>Difference</u> | <u>FY 2028</u><br><u>Difference</u> | <u>FY 2029</u><br><u>Difference</u> |
|-----------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| <b>Expenditures</b>         |                                     |                                     |                                     |                                     |
| General Fund (01)           | \$1,617,049                         | \$942,499                           | \$915,660                           | \$889,094                           |
| State Special Revenue (02)  | \$313,500                           | \$495,000                           | \$538,000                           | \$581,000                           |
| <b>Revenues</b>             |                                     |                                     |                                     |                                     |
| General Fund (01)           | \$0                                 | \$0                                 | \$0                                 | \$0                                 |
| State Special Revenue (02)  | \$313,500                           | \$495,000                           | \$538,000                           | \$581,000                           |
| <b>Net Impact</b>           | <u>(\$1,617,049)</u>                | <u>(\$942,499)</u>                  | <u>(\$915,660)</u>                  | <u>(\$889,094)</u>                  |
| <b>General Fund Balance</b> |                                     |                                     |                                     |                                     |

### Description of fiscal impact

HB 407, as amended, creates the Kratom Consumer Protection Act, creates licensing and product registration requirements to be administered by the Department of Revenue and a 5% excise tax on the wholesale price of kratom products. Total excise tax and license fee collections are estimated to be approximately \$313,500 in FY 2026, \$495,000 in FY 2027, \$538,000 in FY 2028, and \$581,000 in FY 2029. The department will need to add 12.00 FTE to administer the bill. There would be approximately \$4.4 million cost to the general fund to administer this program over the next 2 biennia.

### FISCAL ANALYSIS

#### Assumptions

1. HB 407, as amended, creates the Kratom Consumer Protection Act and creates licensing and product registration requirements to be administered by the Department of Revenue. The amended bill sets license fees and an excise tax of 5% on the wholesale price of all kratom products.
2. The following table shows the forecasted total Kratom retail sales in the United States and then scales those sales to Montana by population. It is assumed that wholesale sales in Montana are 50% of the estimated retail sales and the 5% tax is applied to the wholesale sales to get the tax revenue estimate. Note that the effective date for the bill is January 1, 2026 so excise tax collections would only occur for the second half of FY 2026. The sales total estimates are for a full year but the tax collections take into account the 6 months of tax collections.

| FY   | US Projected<br>Kratom Retail Sales<br>(Millions) | MT Projected<br>Kartom Retail Sales<br>(Millions) | MT Projected<br>Wholesale<br>Sales (Millions) | Tax Revenue (5%) |
|------|---|---|---|------------------|
| 2026 | \$3,507   | \$11.08   | \$5.54  | \$138,500        |
| 2027 | \$4,053   | \$12.80   | \$6.40  | \$320,000        |
| 2028 | \$4,599   | \$14.52   | \$7.26  | \$363,000        |
| 2029 | \$5,144   | \$16.25   | \$8.12  | \$406,000        |

- License fees are set at \$500 for Kratom processors, \$400 for distributors, and \$400 for retailers. It is estimated that there will be approximately \$175,000 in license fee revenue each year beginning with FY 2026.
- Total excise tax collections and license fee revenue is estimated to be \$313,500 in FY 2026, \$495,000 in FY 2027, \$538,000 in FY 2028, and \$581,000 in FY 2029. This revenue will be deposited in a kratom state special revenue account along with any penalties collected and this revenue will be used to cover part of the administrative costs to the department.
- In order to establish the licensing and product registration requirements laid out in this bill, the department will need an additional 12.00 FTE and incur a one-time contracting expense of \$475,000 to add the new tax to the integrated revenue and information system. These additional 12.00 FTE and the operating expenses result in a total cost to the department of \$1,930,549 in FY 2026, \$1,437,499 in FY 2027, \$1,453,660 in FY 2028, and \$1,470,094 in FY 2029.
- The costs to the department will exceed the estimated revenue and it is assumed the remaining costs will be funded through the general fund.

### Fiscal Analysis Table

|                                       | <u>FY 2026<br/>Difference</u> | <u>FY 2027<br/>Difference</u> | <u>FY 2028<br/>Difference</u> | <u>FY 2029<br/>Difference</u> |
|---------------------------------------|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| <b><u>Fiscal Impact</u></b>           |                               |                               |                               |                               |
| FTE                                   | 12.00                         | 12.00                         | 12.00                         | 12.00                         |
| <b>TOTAL Fiscal Impact</b>            | <b>12.00</b>                  | <b>12.00</b>                  | <b>12.00</b>                  | <b>12.00</b>                  |
| <b><u>Expenditures</u></b>            |                               |                               |                               |                               |
| Personal Services                     | \$1,075,092                   | \$1,088,938                   | \$1,102,987                   | \$1,117,249                   |
| Operating Expenses                    | \$855,457                     | \$348,561                     | \$350,673                     | \$352,845                     |
| <b>TOTAL Expenditures</b>             | <b>\$1,930,549</b>            | <b>\$1,437,499</b>            | <b>\$1,453,660</b>            | <b>\$1,470,094</b>            |
| <b><u>Funding of Expenditures</u></b> |                               |                               |                               |                               |
| General Fund (01)                     | \$1,617,049                   | \$942,499                     | \$915,660                     | \$889,094                     |
| State Special Revenue (02)            | \$313,500                     | \$495,000                     | \$538,000                     | \$581,000                     |

**Fiscal Note Request - As Amended in House Committee**

*(continued)*

|  |                           |                           |                           |                           |
|--|---------------------------|---------------------------|---------------------------|---------------------------|
| <b>TOTAL Funding of Expenditures</b>   | <b><u>\$1,930,549</u></b> | <b><u>\$1,437,499</u></b> | <b><u>\$1,453,660</u></b> | <b><u>\$1,470,094</u></b> |
| <b><u>Revenues</u></b>   |                           |                           |                           |                           |
| State Special Revenue (02)   | \$313,500                 | \$495,000                 | \$538,000                 | \$581,000                 |
| <b>TOTAL Revenues</b>  | <b><u>\$313,500</u></b>   | <b><u>\$495,000</u></b>   | <b><u>\$538,000</u></b>   | <b><u>\$581,000</u></b>   |
| <b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures)</u></b> |                           |                           |                           |                           |
| General Fund (01)  | (\$1,617,049)             | (\$942,499)               | (\$915,660)               | (\$889,094)               |
| State Special Revenue (02)   | <u>\$0</u>                | <u>\$0</u>                | <u>\$0</u>                | <u>\$0</u>                |

**AUTHORIZED BY MEMBER**  
Sponsor's Initials

4/3/25  
Date

  
Budget Director's Initials

4/3/2025  
Date