



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2015 Biennium

Bill # SB0377

Title: Generally revise medical marijuana laws and regulate industry

Primary Sponsor: Wanzenried, David E

Status: As Introduced

- | | | |
|-----------------------------------------------------------|------------------------------------------------------------------|---------------------------------------------------------------------|
| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input checked="" type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2014 Difference</u>	<u>FY 2015 Difference</u>	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$1,508,477	\$2,497,758	\$2,497,748	\$2,497,742
Revenue:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$2,081,465	\$3,518,512	\$3,517,123	\$3,516,290
Net Impact-General Fund Balance:	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal impact: SB 377 replaces the Montana Marijuana Act with the Montana Medicinal Cannabis Act (MMCA) and puts in place requirements for the registration of participants and providers in the program. The MMCA establishes new registration fees and provides for the distribution of revenue from those fees. The MMCA also creates a medicinal cannabis advisory council.

FISCAL ANALYSIS

Assumptions:

1. The Montana Marijuana Program (MMP) within the Department of Public Health and Human Services (DPHHS) currently administers the Montana Marijuana Act by processing applications for registration as a cardholder or provider. The MMP employs 2.5 FTE for the processing of registration applications and 0.5 FTE for the management of the program.
2. The MMP will administer the Montana Medicinal Cannabis Act (MMCA).

3. SB 377 does not specify a date when the new requirements of the MMCA will begin. For purposes of this fiscal note, it is assumed that the requirements will take effect October 1, 2013. SB 377 requires quarterly reporting. It is assumed the first quarterly reports will be due in January, 2014.
4. The MMP currently processes approximately 8,000 applications for registration cardholders and 300 for marijuana or marijuana infused-product providers each year. It is estimated that with implementation of the MMCA, registration cardholders will double to approximately 16,000 in the next biennium. Cannabis providers will increase to approximately 1,000 providers and cannabis infused product providers will increase to approximately 300.
5. The MMCA provides for cannabis exchange brokers and couriers. It is estimated that there would be 50 cannabis exchange brokers and 100 couriers in the next biennium.
6. At the time of implementation of SB 423 from the 2011 legislative session, there were 3 cannabis testing facilities in the state. It is assumed that these facilities would apply to be registered as cannabis testing facilities again.
7. For purposes of this fiscal note, and due to implementation transitions, it is assumed that in FY 2014 there will be one-half of the total estimated number of cardholders, providers, cannabis infused product providers, cannabis exchange brokers, couriers, and cannabis testing facilities as there will be at the end of the biennium.

Staffing Expenses:

8. All personal services costs are developed using base hourly rates and total annual compensation (75% market rate + 17% benefits x working hours per year + health insurance totaling \$8,976 annually). Additionally, there is a 1.5% inflationary factor per year applied to base hourly rates for FY 2016 and FY 2017.
9. An additional 2.00 FTE License Permit Technicians will be required to process the increased volume of registration applications. 75% of the base compensation rate for a License Permit Technician is \$11.36 in FY 2014 and FY 2015, \$11.53 in FY 2016, and \$11.70 in FY 2017. Based on this, additional expenditures for 2.00 FTE with benefits, insurance and inflation total \$73,110 in FY 2014 and FY 2015, \$74,161 in FY 2016, and \$74,789 in FY 2017.
10. Section 14 of SB 377 requires that cannabis infused-products shall be prepared in a commercial facility and that all facility equipment will be used exclusively for the manufacture and preparation of cannabis-infused products. Section 24 requires the registration of premises at which cannabis is acquired, cultivated, manufactured, delivered, transferred, sold, or tested.
11. Section 29 of SB 377 requires that DPHHS inspect registered premises on an annual basis. This section provides that DPHHS shall consult with the Department of Agriculture to determine appropriate agricultural standards and may contract with the Department of Agriculture for the inspections. This fiscal note assumes that DPHHS will hire FTE to conduct inspections required by the MMCA.
12. An additional 2.00 FTE Health Sanitarians will be required to perform these inspections. 75% of the base compensation rate for a License Permit Technician is \$18.41 in FY 2014 and FY 2015, \$18.69 in FY 2016, and \$18.97 in FY 2017. Based on this, additional expenditures for 2.00 FTE with benefits, insurance and inflation total \$107,530 in FY 2014 and FY 2015, \$109,227 in FY 2016, and \$110,247 in FY 2017.
13. Additional operating expenditures for the additional 4.00 FTE will be \$18,240 in FY 2014 and \$6,740 in FY 2015 through FY 2017. FY 2014 includes \$2,875 per FTE for new employee office packages and new employee computer packages. Ongoing operating expenditures are \$1,685 per FTE and include costs for computer networking/licensing, telephone, and supplies.

Forms and Rules:

14. SB 377 will require the creation of additional forms for the registration of out-of-state patients and either creation of additional forms or modification of current forms for the application as a registered card holder for couriers, cannabis exchange brokers, and cannabis testing facility, and for the registration of premises. It is assumed that existing staff and new staff hired will create these forms and make them available on-line.

15. SB 377 provides for rule making authority for the department. It is estimated that the department would need to publish 50 pages of administrative rules to implement the requirements of this bill. The Secretary of State's office charges \$25 per page for the publication of administrative rules. It is estimated that the publication of administrative rules will cost \$1,250.

Background checks:

16. SB 377 amends 50-46-303, MCA, and removes the requirement for finger print background checks of providers. The MMP paid the Department of Justice (DOJ) \$9,565 in FY 2012 for 351 finger print background checks. The DOJ charges \$27.25 for a fingerprint background check. The removal of the requirement to conduct fingerprint background checks would result in an estimated annual savings of \$9,565 (351*\$27.25) to the program.

17. An additional amendment to 50-46-303, MCA would require name-based background checks of cannabis providers, cannabis-infused product providers, exchange brokers, couriers and testing facilities. DPHHS has authorized use of the Criminal Justice Information Network (CJIN); a name based background check system available through the DOJ. The annual contract between DPHHS & DOJ provides for an unlimited number of name based background checks, therefore it is assumed there will be no additional cost to DPHHS to perform the name-based background checks required under SB377.

Tagging:

18. SB 377 amends 50-46-308, MCA, and requires that a provider shall obtain a tag from DPHHS for each mature cannabis and vegetative cannabis plant that the provider is cultivating. It is assumed that this tagging will be tied into the tracking system through the use of printable tags with a bar code or other identifiable tracking means. This will require the purchase of specialized equipment for the printing of the tags.

19. Asset tag printers cost between \$250 and \$2,500. Asset tags cost between \$25 and \$100 for 100 tags. For purposes of this fiscal note it is assumed that a printer will cost \$1,500 and tags will cost \$25 for 100 tags, or \$0.25 per tag.

20. SB 377 amends 50-46-319, MCA, providing that a registered cardholder and the cardholder's designated provider may each possess 6 mature cannabis plants and 12 vegetative cannabis plants. For purposes of this fiscal note, it is assumed that a provider will have six mature and 12 vegetative cannabis plants for each registered cardholder at any given point in time.

21. It is estimated that the department would need to print up to 720,000 tags based on a projected average of 12,000 registered cardholders during FY 2014, at a cost of \$180,000. (12,000 cardholders * six mature plants) + (12,000 cardholders * 12 vegetative plants) * 3 quarters = 504,000 tags * \$0.25 per tag = \$180,000.

22. It is estimated that the department would need print up to 1,152,000 tags per year based on a projected average of 16,000 registered cardholders during FY 2015 through FY 2017, at a cost of \$288,000 per year. (16,000 cardholders * six mature plants) + (16,000 cardholders * 12 vegetative plants) * 4 quarters = 1,152,000 tags * \$0.25 per tag = \$288,000.

Medicinal Cannabis Advisory Council and Data Systems:

23. Section 39 of SB 377 establishes the Medicinal Cannabis Advisory Council (Council). The Council is charged with assisting the MMP in the development of an electronic reporting and monitoring system of registered cardholders and a system for tracking the production and distribution of cannabis for medicinal uses.

24. The MMP has an electronic system for reporting and monitoring the number of registered cardholders and providers and currently provides reporting of this information online, but does not currently have the means to track the production of cannabis for medicinal uses.

25. Because the Council does not yet exist, DPHHS cannot determine a cost for the development of a system to do the required reporting and monitoring at this time.

Total Expenses and Revenues under the MMCA:

26. The current costs to administer the MMP are \$359,564 and are supported by application and renewal fees. 50-46-344, MCA requires DPHHS to establish application and renewal fees sufficient to offset all expenses of implementing and administering the program. As additional cardholder applications are received, the corresponding fee associated with the application may be reduced.
27. The following table shows the current expenditure level of the MMP, the expenditures required to implement the new requirements included in SB 377, and the resulting total expenditures of the MMCA program.

	FY 2014	FY 2015	FY 2016	FY 2017
Current MMP Expenditures	\$ 359,564	\$ 359,564	\$ 364,957	\$ 370,432
Changes Required to Implement SB 377				
License Permit Technicians (2.0 FTE)	\$ 107,530	\$ 107,530	\$ 109,227	\$ 110,247
Health Sanitarians (2.0 FTE)	\$ 73,110	\$ 73,110	\$ 74,161	\$ 74,789
FTE Operational Costs	\$ 18,240	\$ 6,740	\$ 6,740	\$ 6,740
ARM Publication	\$ 1,250			
Background Checks	\$ (9,565)	\$ (9,565)	\$ (9,565)	\$ (9,565)
Asset Tag Printer/Tags	\$ 181,500	\$ 288,000	\$ 288,000	\$ 288,000
Subtotal	\$ 372,065	\$ 465,815	\$ 468,563	\$ 470,211
Total Expenditures under the MMCA	\$ 731,629	\$ 825,379	\$ 833,521	\$ 840,643

28. Section 37 of SB 377 establishes various fees for providers, cannabis infused providers, exchange brokers, couriers and testing facilities. As stated in assumptions four through seven, it is assumed that there will be 16,000 registered cardholders, 1,000 providers, 300 cannabis-infused products providers, 50 exchange brokers, 100 couriers, and three testing facilities by the end of the next biennium, but that only half of the increases will occur in FY 2014. The fee for each entity and the resulting revenue is shown in the table below.

Revenue Source/Fee Amount	FY 2014	FY 2015	FY 2016	FY 2017
Cardholder Registrations (To cover program costs)	\$ 359,564	\$ 359,564	\$ 364,957	\$ 370,432
Provider (\$15 per registered cardholder per quarter)	\$ 600,000	\$ 960,000	\$ 960,000	\$ 960,000
Cannabis Infused-Products Provider (\$1,000 per location)	\$ 150,000	\$ 300,000	\$ 300,000	\$ 300,000
Exchange Broker (\$1,500 per registered broker)	\$ 37,500	\$ 75,000	\$ 75,000	\$ 75,000
Courier (\$100 per registered courier)	\$ 5,000	\$ 10,000	\$ 10,000	\$ 10,000
Testing Facilities (\$1,000 per location)	\$ 2,000	\$ 3,000	\$ 3,000	\$ 3,000
Tag Revenue (\$1 per tag issued)	\$ 720,000	\$ 1,152,000	\$ 1,152,000	\$ 1,152,000
Total Revenue	\$ 1,874,064	\$ 2,859,564	\$ 2,864,957	\$ 2,870,432

29. SB 377 requires the creation of a state special revenue account for all application and renewal fees, penalties paid, and interest earned. After the costs of running the program are recouped, the excess revenue is distributed 25% to DPHHS to provide grants to local governments based on the number of registered providers in each city, town, or county for infrastructure improvements; 25% to DPHHS for home and community based Medicaid waiver services provided to people who are 65 years of age or older; 25% to the

school facility and technology account, and 25% to the Department of Fish, Wildlife, and Parks to improve state parks and other recreation areas.

<u>Montana Medicinal Cannabis Act</u>	FY 2014	FY 2015	FY 2016	FY 2017
Total Revenue	\$ 1,874,064	\$ 2,859,564	\$ 2,864,957	\$ 2,870,432
Total Expenditures	\$ 731,629	\$ 825,379	\$ 833,521	\$ 840,643
Surplus/Shortfall	\$ 1,142,435	\$ 2,034,185	\$ 2,031,437	\$ 2,029,789
Interest Earned	\$ 3,542	\$ 7,323	\$ 7,313	\$ 7,307
Total Distributable Revenue	\$ 1,145,976	\$ 2,041,508	\$ 2,038,750	\$ 2,037,096
<u>Distributed to:</u>				
Grants to Local Governments (25%)	\$ 286,494	\$ 510,377	\$ 509,687	\$ 509,274
Home and Community Based Medicaid Waiver (25%)	\$ 286,494	\$ 510,377	\$ 509,687	\$ 509,274
School Facility and Technology Account (25%)	\$ 286,494	\$ 510,377	\$ 509,687	\$ 509,274
Fish, Wildlife, & Parks (25%)	\$ 286,494	\$ 510,377	\$ 509,687	\$ 509,274
Total Distribution	\$ 1,145,976	\$ 2,041,508	\$ 2,038,750	\$ 2,037,096

Department of Justice (DOJ)

Division of Criminal Investigations (DCI)

- 30. The Criminal Records and Identification Services Section (CRISS) within the DOJ is the state’s repository for criminal records. For non-criminal justice purposes, the DOJ conducts both fingerprint and name-based criminal background checks. Both of these background checks are subject to laws, rules, policies, and procedures with which there must be compliance.
- 31. Section 9 of SB 377 removes the requirement for fingerprint-based background checks of providers. There is a charge of \$27.25 for each state and federal combined fingerprint-based background check. In FY 2012, the MMP paid the DOJ for 351 fingerprint based background checks at a total cost of \$9,565.
- 32. Per 44-5-306, MCA, the fees paid to cover the costs of the fingerprint background checks are deposited in a state special revenue fund. Both state special revenue and CRISS expenditures would be reduced by \$9,565 per year (351 checks x \$27.25 per check = \$9,565).
- 33. Section 9 of this bill requires a name-based background check of cannabis providers, cannabis-infused product providers, exchange brokers, couriers and testing facilities. As stated in assumption 17, DPHHS has the ability to conduct name-based background checks.

Forensic Science Division (FSD)

- 34. The FSD is currently required to test items to determine if they contain cannabis, at an estimated cost of \$300 per sample. It is anticipated that the testing volume of samples may increase, but will not exceed the laboratory’s analytical instrument capacity or capabilities.

Department of Labor & Industry

Business Standards Division

- 35. SB 377 adds Physician Assistants (PA’s) and other “health care providers” authorized to prescribe medical marijuana to the annual reporting requirements. The department is required to report the number and types of complaints a board has received involving practices in providing certification for the use of medical marijuana. This type of data is collected and kept through the department/board’s compliance process. The boards should be able to produce these reports for the legislature at no additional cost.

	<u>FY 2014 Difference</u>	<u>FY 2015 Difference</u>	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>
<u>Fiscal Impact:</u>				
FTE - DPHHS	4.00	4.00	4.00	4.00
<u>Expenditures:</u>				
Personal Services	\$180,640	\$180,640	\$183,388	\$185,036
Operating Expenses	\$181,861	\$275,611	\$275,611	\$275,610
Grants	\$286,494	\$510,377	\$509,687	\$509,274
Benefits	\$286,494	\$510,377	\$509,687	\$509,274
Transfers	\$572,988	\$1,020,754	\$1,019,375	\$1,018,548
TOTAL Expenditures	<u>\$1,508,477</u>	<u>\$2,497,759</u>	<u>\$2,497,748</u>	<u>\$2,497,742</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$1,508,477	\$2,497,758	\$2,497,748	\$2,497,742
TOTAL Funding of Exp.	<u>\$1,508,477</u>	<u>\$2,497,758</u>	<u>\$2,497,748</u>	<u>\$2,497,742</u>
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$2,081,465	\$3,518,512	\$3,517,123	\$3,516,290
TOTAL Revenues	<u>\$2,081,465</u>	<u>\$3,518,512</u>	<u>\$3,517,123</u>	<u>\$3,516,290</u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$572,988	\$1,020,754	\$1,019,375	\$1,018,548

Technical Notes:

1. Page 17, line 27 of this bill changes the language from “the department shall review the information” to “the department shall verify the information.” The bill does not say what the verification is to be made against.
2. SB 377 removes the requirement for fingerprint-based criminal background checks, which are state/federal criminal background checks conducted using biometric means. Due to legal and regulatory conditions, the name-based background checks which will be required by this legislation will be a check of Montana-only publicly-available criminal records.

Sponsor's Initials

Date

Budget Director's Initials

Date



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Dedication of Revenue 2015 Biennium

17-1-507-509, MCA.

a) Are there persons or entities that benefit from this dedicated revenue that do not pay?

Yes. Revenue is generated through the Montana Medicinal Cannabis Act and its various registration fees. After the costs of running the program are recouped, the excess revenue is distributed 25% to DPHHS to provide grants to local governments based on the number of registered providers in each city, town or county for infrastructure improvements; 25% to DPHHS for home and community based Medicaid waiver services provided to people who are 65 years of age or older; 25% to the school facility and technology account, and 25% to the Department of Fish, Wildlife, and Parks to improve state parks and other recreation areas.

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?

These funds would provide dedicated funding to the aforementioned activities that would have to compete with general fund priorities otherwise.

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)

Not applicable. This would be a new state special revenue account that would be dedicated to activities outside the scope of the purpose from which the revenue is generated.

d) Does the need for this state special revenue provision still exist? ___Yes ___No (Explain)

Not applicable. See previous answer.

e) Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please Explain)

No

f) Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please Explain)

Yes.

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?)

Revenue provisions will be accounted for in similar ways as existing program and activities