



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2017 Biennium

Bill #	SB0417	Title:	Generally revise laws on medical marijuana
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Primary Sponsor:	Sands, Diane	Status:	As Introduced
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- 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 2016 Difference</u>	<u>FY 2017 Difference</u>	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>
Expenditures:				
General Fund	\$3,150,098	\$1,832,469	\$1,830,658	\$1,879,783
State Special Revenue	\$1,634,016	\$914,541	\$915,491	\$916,455
Revenue:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$1,613,363	\$897,763	\$897,713	\$897,713
Net Impact-General Fund Balance:	<u><u>(\$3,150,098)</u></u>	<u><u>(\$1,832,469)</u></u>	<u><u>(\$1,830,658)</u></u>	<u><u>(\$1,879,783)</u></u>

Description of fiscal impact: SB 417 modifies the licensing and fees associated with the medical marijuana industry in Montana. This legislation creates an annual fee structure for medical marijuana providers, marijuana-infused providers, testing facilities, and newly regulated marijuana couriers. SB 417 transfers collection and regulation of fees from the Department of Public Health and Human Services (DPHHS) to the Department of Revenue (DOR). Additionally, this bill requires the Department of Justice (DOJ) to conduct state and federal background checks for the Montana Marijuana Program applicants.

FISCAL ANALYSIS

Assumptions:

Department of Revenue (DOR)

- SB 417 creates new definitions and requirements for medical marijuana testing facilities and marijuana couriers.
- Section 5 of SB 417 establishes the department as the State licensing authority.
- Section 13 establishes the following fee schedule for medical marijuana providers, testing, facilities, marijuana-infused products providers, and couriers:

SB 417 Annual Fee Schedule	
<u>Licenses Type</u>	<u>Fee</u>
Provider	\$250 + \$20/Registered Cardholder
Marijuana-Infused Products Provider	\$2,500
Testing Facility	\$2,500
Courier	\$500

4. In February of FY 2015, the Department of Public Health and Human Services (DPHHS) had 404 registered medical marijuana providers in Montana, and 8,614 patients with current enrollments. Based on the fee schedule, it is estimated that provider fees will generate \$273,280 (404x\$250+8,614x\$20).
5. According to the Colorado Department of Revenue Marijuana Enforcement Division, there are 1,416 medical marijuana business licenses and approximately 11.5% of these businesses are marijuana-infused product providers. Based on this information, it is estimated that there will be 53 of these types of business in Montana (404x [11.5% / (100% - 11.5%)]). Based on this information, it is estimated fee revenue from these types of business will be \$132,500 (53 x \$2,500).
6. According to the Colorado Department of Revenue Marijuana Enforcement Division, there are 16 medical marijuana testing business licenses. Based on this information, it is estimated that there will be 5 of these types of business in Montana ([16/1,416] x [404+53]). Based on this information, it is estimated fee revenue from these types of business will be \$12,500(5 x \$2,500).
7. For fiscal note purposes, it is assumed that half of the existing providers and marijuana-infused providers will acquire a courier license, or be serviced by a courier. Therefore, the estimated revenue from couriers is calculated to be \$114,500=.5 x ([404+53] x \$500).
8. In addition to the 8,614 patients with providers, there are also 2,196 card holders without a provider. For fiscal note purposes, it is assumed that half of these patients will find a provider, and half will become their own provider. This would generate an additional \$318,420 in revenue (1,098 x \$20+1,098 x \$250+1,098 x \$20).
9. The following table displays the total estimated counts and annual fee revenue from SB 417:

SB 417 Fee Revenue					
	<u>Providers</u>	<u>Infused Products</u>	<u>Testing Facilities</u>	<u>Couriers</u>	<u>Total</u>
#	1,502	53	5	229	1,789
Revenue	\$591,700	\$132,500	\$12,500	\$114,500	\$851,200

10. Currently, the department charges a one-time application fee of \$400 for new liquor licenses by rule. For fiscal note purposes, it is assumed that a \$400 fee will also be changed for licenses created in SB 417, generating \$715,600 in the first year only. After the first year, fee revenue is anticipated to be negligible.
11. Section 32 directs the department to conduct a study on issues related to medical marijuana in the 2015-2016 interim. The department will require costs of about \$50,000 each year, for about 1,040 hours per year of work by an economist. The economist would provide policy analysis, statistical reporting, revenue estimating, and econometric support to the division.
12. It is also assumed the Legal Division would require one attorney, one hearing officer, and .5 FTE for administrative support.
13. It is estimated that the department will need to create seven new forms at a one-time cost of \$2,500 per form.

14. The department would need to create and administer three new accounts in department’s computer systems which would require 1.0 FTE computer systems developer with salary and benefit costs of \$97,391 and a one-time contracted service cost of \$2,050,000.
15. The newly created bureau would need to hire four management analysts, eight compliance specialists, two compliance technicians, a public relations specialist, and a bureau chief in the first year. After the initial year, three management analysts and two compliance specialists would no longer be need. Therefore, 16 FTE are needed in the initial year, and 11 FTE on a permanent basis.
16. Currently, the department utilizes the Department of Justice to preform investigative services. For fiscal note purposes, it is assumed the department would contract with DOJ for these functions at a cost of \$990,519 in FY 2016 and FY 2017. These costs are expected to grow 2% annually in FY 2018 and FY 2019.
17. The department would also need to lease five vehicles annually at a cost of \$20,000, for investigators to do premises inspections.
18. Section 14 directs department to transfer revenue exceeding the departments administrative cost to the state general fund on an annual basis.
19. Section 33 appropriates \$525,000 from the Department of Health and Human Services to the department to assist with startup costs incurred by the department. It is assumed costs over and above appropriations and any additional revenue will be paid by the general fund.

Department of Public Health and Human Services (DPHHS)

20. Providers of marijuana and marijuana infused products currently pay \$50 annually for registration. This bill transfers the registry function for these providers to a licensing function with the DOR. Expected revenue loss is reflected in the table below:

Estimated Revenue	FY 2016	FY2017	FY 2018	FY 2019
Providers	404	404	405	405
Current Fee Loss	(50)	(50)	(50)	(50)
Total	(20,200)	(20,200)	(20,250)	(20,250)

21. The program does not anticipate any increased costs to provide registered Montana Marijuana Program (MMP) cardholder’s named provider information to the state licensing authority.
22. This bill provides for rule making authority to the department for the changes in statute. It is estimated that 5 to 10 pages of rules would be required. This cost will be absorbed within existing resources.
23. The MMP currently has a database that tracks the registered providers. DOR would need to either gain access to the existing database or create their own.

Department of Justice (DOJ)

24. DPHHS reports to MT DOJ that it is difficult to estimate the number of state/federal fingerprint based criminal record background checks that may be required as a result of this legislation. Couriers and testers are new populations on which the criminal record background checks would be required, so there is no historical data that can be used to predict future numbers. DPHHS program managers indicate that the number of guardians/parents with youth utilizing the medical marijuana is extremely low.
25. Having limited basis on which to analyze the numbers of state/federal fingerprint based criminal record background checks that would be required as a result of this legislation, DOJ estimates 2,450 criminal record background checks would be conducted annually, to include numbers related to license renewals.
26. These background checks would be additional work volume for the Criminal Record and Identification Services Section of MT DOJ / DCI, and would require 0.5 FTE to process state and federal background checks for MMP applicants. Personal service costs for salary and benefits are estimated at \$30,918 in FY 2016 and FY 2017.
27. An inflation rate of 1.5% is applied to personal services and operating expenses in FY 2018 and FY 2019.

28. The DOJ will collect fees for background checks: State background check = \$10; Federal background check = \$17.25. Total collections for state background checks will equal \$24,500 (2,450 x \$10) each year. Total collections for federal background checks will equal \$42,262 (2,450 x \$17.25) each year.

29. The DOJ must pay a fee to the Federal Bureau of Investigation (FBI) of \$12.75 per federal background check, which is an additional \$31,238 in expenditures (\$12.75 x 2,450) each year.

Legislative Branch

30. Section 29, subsection 2, of SB 417 requires the revenue and transportation interim committee provide oversight of the state licensing authority’s activities and identify issues likely to require future legislative attention. For the purposes of this fiscal note, it is assumed that the committee could perform the work within existing resources.

31. SB 417 is one of several bills seeking to add to the duties of interim and administrative committees. The fiscal note for each bill is prepared based on the effect of the individual bill. However, when viewed as a package, the cumulative effective of passage of more than one bill will require additional analysis and may require additional resources

32. It is anticipated that those committees with increased workloads, if also assigned one or more study resolutions, may be required to seek additional funding during the interim or compromise the extent to which they fulfill their duties.

DOR	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>
<u>Fiscal Impact:</u>				
FTE	20.00	15.00	14.50	14.50
<u>Expenditures:</u>				
Personal Services	\$1,341,022	\$1,040,393	\$1,007,012	\$1,023,952
Operating Expenses	\$3,900,876	\$1,643,276	\$1,674,846	\$1,707,031
Transfers	(\$525,000)	\$0	\$0	\$0
TOTAL Expenditures	<u>\$4,716,898</u>	<u>\$2,683,669</u>	<u>\$2,681,858</u>	<u>\$2,730,983</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$3,150,098	\$1,832,469	\$1,830,658	\$1,879,783
State Special Revenue (02)	\$1,566,800	\$851,200	\$851,200	\$851,200
TOTAL Funding of Exp.	<u>\$4,716,898</u>	<u>\$2,683,669</u>	<u>\$2,681,858</u>	<u>\$2,730,983</u>
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$1,566,800	\$851,200	\$851,200	\$851,200
TOTAL Revenues	<u>\$1,566,800</u>	<u>\$851,200</u>	<u>\$851,200</u>	<u>\$851,200</u>

DOJ	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>
<u>Fiscal Impact:</u>				
FTE	0.50	0.50	0.50	0.50
<u>Expenditures:</u>				
Personal Services	\$30,918	\$30,918	\$31,382	\$31,852
Operating Expenses	\$36,298	\$32,423	\$32,909	\$33,403
Transfers	\$0	\$0	\$0	\$0
TOTAL Expenditures	\$67,216	\$63,341	\$64,291	\$65,255
<u>Funding of Expenditures:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$67,216	\$63,341	\$64,291	\$65,255
TOTAL Funding of Exp.	\$67,216	\$63,341	\$64,291	\$65,255
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$66,763	\$66,763	\$66,763	\$66,763
TOTAL Revenues	\$66,763	\$66,763	\$66,763	\$66,763

DPHHS	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>
<u>Fiscal Impact:</u>				
<u>Expenditures:</u>				
TOTAL Expenditures	\$0	\$0	\$0	\$0
<u>Funding of Expenditures:</u>				
TOTAL Funding of Exp.	\$0	\$0	\$0	\$0
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	(\$20,200)	(\$20,200)	(\$20,250)	(\$20,250)
TOTAL Revenues	(\$20,200)	(\$20,200)	(\$20,250)	(\$20,250)
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures) All Agencies:</u>				
General Fund (01)	(\$3,150,098)	(\$1,832,469)	(\$1,830,658)	(\$1,879,783)
State Special Revenue (02)	(\$20,653)	(\$16,778)	(\$17,778)	(\$18,742)

Technical Notes:

Department of Revenue (DOR)

1. The effective date of this legislation is July 1, 2015. It will be difficult for the department to implement all of the provisions of SB 417 by this effective date.
2. The DOR will need to either enter into an MOU with the DOJ to conduct license investigations and enforcement similar to the MOU that currently exists for liquor licensing purposes or, the DOR will need to

hire a sufficient number of investigators to accomplish the requirements of the bill. The bill would likely require amendment to specifically allow the Department to enter into an MOU with DOJ.

- 3. 50-46-308, MCA states that providers are limited to provide for a maximum of three registered card holders. However, as a result of recent litigation, these limitations are not applicable, but the issue is ongoing. If these limits are reenacted, the costs could change substantially.

Department of Public Health and Human Services (DPHHS)

- 4. Child Support Enforcement Division Verification required under Section 9, MCA 50-46-308(2)(d)(iii), would be done by Department of Public Health and Human Services in compliance with federal laws, as confidential child support information can only be shared with certain governmental agencies.
- 5. New section 36 of this bill provides for contingent termination language should the Montana Supreme Court reverse portions of the January 6, 2015 decision from the first judicial district court relating to the number of registered cardholders to whom a provider or marijuana infused product provider may provide. The language states that [this act] terminates 30 days after the Supreme Court decision is issued. The language is unclear if the entire MMP terminates or only the changes enacted by this bill.

Sponsor's Initials

Date

Budget Director's Initials

Date