



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2023 Biennium

**Bill #** HB0277

**Title:** Provide for a state government performance and results act

**Primary Sponsor:** Mercer, Bill

**Status:** As Amended in Senate Committee

- 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 2022 Difference</u>	<u>FY 2023 Difference</u>	<u>FY 2024 Difference</u>	<u>FY 2025 Difference</u>
<b>Expenditures:</b>				
General Fund	\$231,924	\$175,195	\$177,586	\$197,725
<b>Revenue:</b>				
General Fund	\$0	\$0	\$0	\$0
<b>Net Impact-General Fund Balance:</b>	<u>(\$231,924)</u>	<u>(\$175,195)</u>	<u>(\$177,586)</u>	<u>(\$197,725)</u>

**Description of fiscal impact:** HB 277 was amended to remove the term “long-range” and the three-year measurement for department strategic plans. Other provisions of the bill remain, including the requirement to produce strategic plans and annual performance reports, the solicitation of public comment before acceptance of the plan, and the publication of the plan on the department website. Although Section 9 of the bill directs that the requirements of the bill “...may use only existing resources to implement the provisions of [this act]”, some departments do not have sufficient existing resources to accomplish the required work.

### FISCAL ANALYSIS

#### Assumptions:

#### **All Executive Branch Agencies**

1. Agencies will be required to adopt a three-year strategic plan by no later than October 1, 2021 and update the plan by July 1, 2024 and every three years thereafter. The plan would include specific and measurable performance measures.
2. Agencies will be required to solicit and consider both employee and public comment on the strategic plan.
3. Agencies will be required to hold a public hearing to accept comments on the proposed plan and accept written comments for at least 30 days.
4. Agencies will be required to track quantitative performance measures and prepare and distribute an annual report no later than October 1 of each year, beginning in 2022.

5. There are sixteen agencies impacted by HB 277 as listed in 2-15-104, MCA. Each affected agency will incur costs for publishing rules, accepting public comment, and holding a public hearing. The average cost is assumed to be \$5,000 in FY 2022. The total cost across all affected agencies would be \$80,000.
6. According to the definition of Department in Section 3 of the bill (referencing list in 2-15-104, MCA), the following agencies would be excluded from the agencies affected by HB 277: Legislative Branch, Judicial Branch, Governor’s Office, Secretary of State’s Office, Commissioner of Political Practices, State Auditor’s Office, Office of Public Instruction, Montana University System, Montana School for the Deaf & Blind, Montana Arts Council, Montana State Library, and the Montana Historical Society.

**Executive Branch agencies that can use existing resources to implement HB 277**

7. The following agencies have indicated that they can absorb the rulemaking costs. In addition, these agencies will divert existing staff to develop new strategic plans or update existing strategic plans in accordance with the bill. The diverted staff will also work to monitor and update the plan annually and develop and publish annual reports.
  - a. Department of Agriculture
  - b. Department of Commerce
  - c. Department of Corrections
  - d. Board of Public Education
  - e. Department of Military Affairs
  - f. Department of Fish, Wildlife & Parks
  - g. Department of Transportation
  - h. Department of Revenue
  - i. Department of Labor and Industry
  - j. Department of Public Service Regulation (Public Service Commission)
  - k. Department of Public Health and Human Services
  - l. Department of Livestock
8. The existing staff are already dedicated to operating department programs and performing duties in their existing job descriptions. Diverting current staff will impact the timely delivery of programs and services. The diversion of staff time is estimated to be sizeable, however these impacts cannot be quantified at this time.
9. These agencies will also need to devote existing resources to developing systems to document and track strategic plans and performance measurements. Some departments will need to hire consultants for assistance. For example, in the Department of Transportation, this work is estimated to cost over \$500,000 initially and \$200,000 annually ongoing.

**Agencies with Fiscal Impact and Requesting Additional Resources to Implement HB 277**

**Department of Environmental Quality**

10. The department will engage stakeholders to review plan details, including proposed performance measures, prior to holding a formal public hearing.
11. The department currently undertakes strategic planning, and encourages employee input on the plan, as part of normal operations. No new FTE are requested to enact the planning portion of the legislation, although diverting existing resources to accomplish the bill intent is not without negative externalities, including not completing other information technology work.
12. Oversight of the public comment process and public hearing would require up to 0.25 FTE (Environmental Scientist Level 3 – annual salary \$77,324) for two months every three years.
13. There are information technology solutions at DEQ that currently measure and report program performance, but not for all programs. Although the department will use existing resources to build, deploy, and maintain an IT solution, a database administrator working half-time (.50 FTE) will be needed to assist with this development at an estimated cost of \$49,112 for FY 2022 and 2023, \$49,658 for FY 2024, and \$50,597 for FY 2025. An inflationary factor of 1.5% has been applied to fiscal years 2024 and 2025.

14. Indirect cost rates are assessed for personal services and operating expenditures. These costs are estimated at \$15,629 for FY 2022, \$11,787 for FY 2023, \$11,918 for FY 2024, and \$16,102 for FY 2025.
15. The department will be required to publish strategic planning documents, public notices, associated public comments and public hearing transcripts, and annual reports on the DEQ website. The department already maintains a web page dedicated to sharing strategic goals. No new web resources will be required to enact this portion of the legislation.

**Department of Administration**

16. The State Human Resources Division online performance management system will require significant programming changes to enable this system to comply with departmental reporting and long-range plan requirements. The number of hours would vary by division. *The department is unable to provide a definitive number of hours and cost at this time.*

**Department of Justice**

17. The Department of Justice will contract a business development specialist at an estimated cost of \$97,296 for FY 2022 and 2023, \$98,755 for FY 2024, and \$100,236 for FY 2025.
18. An inflationary factor of 1.5% is applied to FY 2024 and 2025.
19. It is assumed that current staff will assist the business development specialist with the strategic planning process, diverted this staff from existing responsibilities.

**Office of Public Defender \*(The OPD is not listed in 2-15-104, MCA, but is included as it is administratively attached to Department of Administration)**

20. In FY 2019 and 2020, the Office of Public Defender (OPD) expended \$14,588 and \$5,446, respectively, on strategic planning and support for leadership to develop agency performance matrixes. The office recently purchased a new case management system, and with the implementation of this system, will be able to record data with consistency and reliability to utilize for future accountability reporting.
21. To best implement this legislation, OPD requires funding to develop measurable key performance indicators, strategic planning, and performance reporting. The office estimates the continued support of strategic planning for both the agency performance, and the attorney client representation, will be \$7,000 per year for FY 2022 and 2023, \$7,105 for FY 2024, and \$7,212 for FY 2025.
22. An inflationary factor of 1.5% has been added to FY 2024 and 2025.

**Department of Natural Resources and Conservation**

23. The Department of Natural Resources and Conservation (DNRC) will hire a facilitator to work with DNRC staff to produce the first multi-year strategic plan, as well as in the two subsequent years to produce the revised plan. It is anticipated that contracted services costs will be \$50,000 in the first year (FY 2022), \$10,000 in FY 2023, \$10,150 in FY 2024, and \$10,302 in FY 2025.
24. A 1.5% inflationary factor has been applied to FY 2024 and 2025.
25. The department will divert currently funded staff, which are primarily focused on program management and implementation. Diverting current staff will impact the timely delivery of programs and services. These impacts cannot be quantified at this time.

**Overall Increased Costs to State Agencies**

	<u>FY 2022 Difference</u>	<u>FY 2023 Difference</u>	<u>FY 2024 Difference</u>	<u>FY 2025 Difference</u>
<b><u>Fiscal Impact: Combined</u></b>				
FTE	0.50	0.50	0.50	0.50
<b><u>Expenditures:</u></b>				
Personal Services	\$61,999	\$49,112	\$49,658	\$63,873
Operating Expenses	\$169,925	\$126,083	\$127,928	\$133,852
<b>TOTAL Expenditures</b>	<b>\$231,924</b>	<b>\$175,195</b>	<b>\$177,586</b>	<b>\$197,725</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$231,924	\$175,195	\$177,586	\$197,725
<b>TOTAL Funding of Exp.</b>	<b>\$231,924</b>	<b>\$175,195</b>	<b>\$177,586</b>	<b>\$197,725</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
<b>TOTAL Revenues</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	(\$231,924)	(\$175,195)	(\$177,586)	(\$197,725)

	<u>FY 2022 Difference</u>	<u>FY 2023 Difference</u>	<u>FY 2024 Difference</u>	<u>FY 2025 Difference</u>
<b><u>Fiscal Impact: - Department of Environmental Quality</u></b>				
FTE	0.50	0.50	0.50	0.50
<b><u>Expenditures:</u></b>				
Personal Services	\$61,999	\$49,112	\$49,658	\$63,873
Operating Expenses	\$15,629	\$11,787	\$11,918	\$16,102
<b>TOTAL Expenditures</b>	<b>\$77,628</b>	<b>\$60,899</b>	<b>\$61,576</b>	<b>\$79,975</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$77,628	\$60,899	\$61,576	\$79,975
<b>TOTAL Funding of Exp.</b>	<b>\$77,628</b>	<b>\$60,899</b>	<b>\$61,576</b>	<b>\$79,975</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
<b>TOTAL Revenues</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	(\$77,628)	(\$60,899)	(\$61,576)	(\$79,975)

	<u>FY 2022 Difference</u>	<u>FY 2023 Difference</u>	<u>FY 2024 Difference</u>	<u>FY 2025 Difference</u>
<b><u>Fiscal Impact: Department of Justice</u></b>				
FTE	0.00	0.00	0.00	0.00
<b><u>Expenditures:</u></b>				
Personal Services	\$0	\$0	\$0	\$0
Operating Expenses	\$97,296	\$97,296	\$98,755	\$100,236
<b>TOTAL Expenditures</b>	<b>\$97,296</b>	<b>\$97,296</b>	<b>\$98,755</b>	<b>\$100,236</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$97,296	\$97,296	\$98,755	\$100,236
<b>TOTAL Funding of Exp.</b>	<b>\$97,296</b>	<b>\$97,296</b>	<b>\$98,755</b>	<b>\$100,236</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
<b>TOTAL Revenues</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	(\$97,296)	(\$97,296)	(\$98,755)	(\$100,236)

	<u>FY 2022 Difference</u>	<u>FY 2023 Difference</u>	<u>FY 2024 Difference</u>	<u>FY 2025 Difference</u>
<b><u>Fiscal Impact: Office of Public Defender</u></b>				
FTE	0.00	0.00	0.00	0.00
<b><u>Expenditures:</u></b>				
Personal Services	\$0	\$0	\$0	\$0
Operating Expenses	\$7,000	\$7,000	\$7,105	\$7,212
<b>TOTAL Expenditures</b>	<b>\$7,000</b>	<b>\$7,000</b>	<b>\$7,105</b>	<b>\$7,212</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$7,000	\$7,000	\$7,105	\$7,212
<b>TOTAL Funding of Exp.</b>	<b>\$7,000</b>	<b>\$7,000</b>	<b>\$7,105</b>	<b>\$7,212</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
<b>TOTAL Revenues</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	(\$7,000)	(\$7,000)	(\$7,105)	(\$7,212)

	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
<b><u>Fiscal Impact: Department of Natural Resources and Conservation</u></b>				
FTE	0.00	0.00	0.00	0.00
<b><u>Expenditures:</u></b>				
Operating Expenses	\$50,000	\$10,000	\$10,150	\$10,302
<b>TOTAL Expenditures</b>	<b>\$50,000</b>	<b>\$10,000</b>	<b>\$10,150</b>	<b>\$10,302</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$50,000	\$10,000	\$10,150	\$10,302
<b>TOTAL Funding of Exp.</b>	<b>\$50,000</b>	<b>\$10,000</b>	<b>\$10,150</b>	<b>\$10,302</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$0	\$0	\$0	\$0
<b>TOTAL Revenues</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	(\$50,000)	(\$10,000)	(\$10,150)	(\$10,302)

**Technical Notes:**

**Department of Administration**

1. Upon passage of this bill, departmental adoption of a plan would be required by October 1, 2021, per Section 4(2). This is a very short turn around for the time it will take the Department of Administration to develop, review, hold a public hearing, and obtain public comment.

**Department of Environmental Quality**

2. The bill excludes the strategic planning and performance measures process from the definition of a “rule” under Montana Administrative Procedures Act (MAPA – Section 9). However, the bill outlines an entire process for public notice, holding hearings, gathering public comment and finalizing the plans (Section 4). The new process will likely take similar or more resources than the MAPA process.

**Office of Public Defender**

3. This bill is effective upon passage, however, the Office of the Public Defender has yet to identify its attorney-client matrixes, and to provide meaningful information on this perspective. The office will need, at minimum, 12 months of data to report on the performance indicators. The office will be unable to provide this until October 2023, as the data set has not been built.

**Department of Natural Resources and Conservation**

4. The timelines in NEW SECTION 4 requiring that “no later than October 1, 2021, each department shall adopt a strategic plan” may pose barriers to the Department of Natural Resources and Conservation achieving meaningful stakeholder input beyond public hearing and public comment.
5. In addition, many stakeholders, or stakeholder groups, will likely be involved in the strategic planning of multiple programs and/or agencies, which may delay meeting this deadline.

**NOT SIGNED BY SPONSOR**

\_\_\_\_\_  
Sponsor's Initials

\_\_\_\_\_  
Date

\_\_\_\_\_  
Budget Director's Initials

\_\_\_\_\_  
Date