



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2025 Biennium

Bill information:

SB0442 - Allow marijuana tax revenue to be used for county road maintenance (Lang, Mike)

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 2024</u> <u>Difference</u> | <u>FY 2025</u> <u>Difference</u> | <u>FY 2026</u> <u>Difference</u> | <u>FY 2027</u> <u>Difference</u> |
|---|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| Expenditures: | | | | |
| General Fund | \$0 | \$0 | \$0 | \$0 |
| State Special Revenue | \$210,784 | \$204,375 | \$204,375 | \$204,375 |
| Revenue: | | | | |
| General Fund | (\$12,821,000) | (\$13,423,000) | (\$14,018,000) | (\$14,633,000) |
| State Special Revenue | \$12,821,000 | \$13,423,000 | \$14,018,000 | \$14,633,000 |
| Net Impact-General Fund Balance: | <u>(\$12,821,000)</u> | <u>(\$13,423,000)</u> | <u>(\$14,018,000)</u> | <u>(\$14,633,000)</u> |

Description of fiscal impact: SB 442, as amended, revises the marijuana revenue distribution, including a new 20% distribution to a new state special revenue account at the Department of Transportation for county road maintenance. SB 442 includes a distribution formula based on the road miles, state and federal land area, and block management acres in counties and consolidated cities and counties.

FISCAL ANALYSIS

Assumptions:**Department of Revenue (DOR)**

- SB 442, as amended, creates a new state special revenue account for county road habitat access. This account would be funded by a 20% distribution from the marijuana state special revenue account and the funds would be appropriated to the Department of Transportation to be distributed monthly to county and consolidated city-county governments.
- The amended bill also revises other distributions from the marijuana state special revenue account, changing the HEART fund distribution from \$6 million per year to 11%, increasing the veteran's account distribution from \$200,000 to 5% and changing the distribution to the board of crime control from \$150,000 to 0.2% per year.

3. The following table shows the HJ 2 forecasted distributions from the marijuana state special revenue account under current law.

| Current Law Distributions from Marijuana State Special Revenue Account (millions) | | | | | | | | |
|---|-------------------|-----------|------------|-------------|--------------------------------------|------------------|---------------|--------------|
| FY | HJ2 | | | | 4% Accounts | | | |
| | Marijuana Revenue | DOR Costs | Heart Fund | FWP Habitat | (State Parks, Trails & Rec, Nongame) | Veterans Account | Crime Control | General Fund |
| 2024 | \$52.904 | \$5.250 | \$6.000 | \$8.331 | \$1.666 | \$0.200 | \$0.150 | \$27.975 |
| 2025 | \$54.599 | \$5.280 | \$6.000 | \$8.664 | \$1.733 | \$0.200 | \$0.150 | \$29.107 |
| 2026 | \$56.242 | \$5.280 | \$6.000 | \$8.992 | \$1.798 | \$0.200 | \$0.150 | \$30.224 |
| 2027 | \$57.941 | \$5.280 | \$6.000 | \$9.332 | \$1.866 | \$0.200 | \$0.150 | \$31.379 |

4. This bill also creates a new habitat legacy account to be used by the Department of Fish Wildlife and Parks (FWP) for Habitat Montana and other wildlife habitat improvement projects. This new account would receive a 20% distribution from the marijuana state special revenue account in place of the current law distribution directly to FWP solely for Habitat Montana. The following table shows the estimated distributions from the marijuana state special revenue account under SB 442.

| SB 442 Distributions from the Marijuana State Special Revenue Account (millions) | | | | | | | | | |
|--|-------------------|-----------|------------|--------------------|--|------------------|---------------|------------------|--------------|
| FY | SB 442 | | Heart Fund | FWP Habitat Legacy | 4% Accounts (State Parks, Trails & Rec, Nongame) | Veterans Account | Crime Control | MDT County Roads | General Fund |
| | Marijuana Revenue | DOR Costs | | | | | | | |
| 2024 | \$52.904 | \$5.250 | \$5.242 | \$9.531 | \$1.906 | \$2.383 | \$0.095 | \$9.531 | \$15.154 |
| 2025 | \$54.599 | \$5.280 | \$5.425 | \$9.864 | \$1.973 | \$2.466 | \$0.099 | \$9.864 | \$15.683 |
| 2026 | \$56.242 | \$5.280 | \$5.606 | \$10.192 | \$2.038 | \$2.548 | \$0.102 | \$10.192 | \$16.206 |
| 2027 | \$57.941 | \$5.280 | \$5.793 | \$10.532 | \$2.106 | \$2.633 | \$0.105 | \$10.532 | \$16.746 |

5. The following table shows the change in distributions to the state special revenue accounts and the general fund. The habitat legacy account is compared to the current law distribution for Habitat Montana because they are both used for the same purpose.

| Change in Distribution from Current Law to SB 442 (millions) | | | | | | | |
|--|------------|--------------------|--|------------------|---------------|------------------|--------------|
| FY | Heart Fund | FWP Habitat Legacy | 4% Accounts (State Parks, Trails & Rec, Nongame) | | Crime Control | MDT County Roads | General Fund |
| | | | Veterans Account | Veterans Account | | | |
| 2024 | (\$0.758) | \$1.200 | \$0.240 | \$2.183 | (\$0.055) | \$9.531 | (\$12.821) |
| 2025 | (\$0.575) | \$1.200 | \$0.240 | \$2.266 | (\$0.051) | \$9.864 | (\$13.423) |
| 2026 | (\$0.394) | \$1.200 | \$0.240 | \$2.348 | (\$0.048) | \$10.192 | (\$14.018) |
| 2027 | (\$0.207) | \$1.200 | \$0.240 | \$2.433 | (\$0.045) | \$10.532 | (\$14.633) |

6. Total distributions to state special revenue accounts would increase by \$12,821,000 in FY 2024, \$13,423,000 in FY 2025, \$14,018,000 in FY 2026, and \$14,633,000 in FY 2027. The final distributions to the general fund would decrease by equal amounts as can be seen in the table above.
7. There would not be significant additional costs to the Department of Revenue because of this bill.

Department of Fish, Wildlife & Parks (FWP)

8. New Section 2 (2) of SB 442 directs 75% of the funding deposited into the habitat legacy account to fund wildlife habitat purchases as allowed by 87-1-209, MCA. The remaining 25% is retained by the habitat legacy account to be used for wildlife habitat improvement projects, and purposes allowed by 87-1-209, MCA.
9. Implementation of SB 442 will require 2.50 FTE, including 1.00 FTE for a grant coordinator to administrator the financials and monitor all subrecipient agreements to mitigate risk and avoid audit findings; 1.00 FTE for

a wildlife habitat improvement manager with expertise in habitat management and restoration to evaluate, development, monitor and implement all projects approved by the council; and 0.50 FTE for an administrative assistant to directly assist with coordination of the council, project evaluations and legislature reports. Personal services costs in FY 2024 is \$164,705 and \$165,296 per year through FY 2027. One time computer and desk set up costs are \$2,800 per FTE in FY 2024.

10. Section 7 adds the responsibility for the advisory council to rank projects associated for Habitat Montana. This would include the Habitat Conservation Lease program, acquisitions, state leases, and maintenance enhancement. FWP anticipates meeting for 2 days each month, at an estimated cost of \$39,079 per year.

Department of Transportation (DOT)

11. In SB 442 there is a county road habitat access account in the state special revenue fund and all funds received pursuant to 16-12-111(4)(b)(i), MCA, must be deposited in the account.
12. Money deposited in the account is subject to appropriation by the legislature and may be used only for funding the construction, reconstruction, maintenance, and repair of county roads.
13. From the marijuana state special revenue account, 20% is transferred to the credit of MDT.
14. All funds must be distributed each fiscal year on a monthly basis to the county and consolidated city-county governments.
15. Timing and acquisition of data for the distribution calculation may be challenging. Block Management Program (BMA) boundaries change often, and annual availability timelines may vary.

Department of Military Affairs (DMA)

16. Under current law, DMA currently receives the lesser of \$200,000 or 3% of available funds each year, after the HEART fund transfer. SB 442 changes the allocation to 5% of distributable revenue. Requests in HB 2 include additional state special authority to support the Veteran's Affairs (VA) programs impacting veterans.
17. Funding from SB 442 will support groundskeepers in the Montana State Veterans Cemetery program and replacement of broken and outdated equipment. The cemetery program will create a grant program for eligible reservists and guardsmen to receive headstones free of cost in the state veterans' cemeteries. These funds will also cover an expected shortfall in cemetery operation expenses.
18. SB 442 funding will also support administrative assistants in the Veteran Services Program to assist with the growing workload. With additional personnel, the Veteran Services Program will provide more outreach services to Montana counties.
19. SB 442 will provide funds for Montana Veteran Affairs Division (MVAD) headquarters support accounting work associated with the increasing workload. MVAD headquarters will also provide small grants for Montana VFW and Montana American Legion once a year as available.

| | <u>FY 2024</u> <u>Difference</u> | <u>FY 2025</u> <u>Difference</u> | <u>FY 2026</u> <u>Difference</u> | <u>FY 2027</u> <u>Difference</u> |
|---|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| <u>Fiscal Impact:</u> | | | | |
| FTE | 2.50 | 2.50 | 2.50 | 2.50 |
| <u>Expenditures:</u> | | | | |
| Personal Services | \$164,705 | \$165,296 | \$165,296 | \$165,296 |
| Operating Expenses | \$46,079 | \$39,079 | \$39,079 | \$39,079 |
| Equipment | \$0 | \$0 | \$0 | \$0 |
| Transfers to state special accounts | \$12,821,000 | \$13,423,000 | \$14,018,000 | \$14,633,000 |
| Transfers to general fund | (\$12,821,000) | (\$13,423,000) | (\$14,018,000) | (\$14,633,000) |
| TOTAL Expenditures | \$210,784 | \$204,375 | \$204,375 | \$204,375 |
| <u>Funding of Expenditures:</u> | | | | |
| General Fund (01) | \$0 | \$0 | \$0 | \$0 |
| State Special Revenue (02) | \$210,784 | \$204,375 | \$204,375 | \$204,375 |
| TOTAL Funding of Exp. | \$210,784 | \$204,375 | \$204,375 | \$204,375 |
| <u>Revenues:</u> | | | | |
| General Fund (01) | (\$12,821,000) | (\$13,423,000) | (\$14,018,000) | (\$14,633,000) |
| State Special Revenue (02) | \$12,821,000 | \$13,423,000 | \$14,018,000 | \$14,633,000 |
| TOTAL Revenues | \$0 | \$0 | \$0 | \$0 |
| <u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u> | | | | |
| General Fund (01) | (\$12,821,000) | (\$13,423,000) | (\$14,018,000) | (\$14,633,000) |
| State Special Revenue (02) | \$12,610,216 | \$13,218,625 | \$13,813,625 | \$14,428,625 |

Technical Notes:

Office of Budget and Program Planning

- The revenue effects presented in this fiscal note are based on HJ 2 revenue projections. The Governor’s budget includes assumptions based on the Governor’s revenue estimates. The following table includes the impact of SB 442 if the Governor’s November revenue estimates for cannabis tax are used.

| Tax Revenue Change by Fiscal Year Relative to SB 442 using Governor's Revenue Estimates | | |
|---|------------------------------------|-----------------------------------|
| Fiscal Year | State Special Change (Millions) | General Fund Change (Millions) |
| 2024 | \$24.910 | (\$24.910) |
| 2025 | \$28.531 | (\$28.531) |
| 2026 | \$29.694 | (\$29.694) |
| 2027 | \$30.776 | (\$30.776) |

- There is no appropriation in SB 442. If the bill is passed and approved, the agencies may not have sufficient authority to spend the additional state special revenue funds from marijuana taxes.

Department of Fish, Wildlife & Parks

- A more specific definition of what makes up federal lands is needed; there are many data sets to collect and decipher to establish accurate figures.
- FWP receives federal Pittman-Robertson funds and is required to follow federal law:

- a. 50 CFR § 80.10, subsection (c), explicitly mandates that FWP must unilaterally control and use revenues for the functions that are necessary for the administration of the agency. Thus, allowing a third party or different agency to hold or use revenues for other purposes would be a diversion.
- 5. Page 10, Line 26 is broad by only referencing section 2. If it is intended to be specific to WHIP it should reference 2(6)(A)
- 6. Page 12, section 10, C (iii) reference goals of 87-5-804. However, there are no goals specified in this statute.
- 7. As written, it is unclear whether the wildlife habitat improvement council is an “agency” as defined in MCA 2-3-102. In order to have rulemaking authority, it should be considered as an “agency” and therefore be able to make its own rules, as opposed to requiring FWP to adopt the rules proposed by the council.
- 8. As written, it is unclear whether the council is allocated for administrative purposes to the department, pursuant to 2-15-121. The bill gives the council additional reporting requirements, administrative duties, tracking, etc. If the council is administratively attached, then the department would be required to provide support (FTE) to accomplish the council’s additional responsibilities. If there is no clear administrative attachment, then it is not clear how the council accomplishes the duties it is assigned.
- 9. New Section 2 (4) establishes criteria under which FWP is required to transfer marijuana tax funding to the wildlife habitat account, thereby comingling marijuana revenue and license fee revenue. The mixing of funding may be considered a loss of control by FWP, which could result in a reduction in federal revenue of \$42.2 million.
- 10. SB 442 provides the Wildlife Habitat Advisory council rule making authority for FWP.

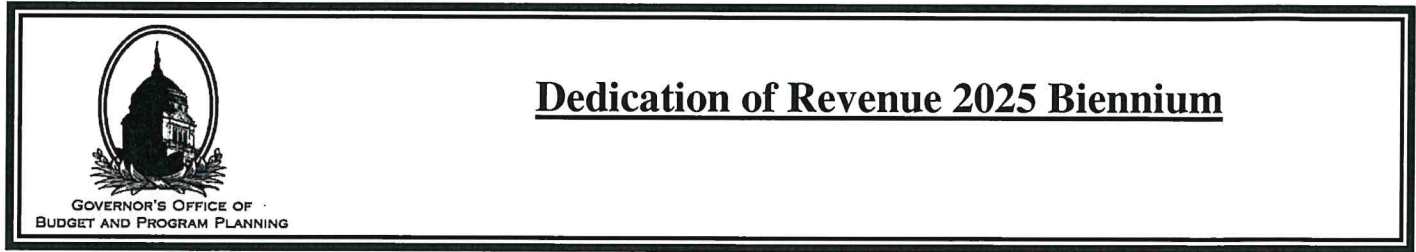
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Sponsor’s Initials

4/17/23
Date


Budget Director’s Initials

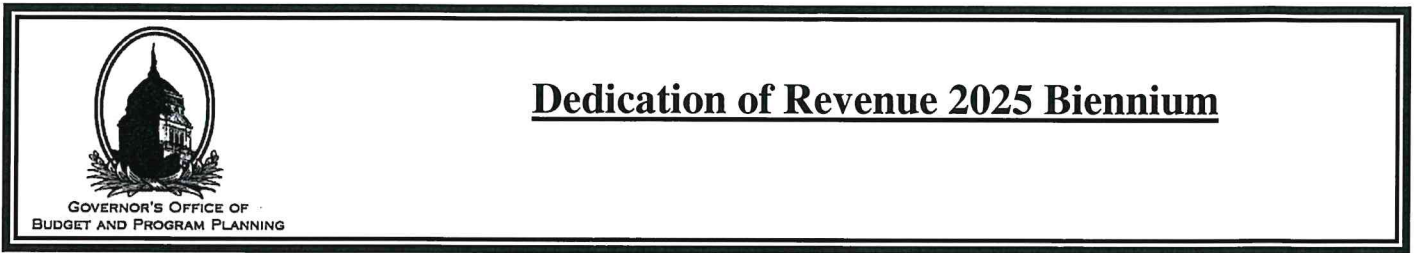
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Dedication of Revenue 2025 Biennium

17-1-507, MCA.

- a) **Are there persons or entities that benefit from this dedicated revenue that do not pay? (please explain)**
 Yes, the revenue is directed from marijuana users. The benefactors of SB 442 are any of the travelling public or anyone receiving goods or services that are transported using the Montana highway system.
- 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?**
 By using a special revenue fund, the Department of Transportation (MDT) can account and track the exact amount of funds being expended each year. Also, MDT can ensure that only the proper expenditures are applied to the fund.
- 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)**
 Yes, the program will fund maintenance and construction of county roads that are not currently being funded.
- d) **Does the need for this state special revenue provision still exist? Yes No (Explain)**
 Yes, the revenues are designated for county highway construction and maintenance. The need still exists to ensure that the revenue is used for the legislative purpose.
- e) **Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please Explain)**
 No, the dedicated revenue being accounted for in a special revenue helps ensure that the expenditures for highways and maintenance are kept separate.
- f) **Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please Explain)**
 Yes, it will be used toward the need of constant maintenance and improvement of the highway system.
- 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?)**
 MDT's primary funding is accounted for through special revenue funds. By using a special revenue fund, MDT can use the economies of scale gained through the existing special revenue funds to account for and budget more efficiently.



17-1-507, MCA.

- a) **Are there persons or entities that benefit from this dedicated revenue that do not pay? (please explain)**

Yes, this revenue comes from the sale of recreational marijuana and is used for wildlife habitat.

- 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?**

Use of a special revenue fund allows the agency to track revenue and expenditures specifically dedicated to the habitat legacy account for wildlife habitat.

- 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)**

Yes.

- d) **Does the need for this state special revenue provision still exist? Yes No (Explain)**

In order for the agency to accurately track the revenue and expenditures a separate fund is needed.

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

No. The fund is subject to legislative review and appropriation.

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

If SB442 passes, the legislature has recognized the need for the habitat legacy account for wildlife habitat. This fund allows FWP to appropriately account for these funds.

- 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?)**

The dedicated revenue provision ensures FWP utilizes the dedicated revenue as the legislature intended with the passage of the bill.