

DAVID Y. IGE
GOVERNOR OF HAWAII



VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

DEPT. COMM. NO. 384

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-3378

In reply, please refer to:

August 9, 2017

The Honorable Ronald D. Kouchi,
President and Members of the Senate
Twenty-Ninth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki, Speaker
and Members of the House of
Representatives
Twenty-Ninth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the report:

Requiring the Department of Health to Establish a Repayment Plan and Schedule to Repay the General Fund pursuant to Act 241, Session Laws of Hawaii 2015, Section 321.30.1. In accordance with Section 93.16, Hawaii Revised Statutes, I am also informing you that the report may be viewed electronically at:

<http://health.hawaii.gov/opppd/departement-of-health-reports-to-2017-legislature/>

Sincerely,

A handwritten signature in cursive script that reads "Virginia Pressler".

VIRGINIA PRESSLER

Director of Health

Enc.

c: Legislative Reference Bureau
SOH Library System (7 copies)

REPORT TO THE TWENTY-NINETH LEGISLATURE
STATE OF HAWAII
2017

PURSUANT TO ACT 241, SESSION LAWS OF HAWAII (SLH) 2015, REQUIRING THE DEPARTMENT OF HEALTH TO ESTABLISH A REPAYMENT PLAN AND SCHEDULE TO REPAY TO THE GENERAL FUND, THE SUMS DEPOSITED INTO THE MEDICAL CANNABIS REGISTRY AND REGULATION SPECIAL FUND ESTABLISHED PURSUANT TO SECTION 321-30.1, HAWAII REVISED STATUTES, THIS REPORT IS SUBMITTED.

PREPARED BY:
STATE OF HAWAII
DEPARTMENT OF HEALTH
JUNE 2017

EXECUTIVE SUMMARY

In accordance with Act 241, Session Laws of Hawaii (SLH) 2015, the Department of Health establishes a repayment plan and schedule to repay to the general fund as follows:

Repayment Plan: annually review the department's ability to repay to the general fund based on annual revenues and authorized expenditures; and

Repayment Schedule: repayments cannot be scheduled at this time without serious negative impacts on the state's robust regulatory system.

The department will prepare a report on the sustainability of the medical cannabis dispensary licensing program in preparation for the 2018 legislative session.

**REPORT TO THE LEGISLATURE
IN COMPLIANCE WITH ACT 241, SESSION LAWS OF HAWAII (SLH) 2015**

Introduction:

Act 241, Relating to Medical Cannabis, established a statewide dispensary licensing system for medical cannabis to ensure safe and legal access to medical cannabis for qualifying patients. The Act appropriated \$750,000 and deposited into the medical cannabis registry and regulation special fund for fiscal years 2015-2017 to carry out the purposes of the Act including the establishment, hiring and filling of five permanent full-time equivalent positions. The Act requires the Department of Health to:

1. Establish a repayment plan and schedule to repay to the general fund the sums deposited into the medical cannabis registry and regulation special fund established pursuant to section 321-30.1 Hawaii Revised Statutes; and
2. Shall only use the moneys from the medical cannabis registry and regulation special fund to repay the general fund.

The Department of Health is committed to ensure the health, welfare and safety of all medical cannabis qualifying patients, ensure compliance with state laws by the licensed medical cannabis dispensaries, and prevent to the fullest extent possible intervention into the state's medical cannabis program by the federal government.

To ensure compliance by the dispensaries and prevent federal intervention, the Department has implemented a robust regulatory system which includes establishing and filling five (5) full-time equivalent medical cannabis dispensary licensing positions, conducting announced and unannounced onsite and offsite inspections, establishing a State computer software tracking system (CSTS) to track medical cannabis and manufactured medical cannabis products from seed to sale, creating a process to certify private independent laboratories which will test medical cannabis products prior to sale, and engaging other Department programs and executive branch agencies which have bona fide overlapping regulatory responsibilities.

Revenue, Expenditures, and Cash Flow:

Each licensed dispensary shall pay an annual fee of \$50,000 to renew its license. This equates to total revenue from fees of \$400,000 from eight (8) licensed dispensaries. The annual fee is established in statute.

The annual cost to operate a robust regulatory system is \$890,000, more than double the revenue. Each of the two (2) major categories of expenses (Personal Services (salaries and fringe) and Other Current Expenses) alone account for expenses which exceed total annual revenue from fees.

This annual cost is solely for the Department's medical cannabis dispensary licensing program and does not include the necessary ancillary regulatory activities of laboratory certification, environmental health oversight, and activities of other executive branch departments.

The table below is a summary of the operating budget for the medical cannabis dispensary licensing program. Several of the current expenses are explained following the table.

	NOTES	FY 18 Request			FY 19 Request			FY 20	FY 21	FY 22	FY 23
		FTE (P)	FTE (T)	(\$)	FTE (P)	FTE (T)	(\$)	(\$ thous)	(\$ thous)	(\$ thous)	(\$ thous)
A. Personal Services	Sals at CS levels: incl OT & Fringe	5.00	0.00	476,141	5.00	0.00	476,141	476	476	476	476
B. Other Current Expenses	See details below			413,859			413,859	414	414	414	414
TOTAL REQUEST		5.00	0.00	890,000	5.00	0.00	890,000	890	890	890	890
B. Other Current Expenses	NOTES										
Ln 55 - Services Rendered by Attorney General MMJ - 2910	Most recent bill \$6700, FY18 bills expected to be lower	B		75,000			75,000	75	75	75	75
Ln 56 - Stationary and Office Supplies MMJ - 3210		B		5,000			5,000	5	5	5	5
Ln 57 - Postage MMJ - 3710		B		1,000			1,000	1	1	1	1
Ln 58 - Telephone MMJ - 3810		B		3,000			3,000	3	3	3	3
Ln 59 - Intra-State Transportation MMJ - 4210	Est. 1-2 inspections per week	B		50,000			50,000	50	50	50	50
Ln 60 - Intra-State Per Diem MMJ - 4310	Est. 1-2 inspections per week	B		5,000			5,000	5	5	5	5
Ln 61 - Mileage MMJ - 4110	Est. 2 retail location inspections per week	B		3,500			3,500	3	3	3	3
Ln 62 - Motor Pool Cars MMJ - 4710	Est. 2 prouction center inspections per week	B		3,500			3,500	4	4	4	4
Ln 63 - Rental of Office - Equip MMJ - 5620	Est. Kapolei shared rent expense	B		5,000			5,000	5	5	5	5
Ln 64 - Special Fund Assessments MMJ - 7290	Based on \$400k revenue	B		25,000			25,000	25	25	25	25
Ln 66 - IT Support MMJ - 7190	\$160k for BioTrackTHC \$10k for HIC	B		170,000			170,000	170	170	170	170
Ln 77 - Other Misc. Exp - 7200	Contingency for proposed civil service extension legislation (current salaries higher than civil serv. Salary)	B		67,859			67,859	68	68	68	68
Subtotal Other Current Expenses				413,859			413,859	414	414	414	414

Ln 55 – Services Rendered by Attorney General: ongoing legal services specific to the medical cannabis dispensary licensing program. DOH entered into a Memorandum of Understanding (MOU) and committed to cover the cost of ongoing legal advice on proposed revisions to statute, interim administrative rules, and enforcement concerns.

Ln 59 – Intra-State Transportation: estimated air and ground transportation costs necessary for two (2) inspectors to conduct onsite inspections at five (5) neighbor island locations to help maintain a robust regulatory system to ensure patient safety, product safety, and public safety. Costs can vary based on changes to airfare and on the number of actual inspections.

Ln 64 – Special Fund Assessments: assessment required to be paid to the State for indirect support services.

Ln 66 – IT Support: annual cost of the State’s computer software tracking system (CSTS) required to track medical cannabis from seed to sale and to help maintain a robust regulatory system to ensure patient safety, product safety, and public safety.

Ln 77 – Other Misc. Exp.: additional annual salary costs for five (5) positions under this program. The salaries listed under A. Personal Services are the total civil service salary expenditures for the five (5) positions.

Cash reserves will be depleted during fiscal year 2021 and the program will operate in the negative unless additional sources of revenue are found.

The table below shows cash flow over seven (7) years and a negative ending-balance beginning at fiscal year 2021.

Financial Plan								
HTH/org code:	HTH 720 / H							
Name of Fund:	MEDICAL MARIJUANA REGISTRY AND REG SPEC FD							
Appropriation:	S 397							
	Actual FY 16	Est. FY 17	Est. FY 18	Est. FY 19	Est. FY 20	Est. FY 21	Est. FY 22	Est. FY 23
Carryover from prior year	-	1,300,000	1,700,000	1,210,000	720,000	230,000	(260,000)	(750,000)
Revenues	1,605,000	1,112,500	400,000	400,000	400,000	400,000	400,000	400,000
Expenditures	(305,000)	(712,500)	(890,000)	(890,000)	(890,000)	(890,000)	(890,000)	(890,000)
Ending Balance	1,300,000	1,700,000	1,210,000	720,000	230,000	(260,000)	(750,000)	(1,240,000)

Conclusion:

The annual costs to operate a robust regulatory system far exceed annual revenue from licensure fees.

Therefore, repayments to the general fund are not feasible without depleting cash reserves sooner than projected or incurring higher deficits.

Sustainability:

In consideration of the above annual operating losses and long-term deficit projection, the department will prepare a report on the sustainability of the medical cannabis dispensary licensing program in preparation for the 2018 legislative session.