

May 8, 2023

The Honorable Mike Thompson, Chairperson  
Senate Committee on Federal and State Affairs  
300 SW 10th Avenue, Room 144-S  
Topeka, Kansas 66612

Dear Senator Thompson:

**SUBJECT:** Fiscal Note for SB 171 by Senator Holland, et al.

In accordance with KSA 75-3715a, the following fiscal note concerning SB 171 is respectfully submitted to your committee.

SB 171 would create the Veterans First Medical Cannabis Act and would provide for the regulation of the cultivation, distribution, sale, and use of medical cannabis. The bill would make related definitions and would include a list of qualifying medical conditions allowing the patient to use medical cannabis if certified by their healthcare provider and would also include requirements for certification. The bill would allow an individual to apply to the Kansas Department of Health and Environment for an initial or renewed patient identification card, which the bill would outline the process and requirements for obtaining. The fee would not exceed \$50 and if the applicant were a Medicaid beneficiary, the fee would be \$10. For the first 60 days after the Act becomes effective, patient identification cards would only be issued for individuals currently serving in the military, those separated by honorable discharge, or those generally discharged under honorable conditions.

The bill would create the Cannabis Regulatory Commission within the Kansas Department of Revenue, which would be responsible for all powers, duties, and functions assigned to the Department under the Act. The Commission would be required to adopt rules and regulations as necessary to implement and administer the provisions of the Act and would also be required to establish an electronic database to store information as required by the bill. The Commission would be administered under a director appointed by the Secretary of Revenue. Individuals could apply to the Commission for initial or renewal licensure as a medical cannabis grower-distributor. The bill would provide for the requirements and process for obtaining such licensure, as well as the requirements and conditions for holding the licensure, including an application or renewal fee of up to \$15,000 and a fee of up to \$90,000 plus a surety bond upon a license being granted. Half of the application fee would be refundable if the license was not granted. Employees and agents

of grower-distributors would require a permit, with a fee not to exceed \$100. The bill would create the Medical Cannabis Harvest Fund for collection of these fees with expenditures dedicated to costs related to medical cannabis regulation, taxation, and enforcement by the Kansas Department of Revenue.

SB 171 would allow individuals to apply to the State Board of Pharmacy for an initial or renewed licensure as a medical cannabis dispensary. The requirements for the application and licensure would be outlined in the bill, with an application fee of up to \$5,000 and a fee upon licensure of up to \$30,000. Half of the application fee would be refundable if the license was not granted. Employees and agents of dispensaries would also require a permit, with a fee up to \$100. The Board would be required to adopt rules and regulations to implement provisions of the bill and the Medical Cannabis Dispensary Fund would be created for collection of the fees paid to the Board and expenditures would be dedicated to costs related to medical cannabis regulation and enforcement activities of the Board.

A tax of \$115 per pound would be required as detailed in the bill for growing and harvesting medical cannabis. The Secretary of Agriculture would be required to adopt rules and regulations to uniformly and efficiently administer the weighing of harvested cannabis for taxing purposes. The taxes collected would be credited to the Medical Cannabis Harvest Fund. There would also be a tax of \$3.00 per ounce required as detailed in the bill for selling or dispensing medical cannabis. The taxes collected would be credited to the Medical Cannabis Dispensary Fund. The Secretary of Revenue would adopt rules and regulations for implementation of both taxes and the Director of Taxation would have the authority to require additional information as necessary to compute the taxes due, including the power to issue subpoenas and examine witnesses under oath.

SB 171 would also establish the Medical Cannabis Implementation Task Force, which would have nine members appointed by various Legislative leadership and state agencies. The Task Force would submit a report to the Governor and Legislature each year, including information about the implementation of the Act and related recommendations. The bill would outline all requirements and duties for licensees, agencies, and professions as related to the regulation of medical cannabis under the Act and would update current statutes to be consistent with the Act.

According to the Kansas Board of Pharmacy, passage of the bill would require 6.00 additional FTE positions and would increase fee fund expenditures by at least \$557,680 in FY 2024. The agency states that the bill vests the Board with the authority to register and regulate medical cannabis dispensaries and the personnel working in such dispensaries. While there are requirements for routine reporting to the Board, there is no reference to reporting to K-TRACS. While the bill authorizes the Board to charge application and registration fees to applicants and registrants, it also requires the Board refund half of any application fee to any applicant denied registration. Currently, all Board application fees are non-refundable so this would require setting up a new process. It is anticipated that these refunds would require significant setup and work by current staff, which would likely require assistance from licensing division staff of an additional 0.50 FTE. The agency is unable to estimate the number of dispensary and personnel applications or registrations but also anticipates needing an additional 2.50 FTE for administrative staff. Costs for the 3.00 FTE positions are estimated at \$254,000 per year, which include salaries and wages as well as administrative overhead for office space rent, supplies, computer and accessories, phone,

and software. Additional costs to the Board would be in the form of staff time and resources for monitoring and regulating dispensaries, although the agency was unable to estimate a total cost for these requirements. If treated similarly to Kansas pharmacies, the Board would anticipate conducting routine audits and inspections of dispensaries and personnel. The number of dispensaries is unknown at this time, but the Board anticipates needing an additional 2.00 FTE compliance staff at a total cost of \$300,480 per year. This would include salaries and wages, and administrative overhead including vehicle and maintenance, supplies, computer and accessories, phone, and software. The Board anticipates the need for up to 1.00 additional FTE or other supplemental resources as there are so many unknowns related to implementation of the bill. In addition, the Board would incur costs associated with publication of regulations, notices of hearing, and adoption in the *Kansas Register*, published by the Kansas Secretary of State, which range from \$2,000 to \$3,000 per publication depending on the length of the regulation(s).

The Kansas Department of Revenue estimates passage of the bill would require additional expenditures of \$3.9 million in FY 2024, including up to 11.00 new FTE positions. This includes \$2.0 million for the initial cost for the licensing, enforcement, and legal system needed to meet the requirements of the bill. The agency estimates \$1.0 million for total costs for staffing and other expenses associated with establishing a new work unit to license growers, distributors, and their employees. The agency notes new positions would be phased in as the program is set up and starts running. In addition, the agency estimates costs of \$300,566 for administrative costs including 4.00 FTE positions; \$89,420 for quality assurance; \$250,000 for IT tax applications; \$84,000 for project management (1.00 FTE); and \$86,000 for other IT and website related costs. Most of these costs would be ongoing. While the bill would eventually generate enough revenue to cover costs, the revenue would not be enough to cover costs the first year and it is likely that a State General Fund appropriation would be required for implementation. Assuming the maximum fees allowed, the agency estimates revenue from application and licensure fees to be \$2.1 million in FY 2024 and FY 2025, \$4.3 million in FY 2026, \$3.2 million in FY 2027, and \$4.3 million in FY 2028. The excise tax revenue is estimated to be \$1.3 million in FY 2024, \$2.6 million in FY 2025, \$5.2 million in FY 2026, and \$7.8 million in FY 2027.

The Kansas Department of Health and Environment estimates that SB 171 would require \$4.8 million, all from the State General Fund, and 23.00 additional FTE positions in FY 2024. The agency assumes the need for a web-based, information system with cloud storage that would electronically establish patient identification cards, including access to the patient system by dispensaries and law enforcement. The total estimate includes the creation of a new program, new information system, incorporating security and confidentiality requirements, capacity to address access needs by law enforcement, program evaluation, and rules and regulations support. The agency estimates \$3.5 million for their share of a cloud-based system that would interface with all other agencies necessary to implement provisions of the bill; \$467,026 for administrative costs and general overhead related to the new program; and \$819,917 for salaries and wages for an additional 23.00 FTE positions to fully staff the program as required by the bill. The agency estimates the need for staff would slightly increase as the program continues, with a total of 29.00 FTE positions in FY 2025 and 33.50 FTE positions beginning in FY 2026 and beyond. The cost for the computer system would continue but would decrease after start-up. The agency projected revenue based on patient participation rates from other states and is projected to be approximately \$732,619 in FY 2025 and \$740,971 in FY 2026. The revenue projections are for patient and

caregiver registration fees only and does not include projections for revenue collected under the bill that is assessed or collected by other agencies.

The Kansas Highway Patrol estimates the passage of SB 171 would require additional fee fund expenditures of \$875,100 beginning in FY 2024. The agency estimates \$120,000 for Troop S, Special Response Team to retrain eight canines but notes there is a high probability the canines would need to be replaced as retraining has not been successful in other states. The agency believes the need for Drug Recognition Experts would be doubled to 180 in the Breath Alcohol Unit if the bill were passed. The cost for certification of the additional experts is estimated at \$600,000 and the agency notes the process would take approximately two years. The bill would also require additional training in the Breath Alcohol Unit in Advanced Roadside Impaired Driving Enforcement. While some officers have obtained this training, the agency estimates 3,000 of the approximately 6,900 sworn law enforcement officers in Kansas would need the training. The estimated cost for the training would be \$155,100, and does not include costs for any salaries, overtime accrued, time to prepare materials for the classes, or additional instructors due to the class volume. The agency notes several items within General Operations and Field Troops, as well as Troops N and I where a fiscal effect could not be estimated, including the potential loss of federal funding due to non-compliance with rules and regulations, delayed or loss of resources, additional specialized training, extended investigations and additional functions, IT supported tracking systems, impact on personnel if they were prescribed medical cannabis, and the potential for an increase in calls for service and collisions.

The Kansas Commission on Peace Officer Standards and Training estimates that enactment of the bill would require \$65,000, all from fee funds, in FY 2024 and future years, for 1.00 new FTE for the new tracking and training qualifications for law enforcement officers. The position would also provide investigative assistance to ensure licensed peace officers are not in violation of statute and administrative regulations prohibiting the conduct described in the bill.

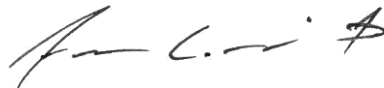
The Kansas Sentencing Commission reports that enactment of the bill could decrease prison admissions and prison beds, as well as decrease the workload of the agency, but a total fiscal effect could not be estimated. The Kansas Board of Healing Arts states that the bill could lead to additional complaints and investigations, but a total fiscal effect could not be estimated. The agency anticipates handling any additional workload within existing resources. The Kansas State Board of Nursing anticipates that communication and education costs associated with the bill would require additional fee fund expenditures totaling under \$1,000.

The Kansas Bureau of Investigation states that the bill would require an integration to the Kansas Criminal Justice Information System for validation of identification cards. There would also be an impact to laboratory operations. Additional revenue received from record check requests would be offset for expenditures related to staffing and maintenance of the related systems. An exact fiscal effect could not be estimated by the agency. The Office of Judicial Administration states enactment of SB 171 could decrease the number of criminal cases filed because it decriminalizes actions that could be charged as crimes under current law. Provisions of SB 171 could also be asserted as a defense when crimes were charged. The bill could also have a fiscal effect on revenues to the Judicial Branch and the State General Fund. According to the Office, a fiscal effect cannot be estimated.

The State Treasurer's Office states the agency would account for receipts and disbursements in connection with this bill using existing systems and procedures, with minor modifications. Any additional workload would be minimal and could be accommodated within existing resources. The Office of the Attorney General, the Kansas Department of Corrections, and the Kansas Department of Agriculture state that enactment of SB 171 would not result in any fiscal effect on agency operations. Any fiscal effect associated with SB 171 is not reflected in *The FY 2024 Governor's Budget Report*.

According to the League of Kansas Municipalities and the Kansas Association of Counties, enactment of SB 171 could increase costs for local governments but some of the costs could be offset by potential revenue. A total fiscal effect could not be estimated for either entity.

Sincerely,



Adam Proffitt  
Director of the Budget

cc: Lynn Robinson, Department of Revenue  
Amy Penrod, Department of Health & Environment  
Jill Simons, Board of Nursing  
Alexandra Blasi, Board of Pharmacy  
Susan Gile, Board of Healing Arts  
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