

May 13, 2021

The Honorable John Barker, Chairperson  
House Committee on Federal and State Affairs  
Statehouse, Room 285A-N  
Topeka, Kansas 66612

Dear Representative Barker:

SUBJECT: Fiscal Note for HB 2436 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2436 is respectfully submitted to your committee.

HB 2436 would establish the Kansas Medical Marijuana Regulation Act, which would make legal certain marijuana products for medical use. The bill would also establish the Kansas Innovative Solutions for Affordable Healthcare Act, which would expand Medicaid in Kansas.

#### Kansas Medical Marijuana Regulation Act

The bill would permit the growing, harvesting, processing, dispensing and use of certain forms of marijuana under specific conditions. Medical marijuana would include oils, tinctures, plant material, edibles, patches, or any other form approved by Kansas Department of Health and Environment (KDHE). The bill would prohibit the smoking or vaporization of medical marijuana. The bill would establish the Kansas Medical Marijuana Regulation Program. Under the Program, KDHE would provide for the registration of patients and caregivers and the Division of Alcoholic Beverage Control in the Department of Revenue would license cultivators, laboratories, processors, distributors, and retail dispensaries. HB 2436 would take effect upon its publication in the *Kansas Register*, however, most of the provisions in the Kansas Medical Marijuana Regulation Act would become effective July 1, 2023, or FY 2024.

The bill would establish the Medical Marijuana Advisory Committee, which would include 13 members appointed by the Governor and Legislature. The Committee would consist of members from the medical cannabis industry, healthcare, law enforcement, academic research, and behavioral sciences. The Committee would also include a patient and the Secretary of Health and Environment or the Secretary's designee. The initial appointments to the Committee would be made on or before July 31, 2021. The Committee would be required to develop policies and procedures for the review, approval, and denial of petitions for approval of qualifying medical

conditions. The Committee would also make recommendations to KDHE and the Division of Alcoholic Beverage Control regarding offenses that would disqualify an applicant from registration or licensure. Any person may submit a petition to the Committee requesting that a disease or condition be added as a qualifying medical condition. Any person may submit a petition to the Division of Alcoholic Beverage Control requesting that a form or method of using medical marijuana be approved. The Division could consult the Committee regarding the petitions for approval of other forms of medical marijuana.

Patients or caregivers, or physicians acting on the patient's or caregiver's behalf, must apply to KDHE for registration. The bill includes the requirements of and procedures for applying for registration. Information collected by KDHE would be confidential until July 1, 2026, unless an extension is enacted by the Legislature. The maximum fees for initial registration or renewal would be \$50 for a patient registration, or \$25 if the patient is indigent or a veteran, and \$25 for a caregiver registration. Registrations would be valid for one year. KDHE would assign a unique identification number to each registered patient and caregiver. Registered patients or caregivers would be allowed to possess a maximum of a 90-day supply of medical marijuana and any approved paraphernalia. KDHE would be required to adopt rules and regulations to administer the Kansas Medical Marijuana Regulation Act. KDHE would be authorized to enter into reciprocity agreements with other states.

The bill would establish the Medical Marijuana Registration Fund, which would be financed from all fees and fines imposed and collected by KDHE. Monies in the fund would be used for the payment or reimbursement of costs related to KDHE's regulation and enforcement of the possession and use of medical marijuana.

Physicians wishing to recommend treatment with medical marijuana must apply to the Board of Healing Arts for certification. The bill lists the requirements of certification. The Board of Healing Arts would be required to adopt rules and regulations regarding certification on or before July 1, 2023.

Cultivators, processors or distributors of medical marijuana or individuals wishing to conduct laboratory testing of medical marijuana must apply to the Division of Alcoholic Beverage Control for a license. Each applicant for a cultivator license, laboratory license, processor license, distributor license or retail dispensary license would be subject to a criminal history check by the Kansas Bureau of Investigation. The bill includes the requirements for licensure. A license would be valid for one year. The bill includes the requirements of a cultivator licensee, processor licensee, distributor licensee, laboratory licensee and retail dispensary licensee. The bill would establish the following license fees:

<u>Fee Description</u>	<u>Maximum Fee</u>
Level I Cultivator License Application Fee	\$20,000
Level I Cultivator License Fee	\$180,000
Level I Cultivator License Renewal Fee	\$200,000
Level II Cultivator License Application Fee	\$2,000
Level II Cultivator License Fee	\$18,000

Level II Cultivator License Renewal Fee	\$20,000
Laboratory License Application Fee	\$2,000
Laboratory License Fee	\$18,000
Laboratory License Renewal Fee	\$20,000
Processor License Application Fee	\$10,000
Processor License Fee	\$90,000
Processor License Renewal Fee	\$100,000
Distributor License Application Fee	\$10,000
Distributor License Fee	\$90,000
Distributor License Renewal Fee	\$100,000
Retail Dispensary License Application Fee	\$5,000
Retail Dispensary License Renewal Fee	\$70,000
Associated Employee License Application Fee	\$500 for each employee
Key Employee License Application Fee	\$250 for each employee
Support Employee License Application Fee	\$100 for each employee

The fees would take effect on and after July 1, 2023. Monies collected from fees and fines would be deposited into the Medical Marijuana Business Entity Regulation Fund, which would be a new fund created by the bill. Monies in the fund could be used for the payment or reimbursement of Division of Alcoholic Beverage Control costs for the regulation and enforcement of the Kansas Medical Marijuana Regulation Act. The monies could also be used to cover the cost of Medicaid expansion.

The Division of Alcoholic Beverage Control may revoke or suspend a license or issue civil penalties for certain violations of the Act. The Department of Revenue would be required to adopt rules and regulations to administer the Kansas Medical Marijuana Regulation Program and implement the provisions of the Kansas Medical Marijuana Regulation Act on or before July 1, 2023. The Division of Alcoholic Beverage Control would also be required to create a database to monitor medical marijuana products through the entire supply chain and each distribution channel. The Division of Alcoholic Beverage Control, in cooperation with the State Treasurer, could create a closed-loop payment processing system.

Financial institutions that provide services to any licensed cultivator, laboratory, processor, distributor, or retail dispensary would be exempt from any criminal law of the state. Persons who consume medical marijuana cannot be denied housing, employment, workers compensation benefits, being an organ recipient, a professional license or be considered an unfit parent solely because of the use of medical marijuana. Persons covered under the Kansas Medical Marijuana Regulation Act would not be subject to criminal prosecution or be subject to revocation of a medical or medically related professional license.

#### Kansas Innovative Solutions for Affordable Healthcare Act

HB 2436 would establish the Kansas Innovative Solutions for Affordable Healthcare Act to expand eligibility of medical assistance benefits. The Kansas Department of Health and Environment would be required to submit to the U.S. Centers for Medicare and Medicaid Services

(CMS) any state plan amendment, waiver request or other approval request to implement the Act. Upon approval from CMS, Medicaid services would be expanded on or after January 1, 2022 to any adult applicants under 65 years of age who are not pregnant and whose income does not exceed 138.0 percent of the federal poverty level (FPL) to the extent allowed under the federal Social Security Act and subject to the 90.0 percent Federal Medical Assistance Percentage (FMAP) for Medicaid expansion. If at any point the FMAP becomes lower than 90.0 percent, KDHE must terminate coverage under the Act over a 12-month period beginning on the first day the percentage becomes lower than 90.0 percent. On or before January 9, 2024, and on or before the first day of the regular session of the Legislature in each subsequent year, KDHE must submit a report on the cost savings from the movement of certain covered individuals to the expansion population and the higher FMAP rate.

The bill would require a \$25 monthly fee to be charged to each person enrolled in the program, not to exceed \$100 per month per family. KDHE could grant hardship exemptions, as determined by the Secretary of Health and Environment. The state's share of revenue collected from the monthly fee would be credited to the State General Fund. KDHE would be allowed to use the Debt Setoff Program administered by the Department of Administration for any covered individual who is delinquent by 60 days or more. Also, KDHE could require managed care organizations to collect the monthly fee. KDHE would be required to submit a report to the Legislature in January of each year on the monthly fees collected.

KDHE would be authorized to establish a health insurance coverage premium assistance program for individuals whose income is greater than 100.0 percent FPL but does not exceed 138.0 percent FPL who are eligible for employer health insurance coverage but cannot afford the premiums. An individual's payment for a health insurance coverage premium cannot exceed 2.0 percent of the individual's modified adjusted gross annual income. Also, total premium payments cannot exceed 2.0 percent of a household's modified adjusted gross income for all members of the household who participate in the premium assistance program.

The bill would require KDHE to refer all non-disabled adults receiving benefits from the Kansas Innovative Solutions for Affordable Healthcare Act and who are unemployed or working less than 20 hour a week to the KANSASWORKS program administered by the Department of Commerce. The Department of Commerce would be required to track employment outcomes for Medicaid expansion participants. Full-time postsecondary education institution or technical school students would be exempt from the referral program. KDHE and the Department of Commerce would be required to submit a report annually to the Legislature.

The bill would create the Medicaid Expansion Privilege Fee Fund in the state treasury. Privilege fee revenues connected to Medicaid expansion members would be deposited in the new fund and could only be spent on assistance payments for members. On or before January 9, 2024, and on or before the first day of the Legislative Session of each subsequent year, KDHE would be required to submit a report on revenues and expenditures of the Medicaid Expansion Privilege Fee Fund.

All revenues from drug rebates associated with current and expanded medical assistance members would be credited to the State General Fund. Under current law, revenues from drug rebates are remitted to the Medical Programs Fee Fund in KDHE. KDHE would be required to certify to the Director of Legislative Research and the Director of the Budget the amount of monies received from drug rebates. “Drug rebates” would be added as a separate line on State General Fund receipt reports produced by the Legislative Research Department and the Division of the Budget.

The bill would create the Federal Medical Assistance Percentage Stabilization Fund. The fund would be financed by any monies recovered by the Office of the Attorney General on behalf of Kansas in the civil action *Texas v. Rettig*. If the state’s share of Medicaid costs increases as a result of a change to the FMAP, funds would be transferred from the Federal Medical Assistance Percentage Stabilization Fund to the State General Fund to cover the costs. If the state’s share of Medicaid costs decreases because of a FMAP change, funds would be transferred from the State General Fund to the Federal Medical Assistance Percentage Stabilization Fund. The Director of Legislative Research and the Director of the Budget must certify any Medicaid cost increases or decreases. KDHE would be required to submit a report to the Legislature each September that details Federal Medical Assistance Percentage Stabilization Fund expenditures and transfers.

HB 2436 would require the Department of Corrections to coordinate with county sheriffs who request assistance in facilitating Medicaid coverage for any state or county inmate incarcerated in a Kansas prison or jail. The Department of Corrections would be required to submit a report to the Legislature identifying any cost savings to the state from Medicaid reimbursements for inmate inpatient hospitalization.

The bill would require Legislative Post Audit to conduct an audit of the direct economic impact of the Kansas Innovative Solutions for Affordable Healthcare Act on the State General Fund. Also, KDHE would be required to submit a report to the House Committee on Appropriations and the Senate Committee on Ways and Means that summarizes the costs, cost savings and additional revenues from the Act.

The bill would create the Rural Hospital Advisory Committee to manage the new Rural Hospital Transformation Program. The advisory committee would include KDHE; the Department of Labor; the Board of Regents; the Kansas Hospital Association; the Kansas Medical Society; the Community Care Network of Kansas; the Association of Community Mental Health Centers of Kansas; the Board of Healing Arts; the Kansas Farm Bureau; the Emergency Medical Services Board; and other public and private stakeholders. The advisory committee would identify one or more consulting firms to work with target hospitals, as defined in the bill, to develop transformation plans as part of a Rural Primary Health Center Pilot Initiative.

The Kansas Insurance Department would be required to study and prepare a report on any risks associated with converting the health benefit exchange operated in Kansas under the federal Patient Protection and Affordable Care Act from a federally facilitated exchange to a state-based exchange. The study must be submitted to the Legislature on or before January 10, 2022. The bill would authorize the Kansas Insurance Department to make expenditures from the Insurance

Department Service Regulation Fund for FY 2022 and FY 2023 for costs related to conducting the study and preparing the report. Additionally, the Kansas Insurance Department would be required to submit a report to the Legislature on or before January 9, 2023, and each subsequent year detailing any cost shifting from hospitals to commercial health plans as a result of implementation of the Kansas Innovative Solutions for Affordable Healthcare Act.

KDHE, in coordination with the Kansas Hospital Association, Kansas Medical Society, Community Care Network of Kansas and other private and public stakeholders, would be required to establish a task force to develop a plan to measure and report uncompensated care provided by healthcare providers and hospitals in Kansas. A report must be submitted to the Legislature on or before January 9, 2023, and each subsequent year.

The bill would authorize KDHE to make expenditures from the State General Fund or any special revenue fund for FY 2021 and FY 2022 to submit a waiver request to CMS to allow for Medicaid reimbursement for inpatient psychiatric acute care.

During calendar year 2022 and calendar year 2023, the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight would meet for an additional day per meeting in order to monitor the implementation of the Kansas Innovative Solutions for Affordable Healthcare Act.

At the 90.0 percent FMAP, it is estimated that HB 2436 would require additional expenditures of \$653.5 million from all funds in FY 2022, including \$28.1 million from the State General Fund. For FY 2023, it is estimated the bill would require additional expenditures of \$1,309.0 million from all funds, including \$44.8 million from the State General Fund. However, the 5.0 percentage point FMAP increase from the American Rescue Plan Act would reduce the state's obligation from the State General Fund by \$112.5 million in FY 2022 and \$225.0 million in FY 2023, creating State General Fund savings of \$84.3 million and \$180.2 million in FY 2022 and FY 2023, respectively. The total number of positions needed would be 178.75 FTE positions in FY 2022 and 188.50 positions in FY 2023. *The FY 2022 Governor's Budget Report* includes Medicaid expansion expenditures of \$596.0 million from all funds, including \$19.0 million from the State General Fund. The expenditures are reflected in the KDHE budget.

Additional details regarding the fiscal effect, including revenues, are provided below. The fiscal effect is divided into two parts: the fiscal effect for the Kansas Medical Marijuana Regulation Act and the fiscal effect for the Kansas Innovative Solutions for Affordable Healthcare Act (Medicaid expansion).

#### Kansas Medical Marijuana Regulation Act – Fiscal Effect

##### Kansas Medical Marijuana Regulation Program

The Department of Revenue estimates that HB 2436 would increase sales tax revenues by \$2.8 million in FY 2024, \$4.3 million in FY 2025 and \$5.7 million in FY 2026. Of those totals, the State General Fund is estimated to increase by \$2.4 million in FY 2024, \$3.6 million in FY

2025 and \$4.8 million in FY 2026 while the State Highway Fund is estimated to increase by \$0.4 million in FY 2024, \$0.7 million in FY 2025 and \$0.9 million in FY 2026.

For the Department of Revenue, the bill establishes the Medical Marijuana Business Entity Regulation Fund and creates a revenue stream to fund agency activities of the Kansas Medical Marijuana Regulation Program. Below is a profile of the Department of Revenue’s estimates for Medical Marijuana Business Entity Regulation Fund revenues and agency expenditures, which would be primarily incurred by the Division of Alcoholic Beverage Control. Revenues to the fund would not be realized until FY 2024 because of the effective date of July 1, 2023. As a result, expenditures would have to be funded from the State General Fund in FY 2022 and FY 2023.

	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
Medical Marijuana Business Entity Reg. Fund-Revenues	\$ --	\$ --	\$14,569,250
Expenditures	<u>3,146,052</u>	<u>1,044,496</u>	<u>2,073,339</u>
Ending Balance	(\$3,146,052)	(\$1,044,496)	\$12,495,911

The Department of Revenue estimates the Medical Marijuana Business Entity Regulation Fund would receive revenues totaling \$32.0 million in FY 2025 and \$43.5 million in FY 2026. The table below details the estimated expenditures and FTE positions for the Department of Revenue and the funding sources:

	<u>FY 2022</u>		<u>FY 2023</u>		<u>FY 2024</u>	
Expenditures & FTE:						
Alcoholic Beverage Control	\$3,139,052	21.00	\$1,044,496	21.00	\$2,073,339	21.00
Information Technology	<u>7,000</u>		<u>--</u>		<u>--</u>	
Total Expenditures	\$3,146,052		\$1,044,496		\$2,073,339	
Funds:						
State General Fund	\$3,146,052		\$1,044,496		\$ --	
Medical Marij. Bus. Entity Reg. Fund	<u>--</u>		<u>--</u>		<u>2,073,339</u>	
Total Funds	\$3,146,052		\$1,044,496		\$2,073,339	

The Department of Revenue indicates that the bill would require the Division of Alcoholic Beverage Control to stand up an entirely new work unit to license cultivators, processors, distributors, laboratories, retail dispensaries and employees. The Division would also need to increase the number of enforcement agents to regulate medical marijuana licenses. In addition, the bill would require additional information technology programming costs.

For KDHE, the bill establishes the Medical Marijuana Registration Fund and creates a revenue stream to fund agency activities of the Kansas Medical Marijuana Regulation Program. However, KDHE estimates that revenues to the fund would not be sufficient to fully fund program costs during initial implementation of the program. Below is a profile of KDHE’s estimates for Medical Marijuana Registration Fund revenues and agency expenditures:

	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
Medical Marijuana Registration Fund-Revenues	\$ --	\$ --	\$ 1,439,438
Expenditures	<u>4,765,291</u>	<u>3,332,386</u>	<u>3,586,035</u>
Ending Balance	(\$4,765,291)	(\$3,332,386)	(\$2,146,597)

Any program costs above the amount of estimated revenues would require support from the State General Fund. The table below details the expenditures and FTE positions for KDHE and funding sources:

	FY 2022		FY 2023		FY 2024	
<b>Expenditures &amp; FTE:</b>						
Salaries & Wages	\$ 854,767	9.75	\$1,479,668	19.50	\$1,724,600	21.50
Information System	3,500,000		1,500,000		1,500,000	
Other Operating	253,774		297,968		308,236	
Website	150,000		48,000		48,000	
Advisory Committee	4,800		4,800		4,800	
Background Checks	1,950		1,950		1,950	
Total Expenditures	\$4,765,291		\$3,332,386		\$3,586,035	
<b>Funds:</b>						
State General Fund	\$4,765,291		\$3,332,386		\$2,146,597	
Medical Marijuana Registration Fund	--		--		1,439,438	
Total Funds	\$4,765,291		\$3,332,386		\$3,586,035	

The salaries and wages and FTE positions would be for program, administrative and information technology staff for startup and regular operations. An information system would be needed that interfaces with the Department of Revenue, Board of Healing Arts, and law enforcement. Other operating expenditures would include office space, communications, supplies, and travel.

#### Medical Professionals Regulatory Boards

The Board of Healing Arts estimates that the bill would require additional expenditures of \$103,291 from the Healing Arts Fee Fund and 1.50 FTE positions in FY 2022. The amount would include \$46,610 for a part-time paralegal and \$56,681 for a licensing analyst. The Board indicates the bill would result in additional workloads related to developing rules and regulations, coordinating with KDHE and the Department of Revenue and certifying physicians. The Board notes that the bill does not allow it to collect a fee for medical marijuana certificates.

The Board of Nursing estimates that the bill would require additional expenditures of up to \$5,000 from the Board of Nursing Fee Fund in FY 2022 to issue communications to its members regarding the bill.

The Board of Pharmacy indicates the bill could require additional expenditures for the Kansas Prescription Monitoring Program (K-TRACS) if it causes increases to the number of prescriptions reported to K-TRACS or the number of users. Additionally, K-TRACS would need to be configured to support medical marijuana reporting. The Board estimates K-TRACS modifications could require \$70,000 from special revenue funds for contractual fees.



### State Treasurer & Financial Institutions

The State Treasurer estimates the bill would require additional expenditures of \$270,750 from special revenue funds and 3.00 FTE positions for FY 2022. This amount would include \$156,000 for 2.00 Programmer FTE positions to assist with the development of a closed-loop payment processing system and \$114,750 for 1.00 Attorney FTE position to provide counsel to the State Treasurer regarding any legal issues of receiving monies related to medical marijuana. The Office of the State Banking Commissioner indicates the bill would not have a fiscal effect on agency operations.

### Courts & Public Safety

The Kansas Bureau of Investigation (KBI) anticipates the bill would result in increased requests for tetrahydrocannabinol (THC) testing at the KBI Forensic Laboratory. This would require additional expenditures of \$182,718 from the State General Fund in FY 2022 to purchase specialized analytical equipment and supplies. The KBI notes that any costs related to conducting state and national criminal history checks would be offset with revenue from the fees it charges for the criminal history checks. The Office of the Attorney General indicates that the medical marijuana provisions in the bill would have no fiscal effect on the agency.

The Office of Judicial Administration indicates the bill could affect the number of cases that are filed in courts, but the Office is unable to estimate what the effect would be. The bill could decrease the number of cases filed in court because it decriminalizes actions that could be charged as crimes under current law. However, the Office indicates it is possible that crimes that are charged under existing law, would still be charged and the provisions of HB 2436 would be used as a defense. Any change to the number of cases that are filed would affect Judiciary expenditures and revenues. However, the fiscal effect is unknown.

### Local Government

The League of Kansas Municipalities indicates the bill would increase expenditures for cities to assist with enforcement of the Kansas Medical Marijuana Regulation Act. However, the League is unable to estimate the fiscal effect on cities.

### Summary – Medical Marijuana Fiscal Effect

The provisions of the bill regarding medical marijuana would require total expenditures of \$8.5 million from all funding sources, including \$7.9 million from the State General Fund, and 35.25 FTE positions in FY 2022. For FY 2023, total expenditures of \$5.0 million from all funding sources would be required, including \$4.4 million from the State General Fund. A total of 45.00 FTE positions would be needed in FY 2023.

## Medicaid Expansion—Fiscal Effect

### Capitation

For the provisions of the bill that would expand Medicaid on or after January 1, 2022 to certain adults whose income does not exceed 138.0 percent FPL, KDHE estimates that an additional 165,000 individuals would be eligible for Medicaid coverage in FY 2022 and 167,000 additional individuals would be eligible for FY 2023. In general, KDHE expects member counts to increase by 2.5 percent annually. Expenditures related to the expansion population would be eligible for the enhanced FMAP rate in which the federal government's share of the costs would be 90.0 percent and the state's share 10.0 percent. Because of the start date of January 1, 2022, the agency estimates that the total cost of care for the newly eligible beneficiaries would be \$618.8 million for half of FY 2022. The federal share at 90.0 percent would be \$556.9 million and the state share at 10.0 percent would be \$61.9 million before offsets. The cost of care for the newly eligible beneficiaries for the full year in FY 2023 is estimated to be approximately \$1,253.0 million, with a federal share of \$1,127.7 million and a state share of \$125.3 million before offsets.

### American Rescue Plan Act

The recently passed federal American Rescue Plan Act provides a 5.0 percentage point increase to the FMAP rate for non-expansion states that choose to enact Medicaid expansion. If HB 2436 was passed, Kansas would be eligible for the increased match for eight quarters beginning in the first quarter that expansion coverage was provided. Under the bill, the 5.0 percentage point FMAP increase would begin January 1, 2022. KDHE estimates that Kansas could receive total increased federal funding of approximately \$450.0 million over eight quarters (\$56.25 million per quarter). This would decrease state funds needed by the same amount.

### Revenue Offsets

KDHE estimates additional revenue of \$2.4 million in FY 2022 and \$4.8 million in FY 2023 from increased drug rebates which would be deposited into the State General Fund. KDHE estimates additional revenue of \$35.7 million in FY 2022 and \$72.3 million in FY 2023 from the 5.77 percent privilege fee, which would be deposited into the Medicaid Expansion Privilege Fee Fund. Additional revenues from drug rebates and the privilege fee would be used to meet state share requirements.

### Population Movement Savings

KDHE indicates that the bill would create health care cost savings for certain populations, such as members of the MediKan Program or Medical Needy Spend-Down Program, that are part of the current covered Medicaid population and would be eligible for the enhanced FMAP rate. KDHE estimates the savings for these populations would total \$10.6 million in FY 2022 and approximately \$21.5 million in FY 2023. There would be additional savings from state correctional facility inmates who would be eligible for the enhanced FMAP rate. Those savings are described further below.

### Monthly Fee

HB 2436 would require KDHE to assess a monthly fee of \$25 for each eligible member. The analysis that KDHE performed to determine the net revenue from this program assumed various levels of compliance with the monthly payments, based on the percent of premiums that could get collected. KDHE estimates that the total annual revenue collected from the monthly fee would be between \$3.7 million and \$5.9 million in FY 2022 and between \$7.4 million and \$11.8 million in FY 2023. However, the agency would be allowed to retain only 10.0 percent of the monthly fee collections and must return 90.0 percent to the federal government. It is estimated that KDHE would gain revenue of about \$300,000 to \$600,000 in FY 2022 and \$600,000 to \$1.2 million in FY 2023. The revenue gained would be credited to the State General Fund.

There would also be a cost to administer the monthly fee program by KDHE's fiscal agent. KDHE estimates the cost to administer the monthly fee program would be about \$3.0 million from all funding sources annually. KDHE receives a 50.0 percent match from the federal government on this portion of administrative expense, leaving an annual state cost of about \$1.5 million. Between anticipated revenues and known expenses, KDHE estimates the monthly fee program would require additional expenditures of \$300,000 to \$700,000 from the State General Fund for FY 2022 and FY 2023.

### Incremental Administrative Costs

The state would also incur incremental administrative costs associated with expanding the program. KDHE would require the addition of 120.00 FTE positions, the majority of which would be eligibility staff and support staff. KDADS would require the addition of 5.00 FTE positions for the same purposes. Additional office space would be needed for the new positions. Also, the cost of the current Medicaid support contracts would also increase as a result of system changes that would be implemented to account for the new rules, as well as handling the increased volume of encounter submissions. KDHE estimates the state share of administration expenditures would be \$7.9 million for FY 2022 and \$15.8 million for FY 2023.

KDHE estimates that it would incur expenditures of approximately \$400,000 in FY 2021 to develop the waivers. Of this amount, \$200,000 would be from the State General Fund and \$200,000 would be from federal funds.

### Inmate Healthcare

The Department of Corrections (DOC) states that under current law inmates are covered by Medicaid for cases in which an inmate requires inpatient services at a hospital for more than 24 hours. For inmates that would be part of the expansion population, DOC estimates that being able to use Medicaid pricing for inpatient hospitalization would generate savings of \$609,702 from the State General Fund in FY 2022. Additionally, the enhanced FMAP rate of 90.0 percent would be used for costs related to the inmates. This would result in savings of \$1,051,070 from the State General Fund in FY 2022. Savings from both Medicaid pricing and the FMAP rate would total

\$1,660,772 from the State General Fund in FY 2022. For FY 2023, it is estimated that total State General Fund savings would be \$3.3 million.

However, DOC would have increased administrative costs that would reduce the savings. DOC would need an additional 1.00 FTE position to enroll inmates and process payments, 4.00 FTE discharge planner positions to assist inmates in applying for Medicaid benefits prior to release, and 4.00 FTE substance abuse care coordinator positions to assist offenders with getting into a community-based substance abuse program. DOC's estimate for increased administration is \$368,667 from the State General Fund for seven months of salaries and wages expenditures for 9.00 additional FTE positions in FY 2022. For FY 2023, total salaries and wages are estimated to be \$632,000 from the State General Fund. Altogether, the fiscal effect for DOC would be State General Fund savings of \$1,292,105 in FY 2022 and \$2,689,545 in FY 2023.

HB 2436 would require the Department of Corrections to provide assistance to counties in facilitating Medicaid coverage for inmates in county jails. If the intent of the bill is for the Department of Corrections to take responsibility for enrolling and processing claims of county inmates, the Department would need 2.00 additional FTE coordinator positions at a cost of \$84,000 from the State General Fund in FY 2022 and \$144,000 in FY 2023. These amounts are not included in the DOC total fiscal effect above.

#### Workforce Training Program Referrals

For referrals to the KANSASWORKS program, the Department of Commerce estimates it would require \$10,000 from the State General Fund in FY 2022. The expenditures would be for developing and maintaining an interface between KDHE and the KANSASWORKS website.

#### Medicaid Oversight

The Office of the Attorney General estimates the bill would require additional expenditures of \$671,376 and 7.00 new FTE positions for FY 2022. This amount includes \$570,575 and 6.00 FTE positions for the Medicaid Fraud and Abuse Division to handle an increased number of fraud cases due to expansion and \$100,801 and 1.00 Data Analyst FTE position for the Office of Medicaid Inspector General. Of the total amount, \$100,801 would be from the State General Fund, \$142,644 would be from the Medicaid Revolving Fund and \$427,931 would be from federal funds. The Office of the Attorney General notes that *Texas v. Rettig* is still in litigation and it is unknown if and when any monies may be received by the state. The Office also indicates the bill would result in numerous requests for interpretation by local law enforcement. The Office states that the requests would require additional staff time, but the fiscal effect is unknown.

#### Kansas Insurance Department

The Kansas Insurance Department estimates the bill would require expenditures totaling \$624,250 from the Insurance Department Service Regulation Fund and 2.50 new FTE positions in FY 2022. The total amount would include \$66,250 and 0.50 FTE position for determining the amount of privilege fee revenue deposited into the Medicaid Expansion Privilege Fee Fund; \$111,500 and 1.00 FTE position to develop the hospital cost shifting report; and \$446,500 and

1.00 FTE to develop and submit the study on converting to a state-based exchange. The Kansas Insurance Department estimates total ongoing expenditures of \$226,250 in FY 2023.

Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services & KanCare Oversight

It is estimated that legislative compensation, subsistence, and travel costs would total \$14,134 from the State General Fund for FY 2022 for additional meeting days of the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight. For the purposes of the estimate, it was assumed the additional meeting days would occur at meetings outside of the regular session.

Summary – Medicaid Expansion Fiscal Effect

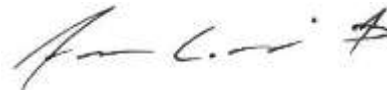
Under the 90.0 percent FMAP, it is estimated that expenditures for Medicaid expansion would be \$645.0 million from all funds in FY 2022, including \$20.15 million from the State General Fund. For FY 2023, expenditures are estimated to be approximately \$1,304.0 million, including \$40.4 million from the State General Fund. However, the 5.0 percentage point FMAP increase from the American Rescue Plan Act would reduce the state’s obligation from the State General Fund by \$112.5 million in FY 2022 (two quarters X \$56.25 million per quarter) and \$225.0 million in FY 2023 (four quarters X \$56.25 per quarter). This would create State General Fund savings of \$92.4 million and \$184.6 million in FY 2022 and FY 2023, respectively. The total number of positions needed would be 143.50 FTE positions for both fiscal years. The estimates from KDHE for this fiscal note account for the fiscal effect for KDADS. The allocation of costs between the agencies would be determined prior to implementation of the bill. *The FY 2022 Governor’s Budget Report* includes Medicaid expansion expenditures of \$596.0 million from all funds, including \$19.0 million from the State General Fund. The expenditures are reflected in the KDHE budget.

The table below summarizes the fiscal effect for Medicaid expansion for FY 2022 and FY 2023 and the resulting share required from the State General Fund. The table starts with total capitation expenditures at the top and works downward towards total net State General Fund expenditures.

Medicaid Expansion <i>In millions</i>		
	<u>FY 2022</u>	<u>FY 2023</u>
Total Capitation	\$ 618.75	\$1,253.00
Federal Share	\$ 556.88	\$1,127.67
State Share	\$ 61.88	\$ 125.30
Drug Rebate Offset (to SGF)	(2.38)	(4.81)
Privilege Fee Offset	(35.70)	(72.30)
Monthly Fee Program	0.22	0.44
Population Movement Savings (excluding KDOC)	(10.60)	(21.47)

Incremental Administrative	<u>7.91</u>	<u>15.80</u>
Net State Share—SGF	\$ 21.33	\$ 42.96
Inmate Healthcare (KDOC)—SGF	(\$ 1.29)	(\$ 2.69)
KANSASWORKS—SGF	0.01	--
Medicaid Oversight—SGF	0.10	0.10
Robert G. (Bob) Bethell Joint Committee—SGF	--	0.01
Total Medicaid Expansion Costs—SGF	\$ 20.15	\$ 40.38
ARPA FMAP Savings—SGF	(\$ 12.50)	(\$ 225.00)
Total State Obligation—SGF	(\$ 92.35)	(\$ 184.62)

Sincerely,



Adam Proffitt  
Director of the Budget

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