

June 7, 2021

The Honorable Richard Hilderbrand, Chairperson  
Senate Committee on Public Health and Welfare  
Statehouse, Room 445A-S  
Topeka, Kansas 66612

Dear Senator Hilderbrand:

**SUBJECT:** Fiscal Note for SB 315 by Senate Committee on Ways and Means

In accordance with KSA 75-3715a, the following fiscal note concerning SB 315 is respectfully submitted to your committee.

SB 315 would establish the Kansas Medical Marijuana Regulation Act, which would make legal certain marijuana products for medical use. 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 the Department of Revenue. The bill would prohibit the smoking or vaporization of medical marijuana. The bill would establish the Kansas Medical Marijuana Regulation Program. Under the Program, the Kansas Department of Health and Environment would provide for the registration of patients and caregivers; the Division of Alcoholic Beverage Control in the Department of Revenue would license cultivators, laboratories, processors, distributors and retail dispensaries; the Board of Healing Arts would certify physicians who recommend medical marijuana as a treatment for patients; and the Board of Pharmacy would register pharmacist consultants and implement requirements for the prescription monitoring program.

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 healthcare, alcohol and drug treatment, law enforcement and agriculture. The Committee would also include a member who represents employers, a member who represents employees, a member who represents patients and the Secretary of Health and Environment. 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 provisions establishing the Medical Marijuana Advisory Committee would sunset on July 1, 2026. 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 30-day supply of medical marijuana and any approved paraphernalia. Medical marijuana registry identification cards issued in other states would be valid in Kansas.

KDHE would be authorized to impose civil penalties or revoke registrations for violations. 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. KDHE would be required to adopt rules and regulations to administer the Kansas Medical Marijuana Regulation Act on or before July 1, 2022.

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 and authorizes the Board to impose an annual fee of up to \$175. The Board of Healing Arts would be required to adopt rules and regulations regarding certification on or before July 1, 2022. Pharmacists seeking to operate as a pharmacist consultant for a retail dispensary would be required to register with the Board of Pharmacy. Additionally, the Board of Pharmacy would be required to certify quarterly expenditures of the Kansas Prescription Drug Monitoring Program attributable to the Kansas Medical Marijuana Regulation Act. The Board of Pharmacy would be required to adopt rules and regulations on or before July 1, 2022.

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 cultivator license, laboratory license, processor license, distributor license would be valid for one year. A retail dispensary license would be valid for two years. The bill includes the requirements of all licensees. The bill would establish the following license fees:

<u>Fee Description</u>	<u>Maximum Fee</u>
Cultivator License Application Fee or Renewal Fee	\$50,000 each
Cultivator License Fee – 500 plants or less	\$40,000
Each additional unit of 50 plants; total under 1,000 plants	\$4,000 per unit
Each additional unit of 50 plants; total over 1,000 plants	\$2,500 per unit
Laboratory License Application Fee	\$2,000
Laboratory License Fee	\$18,000
Laboratory License Renewal Fee	\$20,000
Processor License Fee, Application Fee or Renewal Fee	\$50,000 each
Distributor License Fee, Application Fee or Renewal Fee	\$50,000 each
Retail Dispensary License Fee, App. Fee or Renewal Fee	\$50,000 each

Monies collected from fees and fines would be deposited into the Medical Marijuana Business 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 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, 2022. 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.

The Department of Revenue estimates that SB 315 would increase sales tax revenues by \$1.4 million in FY 2023 and \$2.8 million in FY 2024. Of those totals, the State General Fund is estimated to increase by \$1.2 million in FY 2023 and \$2.4 million in FY 2024 while the State Highway Fund is estimated to increase by \$0.2 million in FY 2023 and \$0.4 million in FY 2024.

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 incurred by the Division of Alcoholic Beverage Control. Estimated revenues assume the maximum amount of each fee allowed under the bill. Revenues to the fund would not be realized until July 1, 2022, or FY 2023. As a result, expenditures would have to be funded from the State General Fund in FY 2022.

	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
Medical Marijuana Business Entity Reg. Fund-Revenues	\$ --	\$11,940,000	\$21,480,000
Expenditures	<u>3,839,396</u>	<u>2,172,671</u>	<u>2,410,668</u>
Ending Balance	(\$3,839,396)	\$9,767,329	\$19,069,332

The table below lists 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	\$3,839,396 26.00	\$2,172,671 26.00	\$2,410,668 26.00
Funds:			
State General Fund	\$3,839,396	\$ --	\$ --
Medical Marij. Bus. Entity Reg. Fund	<u>--</u>	<u>2,172,671</u>	<u>2,410,668</u>
Total Funds	\$3,839,396	\$2,172,671	\$2,410,668

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, laboratories, processors, distributors and retail dispensaries. The Division would also need to increase the number of enforcement agents to regulate medical marijuana licenses.

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, particularly during program implementation. 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	\$ --	\$ 715,640	\$ 1,439,438
Expenditures	<u>5,292,824</u>	<u>3,434,207</u>	<u>3,589,435</u>
Ending Balance	(\$5,292,824)	(\$2,718,567)	(\$2,149,997)

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:

	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>
Expenditures & FTE:			
Salaries & Wages	\$ 1,344,001 17.25	\$1,574,763 20.50	\$1,724,600 21.50
Information System	3,500,000	1,500,000	1,500,000
Other Operating	286,973	302,394	308,235
Website	150,000	48,000	48,000
Advisory Committee	8,400	8,400	8,400
Background Checks	<u>3,450</u>	<u>650</u>	<u>200</u>
Total Expenditures	\$5,292,824	\$3,434,207	\$3,589,435
Funds:			
State General Fund	\$5,292,824	\$2,718,567	\$2,149,997
Medical Marijuana Registration Fund	<u>--</u>	<u>715,640</u>	<u>1,439,438</u>
Total Funds	\$5,292,824	\$3,434,207	\$3,589,435

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.

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 and certifying physicians. The bill allows the Board to set a certification fee of up to \$175. However, the amount of revenue that would be received from the fee is unknown because the Board is unable to estimate the number of physicians who would apply for certification.

The Board of Pharmacy indicates the bill would require additional expenditures of \$153,000 from the State Board of Pharmacy Fee Fund and 1.00 FTE position for FY 2022. The amount includes \$75,500 for the salary and wages of a new position to coordinate with retail dispensaries on data submissions, register pharmacist consultants and provide reports to other state agencies; \$70,000 for one-time programming costs for K-TRACS; and \$7,500 for drafting and publishing new rules and regulations. The programming costs could be covered by allowable transfers from the Medical Marijuana Business Regulation Fund.

The Board of Nursing estimates that the bill would require one-time expenditures of up to \$2,000 from the Board of Nursing Fee Fund in FY 2022 to issue communications and provide education to its members regarding the bill.

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.

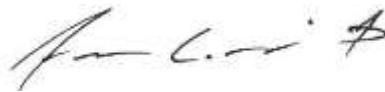
The Office of the State Banking Commissioner indicates the bill would not have a fiscal effect on agency operations.

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 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 SB 315 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. Any fiscal effect associated with SB 315 is not reflected in *The FY 2022 Governor's Budget Report*.

Sincerely,



Adam Proffitt  
Director of the Budget

cc: Lynn Robinson, Department of Revenue  
Dan Thimmesch, Health & Environment  
Susan Gile, Board of Healing Arts  
Alexandra Blasi, Board of Pharmacy  
Debbie Thomas, Judiciary  
Paul Weisgerber, KBI  
Melissa Wangemann, Office of Banking Commissioner  
Jay Hall, Association of Counties  
Scott Schultz, Sentencing Commission  
Jill Simons, Board of Nursing  
Lauren Tice Miller, Office of the Treasurer