

May 1, 2019

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

Dear Representative Barker:

SUBJECT: Fiscal Note for HB 2413 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2413 is respectfully submitted to your committee.

HB 2413 would enact the Human Solution for Kansas Act, providing for the licensure and regulation of the manufacture, transportation and sale of medical cannabis. The bill would establish the Medical Cannabis Regulation Fund, the Alcohol and Drug Rehabilitation Fund and the Office of Medical Cannabis Regulation within the Kansas Department of Health and Environment (KDHE).

The bill would provide the definitions used within the Act and would prescribe the rules, regulations, requirements, restrictions and cost of applying, obtaining and maintaining a Medical Cannabis License, a Homegrown Medical Cannabis License, a Medical Cannabis Caregiver License, a Medical Cannabis Researcher, Medical Cannabis Dispensary, Medical Cannabis Grower and a Medical Cannabis Processor. The application fee for a Medical Cannabis License, temporary license or Homegrown Medical Cannabis License would be \$100, unless the applicant receives benefits under the federal Medicare program, at which point the fee would be reduced to \$20. The fee for a Medical Cannabis Caregiver License would be \$100. The fee for a Medical Cannabis Dispensary License, Medical Cannabis Grower License, Medical Cannabis Processor License or Medical Cannabis Researcher License would be \$2,500.

On or before September 1, 2019, the Secretary of KDHE would be required to adopt rules and regulations necessary to implement and administer the Act and may advise and consult with the Board of Pharmacy and the Board of Healing Arts regarding the rules and regulations. On or before August 1, 2019, the Office of Medical Cannabis Regulation would make a website available for the public to access information regarding the various licenses available. KDHE would perform annual inspections to determine a licensee's compliance.

The bill would require the Secretary of KDHE to develop a Medical Cannabis Research Program to study the effects of short-term and long-term medicinal use of cannabis. The bill would give the Director of the Office of Medical Cannabis Regulations the authority to refuse the issuance, renewal, revocation, or suspension of a license. The Director could impose a civil penalty or revoke a license upon a finding that the licensee committed a violation of this Act, with a civil penalty not to exceed \$5,000 for the first offense.

Payment of all fees and fines imposed by the Act and other monies received by or on behalf of the Office of Medical Cannabis Regulation would be deposited into the Medical Cannabis Regulation Fund. The bill would outline the regulations, reporting requirements and usage of this fund. The Director would be required to certify to the Director of Accounts and Reports the amount in the fund that is in excess needed for costs of regulation, taxation, and enforcement of medical cannabis possession, production, processing, sale, transportation, and research by the Office of Medical Cannabis Regulation. The Director of Accounts and Reports would then transfer 75.0 percent of the certified amount to the State School District Finance Fund of the Kansas Department of Education and 25.0 percent of the certified amount to the Alcohol and Drug Rehabilitation Fund of the Kansas Department for Aging and Disability Services (KDADS).

The bill would establish the Cannabis Consumable Products Safety Board which would consist of 12 Kansas residents with knowledge and expertise in the industry of cannabis production and processing. The members would be appointed by the Secretary on or before August 1, 2019, and would review the preparation standards annually. The bill would impose a tax of \$115 per pound for the privilege of growing and harvesting medical cannabis in Kansas; and a 7.0 percent tax on the gross receipts received from the sale of medical cannabis for the privilege of selling medical cannabis in Kansas. On or before the 20th day of each calendar month, all medical cannabis growers would file a return with the Director of Taxation showing the quantity of medical cannabis harvested by the grower in the state for the preceding calendar month and every dispensary would file a return showing the quantity of the medical cannabis consumer product sold. The monies collected from the taxes would be deposited into the Medical Cannabis Regulation Fund.

The bill would amend the Kansas Act Against Discrimination regarding housing and employment discrimination by prohibiting housing discrimination based on an individual's lawful consumption of medical cannabis or association with another person who legally consumes medical cannabis. The bill would also prohibit employers and labor organizations from discriminating against an individual who holds a medical cannabis license, or lawfully possesses or uses cannabis under the Act, without a valid business necessity. If an individual is not licensed under the Act, the individual would be charged with a nonperson misdemeanor and would be assessed a fine of not more than \$400 if the individual is in possession of not more than 1.5 ounces of marijuana and provides a statement from their physician recommending the use of cannabis to treat such person's symptoms. This fine would not apply to licensees. The bill would list exclusions of licensees from other violations of controlled substance laws if such person is in accordance with the Act.

KDHE indicates that regulating the provisions of HB 2413 would increase expenditures by \$3.3 million from the State General Fund for FY 2020 and \$3.7 million for FY 2021. Salaries and fringe benefits associated with an additional 13.50 FTE positions would cost \$1.2 million in FY 2020 and would cost \$1.8 million for 22.00 FTE positions in FY 2021. These positions would include an Office Director, Attorney, Accountant, Compliance Officers, Program Consultants, Program Managers, Public Information Officer, Project Manager, Epidemiologist, Health Officer and an Administrative Specialist. Contractual services, supplies, travel, furniture, equipment and indirect costs are estimated to be \$2.1 million for FY 2020 and \$1.9 million for FY 2021. KDHE indicates the estimate for the annual revenues from fees for the number of growers, processors, researchers, dispensaries, caregivers, patients and other individuals cannot be determined.

The Human Rights Commission indicates the bill would increase the number of complaints and inquiries regarding the Kansas Act Against Discrimination. The agency estimates an additional 380 public contacts at the intake level, resulting in 70 complaint filings. As a result, the agency would need an additional 1.00 FTE Special Investigator II position and 1.00 FTE Administrative Specialist position for a total cost of \$121,713 for salaries, benefits and other operating expenses for FY 2020.

The Kansas Bureau of Investigations indicates that the bill would not specify the minimum or maximum concentrations for cannabinoids and would not be able to estimate a fiscal effect on the forensic laboratory. There could be an increase in the amount of time and effort necessary to investigate and establish probable cause in situations where a license holder would be suspected of committing criminal violations outside of the scope of the Act; however, the agency cannot determine a precise fiscal effect. There would be an increase in the number of criminal history record check requests for processing. Revenue received from the state and record check requests from KDHE would off-set any additional expenditures related to the record checks.

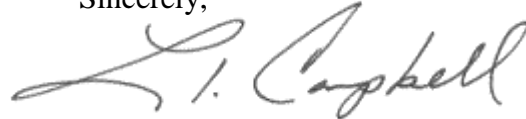
The Office of Judicial Administration indicates that some of the provisions of HB 2413 would decriminalize actions that could be charged as crimes under current law, which could be used as a defense and could result in fewer criminal cases being filed. The bill includes a new crime which carries a misdemeanor penalty which could result in more supervision of offenders required to be performed by Court Service Officers. The bill could result in the collection of docket fees, probation fees and fines assessed. However, it is not possible to estimate the number of additional court cases that would arise or how complex and time-consuming they would be. Therefore, a fiscal effect cannot be determined.

The Kansas Department of Labor indicates that the bill does not have any direct fiscal effect on the agency for administrative costs, but the bill would change certain unemployment benefit provisions. However, there is insufficient information to determine if this would likely result in an increase in unemployment benefits paid.

KDADS, the Board of Nursing, and the Board of Pharmacy indicate that the bill would have a fiscal effect on expenditures and revenues. However, the agencies note it is not possible to estimate the costs, the revenues received or the effect on fee funds.

The Kansas Department of Revenue indicates that the bill would require 17,347 hours of programming with the agency's vendor and current staffing at a cost of \$1.9 million. In addition, the agency estimates it would require \$16,041 to create new forms and publications and \$73,861 for 1.00 FTE position, for a total of \$2.0 million for FY 2020. The Department of Revenue also indicates that the quantity of medical cannabis plant material grown and harvested in Kansas and the quantity of medical cannabis that would be sold is unknown. The bill would also exempt cannabis and cannabis derivatives from sales tax and would exempt medical cannabis from the tax on illegal drugs. However, a fiscal effect on revenue to be collected cannot be determined. Any fiscal effect associated with HB 2413 is not reflected in *The FY 2020 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink that reads "L. L. Campbell". The signature is fluid and cursive, with the first name "L." and last name "Campbell" clearly visible.

Larry L. Campbell
Division of the Budget

cc: Paul Weisgerber, KBI
Dan Thimmesch, Health & Environment
Lynn Robinson, Department of Revenue
Cody Gwaltney, Aging & Disability Services
Janie Harris, Judiciary
Linda Kelly, Corrections
Ruth Glover, Human Rights Commission
Jill Simons, Board of Nursing
Alexandra Blasi, Board of Pharmacy
Beth Visocsky, Board of Healing Arts