

March 1, 2012

The Honorable Vicki Schmidt, Chairperson  
Senate Committee on Public Health and Welfare  
Statehouse, Room 552-S  
Topeka, Kansas 66612

Dear Senator Schmidt:

**SUBJECT:** Fiscal Note for SB 354 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 354 is respectfully submitted to your committee.

SB 354 would enact the Cannabis Compassion and Care Act. This bill would legalize the use of cannabis for certain debilitating medical conditions. This bill would further provide for the registration of patients and the regulation of a compassion center; the issuance of registry identification cards to qualifying patients; and the establishment of an 11 member Compassion Board within the Kansas Department of Health and Environment (KDHE). KDHE would be responsible for adopting rules and regulations to implement the Act including, registering and regulating Compassion Care Centers, issuing identification cards to caregivers, establishing a web-based verification system so that law enforcement personnel and Compassion Center staff members can verify registrations 24 hours a day.

SB 354 would require those persons lawfully in possession of cannabis under the Act to pay the applicable drug tax. In addition, SB 354 would allow a defendant to assert the medical purpose for using cannabis as a defense to any prosecution of an offense involving cannabis intended for the patient's medical use. If the defendant can prove such defense, the court would be required to dismiss the charges.

SB 354 would also specifically criminalize the following violations of the Act: a second or subsequent violation of working or volunteering as a compassion center staffer when such person has been convicted of a felony offense; and breaching the confidentiality of information obtained under the Act. This bill would further provide for the assessment of a \$500 fine when a person makes a fraudulent representation to a law enforcement officer of a fact or circumstance relating to the medical use of cannabis to avoid arrest or prosecution. Further, if KDHE would fail to adopt rules and regulations to implement the Act within 90 days of its effective date, the bill would allow a qualifying patient, prospective Compassion Center principal officer to bring an action in district court to perform such action.

Estimated State Fiscal Effect				
	FY 2012 SGF	FY 2012 All Funds	FY 2013 SGF	FY 2013 All Funds
Revenue	--	--	--	\$2,279,070
Expenditure	--	--	--	\$1,307,199
FTE Pos.	--	--	--	10.00

The Judicial Branch states the passage of SB 354 could decrease the number of criminal prosecutions relating to marijuana, it could also result in additional cases filed for violations of the Cannabis Compassion and Care Act. Until the courts have had an opportunity to operate under the provision of the bill, an accurate estimate of the fiscal effect on the Judicial Branch cannot be given.

The Department of Health and Environment states that the passage of SB 354 would require additional staff to develop regulations, establish a fee schedule and fines, educate the consumers and possible providers, develop and administer application processes, and establish a registration card system and training of laws enforcement once the act is implemented. All local, county and state law enforcement would be involved in the verification of identification numbers. The Department would either need to be identified for the implementation of this act or a new one would need to be established specifically for this purpose. The agency estimates that for FY 2013 it would need 10.00 FTE positions at \$602,001 and operating expenditures of \$705,195, including one-time expenditures of \$30,160, for a total of \$1,307,199. The estimated revenue would be \$2.0 million, which would be 400 permits at \$5,000 each. Additional revenue would come from the sale of 5,074 cards at a cost of \$55 each for a total of \$2,279,070. In addition KDHE would be responsible for the Compassion Board’s compensation and operating expenses.

The Kansas Department of Revenue notes that the passage of SB 354 would result in an increase in drug tax revenues; however, it is not known what the fiscal effect would be. The current drug tax law requires a stamp be applied to the cannabis and that tax stamp expires after 30 days. The drug tax is administered as part of the confiscation of an illegal drug rather than the taxation of a legal activity. Under the bill, rules and regulations would need to be developed to determine the taxation for the growing, harvesting and selling of a legal substance. No other prescription drug is subject to a sales or excise tax. Any fiscal effect resulting from the passage of the bill is not reflected in *The Governor’s FY 2013 Budget Report*.

Sincerely,



Steven J. Anderson, CPA, MBA  
Director of the Budget

cc: Aaron Dunkel, KDHE  
Steve Neske, Revenue  
Mary Rinehart, Judiciary