

March 13, 2019

The Honorable Brenda Landwehr, Chairperson
House Committee on Health and Human Services
Statehouse, Room 352-S
Topeka, Kansas 66612

Dear Representative Landwehr:

SUBJECT: Fiscal Note for HB 2163 by Representative Karleskint

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2163 is respectfully submitted to your committee.

HB 2163 would enact the Veterans First Medical Cannabis Act by permitting a healthcare provider to issue a written certification to a patient with whom the healthcare provider has a valid healthcare provider-patient relationship. The bill would establish the Cannabis Regulatory Commission within the Kansas Department of Revenue (KDOR). The Commission would be tasked with adopting rules and regulations as it pertains to medical cannabis growers, distributors and medical use by patients. The Kansas Department of Health and Environment would establish a process to certify eligibility for applicants to receive cannabis products based upon information received from healthcare providers and would issue identification cards, with a maximum fee of \$50, to individuals with qualified medical needs so they can receive and possess the appropriate cannabis product.

The bill would establish licensure criteria for medical cannabis growers and distributors and set a cap of \$15,000 to apply for a license with a two-year licensure fee not to exceed \$90,000. Employee permits to work for growers and distributors would not exceed \$100. The bill would impose a tax of \$115 per pound upon the privilege of growing and harvesting medical cannabis and monthly returns would be filed with the Director of Taxation to be deposited in the Medical Cannabis Harvest Fund in KDOR. A \$3.00 per ounce tax would be imposed upon the privilege of selling or dispensing medical cannabis consumer products by a licensed medical cannabis dispensary and monthly returns would be filed with the Director of Taxation to be deposited in the Medical Cannabis Dispensary Fund in the Board of Pharmacy.

The bill would require a medical cannabis grower, distributor and dispensary to furnish additional information as necessary to the Director of Taxation in order to compute the taxes

assessed by the Act. Medical cannabis consumer products would be exempt from sales tax when lawfully distributed.

KDOR indicates the fiscal effect of HB 2163 for growing, processing, distributing and selling medical cannabis in the state would be difficult to estimate because of policy differences. For comparison purposes, as of February 11, 2019, the Oklahoma Medical Marijuana Authority reported the approval of 47,090 licenses, including 43,840 for patients, 267 for caregivers, 947 for dispensaries, 1,600 for growers and 436 for processors. KDOR would need to create a new division by July 1, 2019, to process the licensing, enforcement and auditing needed to implement the provisions of the bill. The agency indicates that this would not be adequate implementation time. In addition, the agency would need technology changes to accommodate the creation of new tax types. The agency estimates \$4.4 million expenditures for FY 2020, including 20,773 hours for 12.00 additional FTE positions for information technology needs. The on-going expenditures for the additional FTE positions would be \$900,000.

For FY 2020, the Department of Health and Environment indicates that HB 2163 would require the addition of 5.50 FTE positions for a total of \$461,000, \$900,000 for contractual services, \$25,000 for communication and \$27,000 for computer and office equipment to ensure compliance with the Act. The continued expenses for staffing, contractual services and communication are estimated to be \$790,000 annually.

The Board of Nursing indicates that HB 2163 would require revision of some regulations. The Board would need to review, revise and publish the regulations at a cost that would be less than \$1,000.

The Board of Pharmacy indicates that HB 2163 would increase revenue to the Board for the newly established Medical Cannabis Dispensary Fund. Expenditures from the fund would primarily be for staff time and resources for inspections and investigations to ensure compliance with the bill. The volume of activity is unknown; therefore, the precise fiscal effect cannot be determined.

The Board of Healing Arts indicates that HB 2163 could increase the responsibilities and workload of investigative, disciplinary, litigation and administrative staff. The volume of activity is unknown; therefore, the precise fiscal effect cannot be determined.

The Kansas Sentencing Commission and the Department of Corrections indicate that HB 2163 could have a fiscal effect on prison admissions, bed space and the journal entry workload, but a precise fiscal cannot be determined.

The Office of Judicial Administration indicates that HB 2163 would decriminalize actions that could be charged as crimes under current law, which could result in fewer cases being filed. It would still be possible that crimes that would be charged under the provision of current law would still be charged, but the provision of the bill would be asserted as a defense. However, it is not possible to predict the number of additional court cases that would arise or how complex and time-consuming they would be. Therefore, a precise fiscal effect cannot be determined.

The Kansas Bureau of Investigation indicates that any additional revenue received through the state or national criminal history record check would be offset by expenditures related to staffing and maintenance of the information technology systems supporting that function. Making the database available to law enforcement could possibly be accomplished by updating existing interfaces between the Kansas Bureau of Investigation and the Kansas Department of Revenue. The estimated cost of updating the interface is less than \$100,000; however, without knowing the exact data elements and the timeframe allotted a precise estimate cannot be provided. The agency is also unable to determine the costs to the forensic laboratory for the testing of seized cannabis so a precise fiscal estimate cannot be provided. Any fiscal effect associated with HB 2163 is not reflected in *The FY 2020 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "L. L. Campbell". The signature is fluid and cursive, with a large initial "L" and a long, sweeping underline.

Larry L. Campbell
Director of the Budget

cc: Alexandra Blasi, Board of Pharmacy
Dan Thimmesch, Health & Environment
Jill Simons, Board of Nursing
Glenda Haverkamp, Insurance
Paul Weisgerber, KBI
Lynn Robinson, Department of Revenue
Janie Harris, Judiciary
Willie Prescott, Office of the Attorney General
Linda Kelly, Corrections
Beth Visocsky, Board of Healing Arts