

March 4, 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 2303 by Representative Finney

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2303 is respectfully submitted to your committee.

HB 2303 would enact the Kansas Safe Access Act which would authorize the establishment of a new division within the Kansas Department of Health and Environment (KDHE) which would be recognized as the Cannabis Compliance Agency. Provisions in the bill include the following:

1. Constitutional reference and definitions to protect the health and safety of citizens;
2. Establishes legal protections for possession, cultivation, dispensing and authorizing use by a medical provider, insurance coverage, employment or professional disciplinary action due to medical cannabinoid use;
3. Requires continuing education for medical providers of medical cannabis and establishes protections for participation;
4. Outlines standards and specifications and processes to issue identification cards for patients and caregivers;
5. Establishes non-profit compassion centers where patients would acquire the prescribed product with rules, licensing and enforcement of the centers;
6. Requires certification of staff, including identification cards that would be renewed annually;
7. Requires creation of cultivation standards, quality standards, quality assurance and annual testing of water and soil purity and other testing for medical cannabis cultivation facilities;
8. Permits caregivers and patients to grow their own product within the rules and standards outlined;
9. Requires training for employees in the cannabis industry;

10. Outlines public policy to include, considerations for impaired driving prevention, public use of cannabis and owner's rights;
11. Establishes the Cannabis Resource Commission which would oversee guiding policy for patients, medical providers and the public. The Commission would consist of five volunteer members to be appointed by the Governor;
12. Establishes the Cannabis Tax Fund and revenue policies and provides a tax and fee schedule;
13. Establishes the standards and provisions for packaging and labeling of medical cannabis products, edible products and concentrates; and
14. Establishes guidelines for independent testing and certification testing facility programs for medical cannabis and medical cannabis products.

The Kansas Insurance Department indicates HB 2303 would have no fiscal effect on expenditures for the agency. The bill would require cultivation caregivers to obtain and carry liability and crop insurance coverage. This would increase the premium tax collected from insurance companies. The agency retains 1.0 percent of premium taxes collected, while the remainder is deposited into the State General Fund. If premium taxes increase, State General Fund revenues would increase, but the precise fiscal effect is unknown.

The Board of Nursing indicates HB 2303 would require the Board to revise and publish some regulations that could cost up to \$1,000. The Board of Pharmacy indicates there could be confusion in pharmacies, cannabis facilities and among consumers which could cause an influx of practice and compliance inquiries for pharmacy inspectors, but a precise fiscal effect cannot be determined.

The Kansas Sentencing Commission and the Department of Corrections (DOC) indicate that HB 2303 would have no fiscal effect on correctional institutions. The bill would enact only misdemeanor penalties, which are not served in state prisons. The Kansas Bureau of Investigation and the Office of Judicial Administration state there is a potential for an increase in Driving Under the Influence samples and diverted marijuana products being submitted to the laboratory for analysis. The bill would decriminalize actions that could be charged as crimes under current law, which could result in fewer criminal cases. However, it is not possible to predict the number of additional cases that would arise or how complex and time-consuming they would be. Therefore, a precise fiscal effect cannot be determined.

The Kansas Department of Health and Environment indicates HB 2303 would require planning for KDHE to establish the Division of Cannabis Compliance. The agency would plan for a three-year ramp up for the Division to include hiring of 28.00 FTE positions, including 10.00 FTE positions in FY 2020, 10.00 FTE positions in FY 2021 and 8.00 FTE positions in FY 2022. The salaries, benefits and other operating costs would be \$2.4 million for FY 2020, \$3.5 million for FY 2021 and \$3.4 million for FY 2022 from the State General Fund. KDHE indicates although the bill requires fees and taxes to be collected, the agency is unable to provide a precise fiscal effect on the revenue that would be generated.

The Kansas Department of Revenue (KDOR) indicates HB 2303 would permit compassion centers and cooperatives to pay taxes by cash, cashier's check or money orders at the local revenue office. However, the bill does not mention KDOR collecting the tax imposed. If these payments are dropped off at local KDOR offices, it would create some security issues. There would need to be a safe in each office to hold cash, and procedures to get it to the appropriate agency for processing. There would be no taxes collected by KDOR because the bill prohibits sales tax on medical cannabis products. Any fiscal effect associated with HB 2303 is not reflected in *The FY 2020 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "L. L. Campbell", written in a cursive style.

Larry L. Campbell
Director of the Budget

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