

March 27, 2024

The Honorable Mike Thompson, Chairperson  
Senate Committee on Federal and State Affairs  
300 SW 10th Avenue, Room 144-S  
Topeka, Kansas 66612

Dear Senator Thompson:

**SUBJECT:** Fiscal Note for SB 555 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 555 is respectfully submitted to your committee.

SB 555 would create the Medical Cannabis Pilot Program Act and establish the Medical Cannabis Pilot Program to be administered by the Secretary of Health and Environment. The bill would include a sunset for the pilot program of July 1, 2029. The bill would make related definitions, including a list of “qualifying medical conditions.” The bill would specify that no person would be allowed to grow, harvest, process, sell, barter, transport, deliver, furnish, or otherwise possess any form of cannabis except as proved in the bill or the Commercial Industrial Hemp Act. The use, possession, or administration of medical cannabis would not be allowed on federal land located in Kansas. The Secretary would be authorized to enter into contracts with medical cannabis operators as specified in the bill. The annual fee for operators would be \$50,000. The bill would include requirements for those entering into the contracts and would also include requirements, restrictions, and prohibitions for the contracts entered pursuant to the Act. The bill would specify all requirements, restrictions, and prohibitions for medical cannabis operators, facilities, and products. This would include building, zoning, security, and location specifications for facilities. The bill would require batches of medical cannabis and medical cannabis products to be tested and certified for use or consumption by a state contracted laboratory. The process and requirements for testing, as well as remediation for noncompliant batches would be detailed in the bill. The bill would also include conflict of interest provisions.

The Secretary would be authorized to enter into a contract with one or more pharmacies to operate a distribution hub for the purpose of dispensing medical cannabis products in the state. The bill would outline related requirements and there would be an annual fee of not less than \$500 for pharmacies that operated as a distribution hub. The Secretary would have until September 1, 2024, to determine if federal law or regulations prohibit pharmacies from operating distribution hubs. If pharmacies could not operate the hubs, the Secretary would be authorized to enter into contracts with one or more medical cannabis operators for the operation of distribution hubs. Operators would be limited to operating no more than seven distribution hubs and the bill would include all requirements, restrictions, and prohibitions for the hubs. Purchase of cannabis products

with cash or credit cards would be prohibited and the bill would outline payment requirements which would require an account with a distribution hub.

Distribution hubs would be able to deliver medical cannabis products to patients and caregivers. All individuals involved in transport would be required to pass a criminal history background check and individuals convicted of a felony would not be eligible. The bill would contain requirements related to transport, including requirements for vehicles and loading/unloading procedures. Distribution hubs would only be allowed to sell products that are reasonably necessary for patients to consume medical cannabis products. The sale of pipes, water pipes, or other paraphernalia utilized for the smoking of cannabis, tobacco, or other smokable products would be prohibited. On or before June 30, 2025, and then annually, medical cannabis operators and distribution hubs would be required to submit a report to the Secretary for each facility used for the cultivation or processing of medical cannabis by such operator. The Secretary would also be required to submit a report to the Governor and Legislature each year by January 15.

Medical cannabis would be allowed to be dispensed as medical cannabis flowers, pills or tablets, tinctures, patches, or ointments. The cannabis could not be smoked or vaporized. Tetrahydrocannabinol (THC) levels could not exceed 35.0 percent and medical cannabis exceeding that level would be required to be processed into medical cannabis products or destroyed. All products would be required to be in tamper-proof and child-resistant packaging and the bill would include labeling requirements. It would be illegal to possess medical cannabis products outside of the sealed packaging while inside any motor vehicle, watercraft, or aircraft. Additional restrictions and requirements related to the purchase, possession, and storage of medical cannabis products would be outlined in the bill. The bill would also include advertising requirements and prohibitions and violations of such would be considered a violation of the Kansas Consumer Protection Act.

SB 555 would require an extensive tracking system designated by the Secretary for operators to monitor all medical cannabis products from the seed source through dispensing. Distribution hubs and pharmacies would also be required to participate in the system and cooperate with operators. The bill would include provisions related to requirements for employees and independent contractors for operators, pharmacies, and distribution hubs. All financial institutions would be required to be in compliance with the Act to be exempt from criminal prosecution for providing financial services to any operator, pharmacy, or state contracted laboratory.

The bill would require a valid medical cannabis certificate for patients or designated caregivers over the age of 21 to purchase or possess medical cannabis products. The bill would include other specifications, restrictions, and requirements related to patients and caregivers, and prescribing physicians. Law enforcement agencies would be authorized to obtain verification of medical cannabis certificates from a patient's physician or distribution hub. The bill would require the Secretary to designate at least five physicians that could issue medical cannabis certificates to patients with qualifying medical conditions when their primary care doctor would not issue one. The Act would include provisions to specify the applicability to other state laws, including criminal law, employment law, workers compensation, child custody, and professional licensing.

The bill would establish an 8.0 percent sales tax on the gross receipts of sales to be collected by the operators. The bill would create the Medical Cannabis Refund Fund in the State Treasury to refund any overpayments collected and the Medical Cannabis Research and Education Fund to be administered by the Secretary of Health and Environment. Of the tax collected, 20.0 percent

would be directed to the Medical Cannabis Research and Education Fund, up to \$10,000 would be directed to Medical Cannabis Refund Fund, and the remainder would be deposited into the State General Fund.

According to the Kansas Department of Health and Environment (KDHE), enactment of SB 555 would increase expenditures by approximately \$3.5 million in FY 2025 and \$1.7 million in FY 2026. The estimate includes salaries and wages totaling \$321,737 for 6.75 FTE positions in FY 2025 and \$703,877 for 8.3 positions in FY 2026. This includes a program manager, four customer service positions, a part-time data analyst, an IT project manager, and a part-time attorney position. The estimate adds a fiscal staff position and increases the part-time positions in FY 2026 as the program gets fully established. The agency estimates \$3.0 million would be needed in FY 2025 for the seed tracking system as the bill directs KDHE to establish a system to track medical cannabis beginning with the seed source, continuing through cultivation, testing, processing, distribution, and dispensing. After the initial start-up, the agency anticipates this cost to decrease to \$750,000 in FY 2026. Other administrative costs such as background checks for employees, office space, communications, supplies, and travel are estimated at \$213,414 for FY 2025 and \$220,689 for FY 2026. All costs would be ongoing other than the initial start-up costs for the seed tracking system.

Revenue is anticipated to increase by \$211,875 in FY 2025 and \$247,500 in FY 2026. From research, the agency assumes that 95, or 10.0 percent, of the 950 total pharmacies in Kansas would participate in the implementation year and the first full year. The pharmacies would each pay a fee of \$500 to participate but the lower estimate in FY 2025 is a partial year to account for the timeline for implementation of the bill's provisions. Additional revenue is estimated by assuming 4 cannabis operators would pay a fee of \$50,000 each year. The agency notes that the bill authorizes the Secretary to enter into contracts for limited cultivation, processing, and distribution of medical cannabis. The bill would require KDHE to enter into a contract with a laboratory for the purpose of conducting compliance and quality assurance testing. The agency used the assumption that there is no expense or revenue to KDHE regarding the laboratory contract. The agency states that the bill has multiple occurrences where KDHE is authorized to do a task but there is no language allowing the agency to regulate or oversee the process. For purposes of the agency's fiscal estimate, it was assumed that KDHE would not be responsible for oversight unless explicitly stated, and no expenses were added to cover the cost of oversight.

The Kansas Highway Patrol (KHP) estimates that enactment of SB 555 would increase expenditures by at least \$8.5 million in FY 2025 and \$645,056 in FY 2026, continuing in future years with market adjustments. The agency states it is unlikely it would receive additional revenue related to the passage of SB 555. The agency notes that an accurate total fiscal effect could not be estimated based on the information provided and the limited amount of time for research. Based on information from Oklahoma after implementing medicinal marijuana in 2018, the agency anticipates there would be an anticipation of delayed or total loss of available resources (specifically canines) to conduct business, increased time spent roadside determining lawfulness of possession of marijuana, increased staffing to address the influx of black-market seized marijuana, and additional costs in evidence supplies and storage facility charges. For Troop S, Special Response Team, enactment of the bill would require canines to be retrained. To retrain eight canines, a total of \$120,000 is estimated for FY 2025. However, the agency notes there is a high probability that canines would need to be replaced as retraining has not been successful with other states.

KHP also estimates a total of \$600,000 would be needed in FY 2025 for the Breath Alcohol Unit to certify additional Drug Recognition Experts (DREs). Kansas currently has 91 certified DREs and the agency estimates twice that number (180) would be needed with the enactment of SB 555 as the call load would increase. In addition to the cost, this effort would be time consuming as only 20 students can be accommodated per class. At this rate, it would take approximately two years to train 180 DREs. In addition, \$155,100 would be needed in FY 2025 for Advanced Roadside Impaired Driving Enforcement training. This training was created to address the gap in training between the Standardized Field Sobriety Testing and the Drug Evaluation and Classification Program. It is intended to provide officers with the general knowledge related to drug impairment through observation, identification, and signs of impairment related to drugs, alcohol, or a combination of both. In 2020 there were approximately 6,900 sworn Law Enforcement Officers (LEOs) in Kansas. The agency believes it's reasonable to assume there are still 3,000 LEOs in need of this training. The estimate is based off the cost of \$1,034 to train 20 officers. The agency notes this does not include any salaries, over-time accrued, or the time to prepare materials for class or additional instructors due to the class volume. For Troop I, Commercial Vehicles, additional Critical Highway Accident Response Team members and specialized training for collision investigations would be needed. If collisions increase, manpower efforts would increase in time and investigative capacities. The agency estimates 3.0 FTE positions would be needed with total salary and wages estimated at \$320,384 and equipment/vehicles estimated at \$324,672. This would begin in FY 2025 and would be ongoing. In addition, should the bill fail to exempt commercial motor vehicles, the fiscal effect to the agency's Federal Motor Carrier Safety Administration (FMCSA) federal funding would be affected. KHP currently receives funding as a grantee from the Motor Carrier Safety Assistance Program (MCSAP). The agency has identified compatibility issues and believes the ability for the agency to apply for FMCSA grants could be at risk and/or MCSAP could simply reduce funding to KHP. Federal grants received from the FMCSA currently total \$7.0 million. Pending the future of the funding and the role KHP plays in administering the program, expenditures may need to be drawn from other funding sources, which has been included in the FY 2025 estimate. The number of FTEs would also need to be reviewed for any modifications. In addition, FMCSA could also withhold funds up to 8.0 percent for the second and subsequent year(s) of noncompliance. A total for this was not included in the FY 2026 estimate.

The Kansas Department of Revenue estimates total revenue of \$540,000 for three months of sales in FY 2025 and \$2.2 million for a full year in FY 2026. The estimate for tax collections is based off the assumption of approximately 15,000 patients spending \$1,800 per year and utilizes the 8.0 percent sales tax on the gross receipts of sales to be collected by the operators established in the bill. The number of patients was determined based on other states' experiences and assumes 0.5 percent of the population being registered as patients/caregivers. It is anticipated that registered patients and caregivers would increase in future years. As specified in the bill, 20.0 percent of the tax collected would be directed to the Medical Cannabis Research and Education Fund, up to \$10,000 would be directed to Medical Cannabis Refund Fund, and the remainder would be deposited into the State General Fund. The agency also anticipates administrative costs totaling \$721,966 for 4.0 new FTE positions to implement provisions (\$298,546), quality assurance costs (\$89,420), IT tax applications for a new tax type (\$248,000), 760 hours for IT Channel (\$38,000), and 960 hours for E-Commerce (\$48,000). Of the total, \$249,843 would be ongoing for the new positions.

The Kansas Attorney General's Office estimates increased expenditures of at least \$555,000 in FY 2025 and at least \$582,750 in FY 2026, all from the State General Fund if the bill is enacted. The Office notes approximately \$100,000 would be needed for additional resources required to analyze substances ahead of criminal trials and to process other legal matters. Provisions of the Act relating to advertising are covered under the Kansas Consumer Protection Act. The agency also estimates that the workload resulting from the bill would require 4.00 additional FTE positions, including at least one Legal Assistant with salary and benefits at \$80,000 and two Assistant Attorney Generals with salary and benefits at \$125,000 each. The agency would also need to appoint an Assistant Attorney General outside the agency to handle issues relating to disciplinary proceedings and licensure under the Act, with the salary and benefits estimated at \$125,000. These costs would be ongoing and the estimate for FY 2026 includes a slight increase to account for typical increases in salaries and benefits. The Office notes that the legislation, if enacted, would face a higher than-normal likelihood of litigation. However, the cost of litigation is unpredictable and therefore the Office was not able to determine the cost associated with legal challenges.

The Kansas Bureau of Investigation (KBI) reports that enactment of SB 555 would require the KBI laboratory to perform quantitation analysis of vegetation samples that are claimed to be medical cannabis to prove the samples have a maximum THC content less than 35.0 percent. There is also a maximum amount of medical cannabis and medical cannabis products which could be possessed as a 30-day supply. The allowable amount is defined as up to 200 grams of unprocessed medical cannabis flower or 3.47 grams of THC within a 30-day period. Measurement of this level of THC quantity in cannabis products is outside the current scope of the KBI laboratory chemistry section. The agency notes that these types of analysis are costly and cumbersome with varying amounts of products which may be encountered. A total fiscal effect for these types of analysis could not be estimated. The agency also states the bill would require criminal history record information be provided for the purpose of determining qualifications of licensees and applicants for licensure. The agency does not anticipate a fiscal effect related to this requirement.

Under provisions of SB 555, the Kansas Department of Agriculture would be required to complete verification to KDHE on whether an operator applicant had two years prior experience as a licensed hemp producer. This would have a negligible fiscal effect for the agency. The Kansas Department of Labor states enactment of the bill would not result in a fiscal effect for the agency, but it could have an effect on local governments as they may not be able to deny workers compensation claims when a worker is legally using marijuana under the program. The Kansas State Treasurer's Office notes the agency would need to modify accounting procedures with respect to the Medical Cannabis Research and Education Fund and the Medical Cannabis Refund Fund created by the bill. The agency believes any additional workload in connection with these changes could be accommodated using existing agency resources.

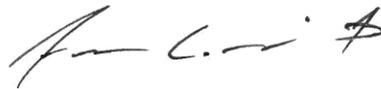
The Office of Judicial Administration states enactment of SB 555 could increase the number of cases filed in district courts because it creates a new crime. This could result in more time spent by judicial and nonjudicial personnel processing, researching, and hearing these cases. Because the crime carries a class A, person misdemeanor penalty, there could also be more supervision of offenders required to be performed by court services officers. The Office estimates enactment of the bill could result in the collection of docket fees and fines assessed in those cases filed under the bill's provisions, which would be deposited to the State General Fund. The bill would not affect other revenues to the Judicial Branch. However, a fiscal effect cannot be

estimated. The Kansas Department of Corrections and the Kansas Sentencing Commission report enactment of the bill could result in a reduction of prison admissions and prison beds, but a total fiscal effect could not be estimated.

The Kansas State Board of Healing Arts could not estimate a total fiscal effect, but noted the agency could see an increase in workload and actionable complaints, which could lead to additional litigation. The Kansas Board of Pharmacy, Kansas Secretary of State's Office, and the Kansas Commission on Peace Officers' Standards and Training indicate that enactment of the bill would not result in a fiscal effect for the agencies. The Kansas State Board of Nursing was unable to estimate a total fiscal effect at the time of the publication of this fiscal note, an update will be provided as soon as it becomes available. Any fiscal effect associated with SB 555 is not reflected in *The FY 2025 Governor's Budget Report*.

According to the Kansas Association of Counties and the League of Kansas Municipalities, the bill could increase law enforcement and other regulatory costs for cities and counties. The League notes that as employers, cities could also experience increased costs for training human resource officials, although some of the costs could be offset with collection of taxes. The League was unable to estimate a total fiscal effect.

Sincerely,



Adam C. Proffitt  
Director of the Budget

cc: Trisha Morrow, Judiciary  
Jill Simons, Board of Nursing  
Susan Gile, Board of Healing Arts  
Alexandra Blasi, Board of Pharmacy  
Amy Penrod, Department of Health & Environment  
Lynn Robinson, Department of Revenue  
Sherry Macke, Kansas Highway Patrol  
Doug Schroeder, Peace Officers Standards & Training  
William Hendrix, Office of the Attorney General  
Jennifer King, Department of Corrections  
Scott Schultz, Kansas Sentencing Commission  
Paul Weisgerber, Kansas Bureau of Investigation  
Sandy Tompkins, Office of the Secretary of State  
John Hedges, Office of the State Treasurer  
Lita Biggs, Department of Agriculture  
Dawn Palmberg, Department of Labor  
Jay Hall, Kansas Association of Counties  
Wendi Stark, League of Kansas Municipalities