

February 23, 2021

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

Dear Representative Barker:

SUBJECT: Fiscal Note for HB 2184 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2184 is respectfully submitted to your committee.

HB 2184 would create the Kansas Medical Marijuana Regulation Act which would permit the growing, harvesting, processing, dispensing and use of marijuana under specific conditions. The Kansas Department of Health and Environment (KDHE) would register patients and caregivers, the Kansas Department of Agriculture (KDA) would license growers and laboratories, and the Alcohol and Beverage Control (ABC) of the Kansas Department of Revenue (KDOR) would license dispensaries. An advisory committee would be established to provide recommendations and establish policies regarding medical marijuana regulation. On or before July 1, 2022, KDHE, KDA, KDOR and the Board of Healing Arts would be required to adopt rules and regulations relating to the Act.

The bill would permit civil fines to be assessed if false or fraudulent information is submitted. KDOR could revoke or refuse to renew a license if false or fraudulent information is given and the decision could be appealed to the court. All monies relating to use would be deposited into the Medical Marijuana Registration Fund. All monies relating to cultivation would be deposited into the Medical Marijuana Cultivation Regulation Fund. All monies relating to dispensing would be deposited into the Medical Marijuana Business Entity Fund. The Medical Marijuana Registration Fund, Medical Marijuana Cultivation Regulation Fund and Medical Marijuana Business Entity Fund would be new funds created by the bill. The bill would allow the Director of Alcoholic Beverage Control to establish a closed-loop payment processing system. The State Treasurer would create transactional accounts to be used only by registered patients and

caregivers at licensed retail dispensaries and all licensed cultivators, laboratories, processors, and distributors.

The bill would prohibit a registered patient from possessing more than a 90-day supply of medical marijuana and any paraphernalia or accessories as specified in rules and regulations. The bill would permit KDHE to negotiate a reciprocity agreement with any other state under which a medical marijuana registry identification card or equivalent authorization that is issued by the other state is recognized in Kansas.

Financial institutions that provide services to any licensed cultivator, laboratory, processor, distributor or retail dispensary would be exempt from any criminal law of Kansas. Persons who consume medical marijuana cannot be denied housing, employment, being an organ recipient, a professional license or be considered an unfit parent solely because of the use of medical marijuana. Persons covered under the Act would not be subject to criminal prosecution or be subject to revocation of a medical or medically related professional license.

KDOR indicates the Medical Marijuana Business Entity Fund would be administered by ABC. This fund would include monies collected from all fees and fines paid by the processors, distributors, and retail dispensaries. To calculate the estimate, ABC used the maximum amount for fees stated in the bill. The bill provides that fees are allowed “up to” a certain maximum amount. ABC also notes it used processor, distributor, and retail dispensary counts that were in the upper range of its estimate of the number of counts. ABC estimates the license fees paid for FY 2023 would be \$8.1 million and for FY 2024 would be \$14.6 million based upon the count of each type of license.

KDOR also estimates that the sales tax revenue would be \$1.4 million in FY 2023 and \$2.84 million in FY 2024. Of these amounts, \$1.2 million would be deposited into the State General Fund and \$0.2 million in the State Highway Fund in FY 2023. For FY 2024, the deposit into the State General Fund would be \$2.38 million and the State Highway Fund would be \$0.5 million.

KDOR estimates that the administrative fiscal effect on expenditures would be \$3,705,161 from the Medical Marijuana Business Entity Regulation Fund. These expenditures would include \$10,500 for information technology and \$3,694,661 for salary and wages expenditures for 17.00 new FTE positions, contractual services and other costs.

KDA indicates the Medical Marijuana Cultivation Regulation Fund would include monies collected from the payment of all fees. For the estimate, KDA used the maximum amount for fees as stated in the bill. The bill provides that fees are allowed “up to” as certain maximum amount. The estimated number of applications and licenses was projected based upon the current program in Missouri and converted based upon the population difference of the two states. According to Missouri information, 22,706 individuals required medical marijuana in 2019. Applying a population conversion between the two states, approximately 12,350 individuals in Kansas would require medical marijuana. At a rate of one half a pound per year per person and 0.6 pounds per

square foot grown, a total space of a little over 65,000 square feet would be necessary to grow the required crop. It is assumed that some applications would be denied in order to meet the necessary square footage demand and, as a result, it is estimated that only five applicants in each category would be licensed. The agency states that it is uncertain of the number of labs necessary to complete medical marijuana testing, but for seven total licenses, one should be sufficient. The estimated number of licenses at both cultivator license levels to meet that level of demand would be:

<u>Type</u>	<u>Square Feet</u>	<u>Number</u>	<u>Total Square Feet</u>
Cultivator 1	25,000	2	50,000
Cultivator 2	3,000	5	<u>15,000</u>
Total			65,000

Based on the estimates of each type of licensee and application fee paid during the first year of the program, KDA’s estimate for the Medical Marijuana Cultivation Regulation Fund is as follows:

Medical Marijuana Cultivation Regulation Fund

	<u>Estimated Count</u>	<u>Fee</u>	<u>Total</u>
Cultivator 1 Application	4	\$ 20,000	\$ 80,000
Cultivator 1 License	2	180,000	360,000
Cultivator 2 Application	10	2,000	20,000
Cultivator 2 License	5	18,000	90,000
Laboratory Application	1	2,000	2,000
Laboratory License	1	18,000	<u>18,000</u>
Total			\$570,000

The result is an increase in revenue of \$570,000 to be deposited into the Medical Marijuana Cultivation Regulation Fund. However, the revenue would be offset by expenses incurred by KDA. The agency estimates that the fiscal effect on expenditures would be \$570,000 for FY 2022, which would include 1.00 FTE position in the lab and 1.00 FTE positions in the program dealing with cultivation of medical marijuana (\$150,000); lab equipment (\$250,000); information technology costs (\$50,000); vehicle costs (\$41,000); administration costs (\$30,000) and other costs (\$49,000). The agency assumes the revenue would continue over time and expenses could be reduced after the first year for one-time expenditures.

KDHE indicates that enactment of HB 2184 would have no fiscal effect on revenue for FY 2022, but the bill would increase revenue by \$719,719 in FY 2023, \$1.4 million in FY 2024, and \$2.9 million in FY 2025 which would be deposited into the Medical Marijuana Registration Fund. However, the revenue would not be enough to fully fund program costs. As a result, KDHE

estimates the bill would require additional expenditures from the State General Fund. The expenditures are listed below:

KDHE Estimated Expenditures

	FY 2021		FY 2022		FY 2023	
	<u>FTE</u>	<u>Expense</u>	<u>FTE</u>	<u>Expense</u>	<u>FTE</u>	<u>Expense</u>
Salaries and Fringe	7.75	\$113,495	12.5	\$1,027,947	20.00	\$1,527,216
Information Technology		--		3,500,000		1,500,000
Website		--		150,000		48,000
Advisory Committee		--		9,000		9,000
Other		<u>37,220</u>		<u>266,897</u>		<u>301,681</u>
Total		\$150,715		\$4,953,844		\$3,385,897

The Board of Healing Arts indicates that HB 2184 would require the agency to create a new type of certificate for medical professionals. The agency assumes many, if not all, medical professionals would apply for this certification. The agency would need \$46,610 for additional salary and fringe benefit and other expenses for a part-time paralegal position for FY 2022.

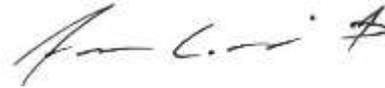
The Office of the State Treasurer indicates that HB 2184 would increase salary and fringe benefit expenditures by \$156,000 for 2.00 FTE Programmer positions to support the functions of the closed-loop payment processing system and by \$114,750 for 1.00 FTE General Counsel position for FY 2022. The Office is unable to estimate how many accounts would be utilized nor how many transactions may occur. However, previous research related to similar transactional accounts indicated that each account would have a monthly maintenance fee estimated at \$4 per account per month. This amount could increase or decrease depending upon the total number of transactions that occur per account each month.

The Kansas Bureau of Investigation (KBI) indicates that enactment of HB 2184 would require the KBI Forensic Laboratory to develop additional capacity. KBI does not have validation methods to quantitate above 0.03 percent THC. New methods and procedures would need to be validated. KBI anticipates an increase in quantitative requests to the laboratory requiring additional specialized equipment and the need for operational redundancy. To gain this capacity, specialized analytical equipment and supplies would be required. The KBI estimates \$182,718 from the State General Fund would be needed in FY 2022, including \$15,547 for consumable costs and \$167,171 for capital costs. Any additional revenue received from the state and national criminal history record check requests sent to the KBI would be offset by expenditures related to staffing for and maintenance of required information technology systems and repositories necessary for the maintenance and dissemination of criminal history record information.

The Office of Judicial Administration, the Board of Pharmacy and the League of Kansas Municipalities indicate that the enactment of HB 2184 would have a fiscal effect on expenditures for the respective entities; however, they are unable to determine a fiscal effect. The Office of the

Attorney General and the Department of Corrections indicate the bill would have no fiscal effect on the operations of their respective agencies. Any fiscal effect associated with HB 2184 is not reflected in *The FY 2022 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt
Director of the Budget

cc: Lynn Robinson, Department of Revenue
Willie Prescott, Office of the Attorney General
Paul Weisgerber, KBI
Debbie Thomas, Judiciary
Dan Thimmesch, Health & Environment
Lauren Tice Miller, Office of the Treasurer
Kellen Liebsch, Agriculture
Connie Hubbell, Aging & Disability Services
Alexandra Blasi, Board of Pharmacy
Wendi Stark, League of Municipalities
Randy Bowman, Corrections