

February 20, 2017

The Honorable Jacob LaTurner, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 136-E
Topeka, Kansas 66612

Dear Senator LaTurner:

SUBJECT: Fiscal Note for SB 155 by Senator Haley

In accordance with KSA 75-3715a, the following fiscal note concerning SB 155 is respectfully submitted to your committee.

SB 155 would enact the Cannabis Compassion and Care Act. The bill would legalize the use of cannabis for certain debilitating medical conditions. The bill would allow for the registration, regulation, and functions of a compassion center; the issuance of registry identification cards to qualifying patients; and the establishment of a compassion board within the Kansas Department of Health and Environment (KDHE). KDHE would be responsible for adopting rules and regulations to implement the Act, registering and regulating Compassion Care Centers, issuing registry identification cards and establishing a web-based verification system where law enforcement personnel and Compassion Care Center staffers can verify the identification cards.

SB 155 would require those persons who are lawfully in possession of cannabis under the Act to pay the applicable drug tax. The bill 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 proves such defense, the court must dismiss the charges.

SB 155 would also specifically criminalize the following violations of the Act: a second or subsequent violation of working or volunteering as a compassion center staffer after being convicted of a felony offense and breaching the confidentiality of information obtained under the Act. The bill would assess 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 failed to adopt rules and regulations to implement the Act within 90 days of its effective date, SB 155 would allow a qualifying patient, prospective

Compassion Center Board member, or prospective Compassion Center principal officer to bring an action in district court to force implementation of the Act.

SB 155 has the potential for increasing litigation in the courts because of the new violations and penalties created by the bill. If it does, the Office of Judicial Administration indicates that there would be a fiscal effect on the operations of the court system. 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 fiscal effect cannot be determined. In any case, the fiscal effect would most likely be accommodated within the existing schedule of court cases and would not require additional resources.

The Kansas Department of Revenue indicates that the bill would allow registered qualifying patients to possess up to 12 cannabis plants and six ounces of usable cannabis. The bill would require persons lawfully in possession of cannabis to pay the drug stamp tax. The minimum stamp denomination sold is a \$10 stamp. There is the potential for the number of drug tax stamps sold to increase. The tax rate on marijuana is as follows:

1. Marijuana is \$3.50 per gram or portion of a gram;
2. Wet domestic marijuana plants are \$0.40 per gram or portion of a gram; and,
3. Dry domestic marijuana plants \$0.90 per gram or portion of a gram.

The administrative cost for the Department of Revenue to implement the bill would be \$30,105 from the State General Fund. Since the Department keeps a low inventory of drug tax stamps on hand, the agency would need to increase its inventory, hire a part-time customer service representative to handle the increase in demand, and update the drug tax section on the Department's website. This bill could potentially create a significant increase in compliance enforcement activities.

The passage of the bill could also have a fiscal effect on cities including increased costs related to education and oversight for law enforcement personnel and possibly new zoning regulations that may arise. The Kansas League of Municipalities indicates that due to the varying sizes and resources of cities in the state, it is not possible to estimate what the fiscal effect would be.

The State Board of Healing Arts notes that nothing in the Act prevents a professional licensing board from sanctioning a practitioner for failing to properly evaluate a patient's medical condition or otherwise violating the standard of care for evaluating medical conditions. Passage of SB 155 could result in additional reports and complaints regarding practitioners alleged to have violated the Act. Additional reports, complaints and investigations could increase the Board's operating expenditures by as much as \$400,000 per year and require the addition of 7.00 additional FTE positions.

KDHE indicates that SB 155 would require 2.00 additional FTE positions to implement the provisions of the bill. Additional staff would include a Program Manager position and an Inspector/Compliance Officer position. Salary and wages expenditures for the 2.00 FTE positions would be \$120,000 for both FY 2018 and FY 2019. One-time costs for equipment and staff accommodations in FY 2018 are estimated at \$25,000. Annual expenditures for other operating expenditures for the new positions would be \$9,500. The Department would also have to hire physician and information system development consultants to develop the registration system and develop rules and regulations related to the medical requirements in the bill. Contracting with a medical consultant for 1040 hours in FY 2018 at a rate of \$125 per hour would cost \$130,000 and for 10 hours in FY 2019 would be \$12,500. Estimated expenditures for information system development are \$200,000 in FY 2018 and ongoing maintenance would run \$50,000 per year beginning in FY 2019. For three meetings per year of the Cannabis Compassion and Care Board expenditures of \$6,600 would be required. Therefore, total additional expenditures for KDHE would be \$491,100 in FY 2018 and \$198,600 in subsequent years. Any fiscal effect associated with SB 155 is not reflected in *The FY 2018 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Dan Thimmesch, Health & Environment
Cathy Brown, Board of Healing Arts
Ashley Michaelis, Judiciary
Brock Ingmire, League of Municipalities
Jack Smith, Department of Revenue