

May 8, 2023

The Honorable Daniel Hawkins, Chairperson  
House Committee on Interstate Cooperation  
300 SW 10th Avenue, Room 368-W  
Topeka, Kansas 66612

Dear Representative Hawkins:

**SUBJECT:** Fiscal Note for HB 2367 by Representative S. Miller

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2367 is respectfully submitted to your committee.

HB 2367 would establish the Adult Use Cannabis Regulation Act. The bill would permit the cultivation, manufacturing, transportation, possession, sale, and use of cannabis. The Division of Alcoholic Beverage Control in the Department of Revenue would be responsible for implementing, regulating, and enforcing the Act. The bill lists the powers, duties, and functions of the Division, including receiving applications for and issuing, suspending, and revoking licenses and coordinating with other state and local governmental entities. The Division would be required to create a database to monitor cannabis through the entire supply chain and each distribution channel. The Division would be required to establish a cannabis and cannabis products testing and certification program. The Division would be required to establish rules and regulations related to the Act on and before July 1, 2024. Most of the provisions of the Act would expire on July 1, 2028.

Cultivators, manufacturers, transporters, cannabis or hospitality businesses, retailers or individuals wishing to establish testing facilities would be required to apply to the Division of Alcoholic Beverage Control for a license. The Division could also issue an occupational license for any individual who is an owner, manager, operator, employee, contractor, or other individual performing work on behalf of a cannabis business licensee or having unescorted access to any restricted area of the licensed premises of a cannabis business licensee. Any person intending to become a controlling beneficial owner of any cannabis business would be required to first submit a request to the Division for a determination of suitability. The bill would include the requirements for licensure, which would include criminal history checks. A cannabis business license would be

valid for one year. An occupational license would be valid for two years. The bill would establish the following fees:

<u>Application Fees</u>	<u>Maximum Fee</u>
Cannabis Retailer License Application Fee	\$5,000
Cannabis Products Manufacturer License Application Fee	\$5,000
Cannabis Cultivation Facility License Application Fee	\$5,000
Cannabis Testing Facility License Application Fee	\$1,000
Cannabis Transporter License Application Fee	\$1,000
Cannabis Business Operator License Application Fee	\$1,000
Hospitality Business License Application Fee	\$1,000
Hospitality and Sales Business License Application Fee	\$1,000

<u>License Fees</u>	<u>Maximum Fee</u>
Cannabis Retailer License Fee	\$2,000
Cannabis Products Manufacturer License Fee	\$1,500
Cannabis Cultivation Facility License Fee:	
1 to 1,800 plants	\$1,500
1,801 to 3,600 plants	\$2,300
3,601 to 6,000 plants	\$3,000
6,001 to 10,200 plants	\$4,500
10,201 to 13,800 plants	\$6,500
More than 13,800 plants	\$6,500 plus \$800 for each additional 3,600 plants over 13,800
Cannabis Testing Facility License Fee	\$1,500
Cannabis Transporter License Fee	\$4,400
Cannabis Business Operator License Fee	\$2,200
Hospitality Business License Fee	\$1,000
Hospitality and Sales Business License Fee	\$2,000
License Renewal Fee	\$300

<u>Suitability Fees</u>	<u>Maximum Fee</u>
Individual	\$800
Non-Publicly Traded Corporation	\$800 plus \$800 for each additional individual or entity associated with applicant
Publicly Traded Corporation	\$6,000 plus \$800 for each additional individual or entity associated with applicant

<u>Permit Fees</u>	<u>Maximum Fee</u>
Centralized Distribution Permit	\$20
Cannabis Delivery Permit	\$2,000
Change of Permanent Location	\$500
Transfer of Ownership	\$1,600

All fees and fines collected under the Act would be remitted to the Cannabis Business Regulation Fund, which would be a new fund created by the bill. Monies in the fund would be used for Division of Alcoholic Beverage Control costs related to regulation and enforcement of the Act. The bill would also establish a privilege tax on licensed cannabis cultivation facilities. The tax would be equal to 15.0 percent of the average market rate for cannabis produced by a cannabis cultivation facility on the gross receipts from the sale of cannabis. The bill would also establish a 15.0 percent sales tax rate on cannabis sold by licensed cannabis retailer or licensed hospitality and sales business.

The bill would establish the Cannabis Advisory Committee within the Department of Revenue. The Committee would include 13 members appointed by the Governor and Legislature. The Committee would consist of members who represent employers, employees, law enforcement, agriculture, persons involved alcohol and drug addiction treatment and academic research. The Committee would also include the Secretary of Revenue or the Secretary's designee. The initial appointments to the Committee would be made on or before July 31, 2021. The Committee could develop and submit recommendations to the Department of Revenue related to implementation and enforcement of the Act.

Financial institutions that provide services to any licensed cannabis business would be exempt from any criminal law of the state. Entities or individuals covered under the Act would not be subject to criminal prosecution.

The Department of Revenue estimates that the sales of cannabis would increase tax revenues to the State General Fund by \$18.1 million in FY 2025, \$27.2 million in FY 2026, and \$36.3 million in FY 2027. The Department indicates that there would also be an amount of additional sales tax that would have a fiscal effect on the State General Fund and State Highway Fund from the sale of industry-related products that do not contain cannabis such as merchandise. However, the amount of the additional sales tax is undetermined.

The bill establishes the Cannabis Business Regulation Fund and creates a revenue stream to fund Department of Revenue activities of the Kansas Cannabis Legalization Act. The Department estimates it would receive Cannabis Business Regulation Fund revenues totaling \$2.7 million in FY 2025, \$3.1 million in FY 2026, and \$3.4 million in FY 2027.

The Department of Revenue estimates the bill would require additional expenditures of \$10.2 million from the State General Fund and 62.00 FTE positions in FY 2024. The table below lists the expenditures and positions.

	FY 2024	
	<u>Expenditures</u>	<u>FTE Positions</u>
Division of Alcoholic Beverage Control	\$9,311,435	57.00
Information Technology	396,000	--
Tax Operations	382,567	5.00
Quality Assurance	<u>89,420</u>	<u>--</u>
Total Expenditures & Positions	\$10,179,422	62.00

The Kansas Sentencing Commission indicates that enactment of HB 2367 would reduce prison admissions, but the total impact could not be determined. The Office of Judicial Administration indicates the bill could affect the number of cases that are filed in courts, but the Office is unable to estimate what the effect would be. The bill could decrease the number of cases filed in court because it decriminalizes actions that could be charged as crimes under current law. However, the Office indicates it is possible that crimes that are charged under existing law would still be charged and the provisions of the bill would be used as a defense. Any change to the number of cases that are filed would affect Judiciary expenditures and revenues. However, the fiscal effect is unknown. The Office of the Attorney General indicates that the bill could increase the number of consumer complaints regarding violations of the Act. The Kansas Bureau of Investigation indicates that any additional revenue received from the state and national criminal history record check requests would be offset by expenditures related to staffing and maintenance of the required information technology systems and repositories necessary for the maintenance and dissemination of criminal history information.

The State Treasurer and the Office of the State Banking Commissioner indicate the bill would not have a fiscal effect on agency operations. Any fiscal effect associated with HB 2367 is not reflected in *The FY 2024 Governor's Budget Report*.

Sincerely,



Adam Proffitt  
Director of the Budget

cc: Randy Bowman, Department of Corrections  
Lynn Robinson, Department of Revenue  
Vicki Jacobsen, Judiciary  
John Milburn, Office of the Attorney General  
John Hedges, Office of the State Treasurer  
Brock Roehler, Office of the State Bank Commissioner  
Scott Schultz, Sentencing Commission