

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 3468

By: Jordan

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9                                   COMMITTEE SUBSTITUTE

10           An Act relating to medical marijuana; creating the  
11           Oklahoma Cannabis Commission; stating duties of the  
12           Commission; directing State Department of Health to  
13           provide support staff and office space to the  
14           Commission; directing the Commission to adopt  
15           regulations for the administration of medical  
16           marijuana by date certain; directing the Commission  
17           to exercise its powers and perform certain duties and  
18           functions; creating the Oklahoma Cannabis Commission  
19           Governing Board; providing for membership; stating  
20           initial terms of Board members; stating exemption  
21           from dual-office-holding prohibition; stating manner  
22           in which vacancies shall be filled; prohibiting the  
23           appointment of certain persons; providing for  
24           termination under certain circumstances; authorizing  
          compensation for services and travel reimbursement;  
          requiring submission of financial disclosure  
          statements; establishing meeting requirements;  
          providing for the election of chair and vice chair;  
          stating quorum requirement; directing Board to keep  
          records; requiring compliance with certain meeting  
          and open records acts; stating duties of the Board;  
          creating office of the Oklahoma Cannabis  
          Commissioner; providing procedure for appointing  
          Commissioner; stating qualifications for  
          Commissioner; directing Commissioner to prepare and  
          publish personnel manual; stating employee  
          classification of officers and employees of the  
          Oklahoma Cannabis Commission; providing for the

1 delegation of powers and duties; directing  
2 Commissioner and employees of the Commission to take  
3 certain oath; providing for the adoption of a state  
4 seal; providing guidelines for use of state seal;  
5 authorizing the Commissioner to promulgate certain  
6 rules and regulations; providing for codification;  
7 providing an effective date; and declaring an  
8 emergency.

9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

10 SECTION 1. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 10021 of Title 74, unless there  
12 is created a duplication in numbering, reads as follows:

13 A. Upon certification of election returns favoring passage of  
14 State Question No. 788, Initiative Petition No. 412, there is hereby  
15 created the Oklahoma Cannabis Commission.

16 B. The Oklahoma Cannabis Commission shall address issues  
17 related to the medical marijuana program in Oklahoma including, but  
18 not limited to, operations relating to the issuance of licenses, the  
19 dispensing, cultivating, processing, transporting and sale of  
20 medical marijuana in Oklahoma and any issues the Commission finds  
21 relevant as it relates to the medical marijuana program.

22 C. The Oklahoma Cannabis Commission shall be initially  
23 developed by the State Department of Health but shall become its own  
24 agency with rights and responsibilities similar to all other state  
agencies and commissions:

1 1. On or before July 1, 2019; or

2 2. If at any time the federal government takes control of the  
3 State Department of Health, the Oklahoma Cannabis Commission shall  
4 immediately become a separate state agency.

5 D. The State Department of Health shall provide support staff  
6 to perform designated duties of the Commission. The State  
7 Department of Health shall also provide space for meetings of the  
8 Commission.

9 E. The Oklahoma Cannabis Commission shall adopt regulations  
10 regarding the administration of medical marijuana not later than one  
11 hundred twenty (120) days after the effective date of this act.

12 F. The Oklahoma Cannabis Commission shall exercise its  
13 respective powers and perform its respective duties and functions as  
14 specified in this section as well as Title 63 of the Oklahoma  
15 Statutes.

16 SECTION 2. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 10022 of Title 74, unless there  
18 is created a duplication in numbering, reads as follows:

19 A. Upon certification of election returns favoring passage of  
20 State Question No. 788, Initiative Petition No. 412, there is hereby  
21 created the Oklahoma Cannabis Commission Governing Board, within the  
22 Oklahoma Department of Health, until the Oklahoma Cannabis  
23 Commission becomes its own agency.

1 B. The Oklahoma Cannabis Commission Governing Board shall  
2 consist of twelve (12) voting members all of whom shall be citizens  
3 of the United States and residents of the State of Oklahoma for the  
4 past five (5) years.

5 C. All members of the Board shall be appointed by the Governor,  
6 and with the exception of the initial seven members, shall be  
7 confirmed by the Oklahoma State Senate. The members shall be as  
8 follows:

9 1. One member of the Board shall be proposed by the  
10 Commissioner of the State Department of Health and shall be a  
11 physician licensed to practice medicine in Oklahoma for not less  
12 than five (5) years;

13 2. One member of the Board shall be proposed by the  
14 Commissioner of the Department of Mental Health and Substance Abuse  
15 Services and shall be a physician licensed to practice medicine in  
16 Oklahoma for not less than five years;

17 3. One member of the Board shall be proposed by the Attorney  
18 General and shall be an attorney admitted to the practice of law in  
19 Oklahoma for not less than five (5) years;

20 4. One member of the Board shall be proposed by the Director of  
21 the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control  
22 and shall have at least five (5) years of experience in  
23 investigations;

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1           5. One member of the Board shall be proposed by the  
2 Commissioner of Public Safety and shall be a certified peace officer  
3 with at least five (5) years of law enforcement experience and has  
4 been certified by the Council on Law Enforcement Education and  
5 Training;

6           6. One member of the Board shall be proposed by the  
7 Commissioner of the Oklahoma State Banking Department and shall be a  
8 certified public accountant or public accountant who has been  
9 practicing in Oklahoma for at least five (5) years and has a  
10 comprehensive knowledge of the principles and practices of corporate  
11 finance; and

12           7. One member of the Board shall be proposed by the Executive  
13 Director of the Oklahoma Department of Commerce and shall have been  
14 engaged in business in a management-level capacity for at least five  
15 (5) years.

16 The first seven members of the Board may be fully appointed upon  
17 certification of election returns favoring passage of State Question  
18 No. 788, Initiative Petition No. 412, by the Governor, with the  
19 temporary consent of the Pro Tempore of the Oklahoma State Senate,  
20 and full confirmation by the Oklahoma State Senate within the 1st  
21 Session of the 57th Oklahoma Legislature.

22           D. Following certification of the 2018 general election results  
23 and administration of the oath of office, the newly elected Governor  
24 shall appoint the remaining five members of the Board each residing

1 and representing one of the five Congressional Districts for the  
2 State of Oklahoma.

3 E. The terms of office of the initial members appointed to the  
4 Board shall be as follows:

5 1. Six members shall serve until June 30, 2022; and

6 2. Six members shall serve until June 30, 2024.

7 All subsequent appointments shall be for terms of four (4) years.

8 Members of the Board shall not serve more than two consecutive  
9 terms.

10 F. In addition to the twelve voting members, two nonvoting  
11 members shall be appointed from the State Legislature as follows:

12 1. One member shall be appointed by the Speaker of the Oklahoma  
13 House of Representatives; and

14 2. One member shall be appointed by the President Pro Tempore  
15 of the Oklahoma State Senate.

16 G. Legislators and appointed members who serve on the Board  
17 shall be exempt from dual-office-holding prohibitions pursuant to  
18 Section 6 of Title 51 of the Oklahoma Statutes.

19 H. Any vacancy on the Board shall be filled for the unexpired  
20 term in the same manner as the original appointment. The member  
21 appointed to fill such vacancy shall be from the same category  
22 described as the member vacating the position.

23 I. The Governor shall not appoint a person as a member of the  
24 Board if the person discharged a sentence for a conviction of a

1 felony in the five (5) years immediately preceding his or her  
2 appointment or if the person discharged a sentence for a conviction  
3 of a felony pursuant to any state or federal law regarding the  
4 possession, distribution, manufacturing, cultivation or use of a  
5 controlled substance in the ten (10) years immediately preceding his  
6 or her appointment.

7 J. The term of any member of the Board who misses more than two  
8 consecutive regular Board meetings without good cause is terminated  
9 and such member's successor shall be appointed in the manner  
10 provided for appointments under this section.

11 K. Board members may receive compensation for their services  
12 and shall be reimbursed for necessary travel and other reasonable  
13 expenses incurred in the performance of their official duties.

14 L. Prior to confirmation, each member shall file with the  
15 Secretary of State a financial disclosure statement in the form  
16 required and prescribed by the Executive Director. Each member  
17 shall renew the statement by January 1.

18 M. A chair and vice chair shall be elected annually from the  
19 membership of the Board. A majority of voting Board members shall  
20 constitute a quorum, but the concurrence of a majority of the  
21 members appointed to the Board is required for any final  
22 determination by the Board.

23 N. The Board shall hold at least one meeting each quarter and  
24 additional meetings as may be prescribed by rules of the Board. In

1 addition, special meetings may be called by the Commissioner of the  
2 Oklahoma Cannabis Commission, any four Board members or chair, if  
3 written notification of such meeting is delivered to each member at  
4 least seventy-two (72) hours prior to such meeting. In emergency  
5 situations in which a majority of the Board certifies that  
6 exigencies of time require that the Board meet without delay, the  
7 requirements of public notice and seventy-two (72) hours of actual  
8 advance written notice to members may be dispensed with and Board  
9 members, as well as the public, shall receive such notice as is  
10 reasonable under the circumstances.

11 O. The Board shall keep complete and accurate records of all of  
12 its meetings.

13 P. The Board shall act in accordance with the provisions of the  
14 Oklahoma Open Meeting Act, the Oklahoma Open Records Act and the  
15 Administrative Procedures Act.

16 SECTION 3. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 10023 of Title 74, unless there  
18 is created a duplication in numbering, reads as follows:

19 A. Upon certification of election returns favoring passage of  
20 State Question No. 788, Initiative Petition No. 412, it shall be the  
21 duty of the Board to:

22 1. Promulgate such rules and regulations governing the medical  
23 marijuana program as it deems necessary to carry out the purposes of  
24 State Question No. 788, Initiative Petition No. 412;



1           2. Recommend necessary additions or revisions to the rules and  
2 regulations of the State Department of Health pertaining to the  
3 medical marijuana program;

4           3. Examine and analyze the statutory and regulatory laws  
5 relating to medical marijuana within this state;

6           4. Examine and analyze the laws and events in other states and  
7 the nation with respect to medical marijuana;

8           5. Determine a possible framework for the future governance of  
9 the medical marijuana program in Oklahoma including proper oversight  
10 and regulation of medical marijuana license recipients and  
11 caregivers, medical marijuana dispensaries, medical marijuana grow  
12 sites and medical marijuana processing sites;

13          6. Recommend necessary amendments to the laws of the state  
14 pertaining to medical marijuana;

15          7. Determine steps the state shall take, whether administrative  
16 or legislative in nature, to ensure that research on marijuana and  
17 marijuana-derived products is being conducted for public purposes,  
18 including the advancement of:

- 19           a. public health policy and public safety policy,
- 20           b. agronomic and horticultural best practices, and
- 21           c. medical and pharmacopoeia best practices;

22          8. Evaluate the sufficiency of the regulatory and security  
23 safeguards adopted by the State Department of Health to ensure that  
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1 access to and use of medical marijuana is provided only to licensees  
2 authorized for such purposes;

3 9. Hear and determine at a public hearing any contested  
4 Oklahoma State license denial and any complaints against a licensee;

5 10. Administer oaths and issue subpoenas to require the  
6 presence of persons and the production of papers, books and records  
7 necessary to the determination of any hearing so held, all in  
8 accordance with this section, Title 63 of the Oklahoma Statutes,  
9 rules promulgated by the Board and any other statutory and  
10 regulatory laws regarding marijuana;

11 11. Enter into agreements with the Oklahoma State Bureau of  
12 Investigation and state and local law enforcement agencies for  
13 conducting investigations, background checks, identification or  
14 registration, or any combination thereof, of licensed operators and  
15 employees in licensed premises, which conduct shall include, but not  
16 be limited to, performing background investigations and criminal  
17 record checks on an applicant applying for licensure and  
18 investigating violations of any rule or regulation promulgated by  
19 the Board. Nothing in this paragraph shall prevent or impair the  
20 Oklahoma State Bureau Investigation or state or local law  
21 enforcement agencies from engaging in the activities set forth in  
22 this paragraph on their own initiative.

23 12. Conduct a continuous study and investigation of medical  
24 marijuana throughout the state for the purpose of ascertaining any

1 defects in law or in the rules and regulations promulgated pursuant  
2 to this section;

3 13. Formulate and recommend changes to statute or any rule or  
4 regulation for the purpose of preventing abuses and violations of  
5 this section, Title 63 of the Oklahoma Statutes, rules promulgated  
6 by the Board or any other statutory and regulatory laws regarding  
7 marijuana;

8 14. Guard against the use of statutory and regulatory laws as a  
9 cloak for conducting illegal activities and to ensure that such  
10 statutory and regulatory laws be in such form and be so administered  
11 as to serve the true purpose and intent of the medical marijuana  
12 program;

13 15. Report immediately to the Governor, the Attorney General,  
14 the Speaker of the Oklahoma House of Representatives, the President  
15 Pro Tempore of the Oklahoma State Senate and such other state  
16 officers as the Board deems appropriate concerning any laws which it  
17 determines require immediate amendment to prevent abuses and  
18 violations of any rule or regulation promulgated pursuant to this  
19 section or to remedy undesirable conditions in connection with the  
20 administration or the operation of the Oklahoma Cannabis Commission;

21 16. Require such special reports from the Commissioner of the  
22 Oklahoma Cannabis Commission as it considers necessary;

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1 17. To issue temporary or permanent licenses to those involved  
2 in the ownership of, participation in, or conduct of medical  
3 marijuana;

4 18. Upon complaint, or upon its own motion, levy fines and to  
5 suspend or revoke licenses issued pursuant to State Question No.  
6 788, Initiative Petition No. 412;

7 19. Obtain all information from licensees and other persons and  
8 agencies that the Board deems necessary or desirable in the conduct  
9 of business;

10 20. Issue subpoenas for the appearance or production of  
11 persons, records and things in connection with disciplinary or  
12 contested cases considered by the Board;

13 21. Apply for injunctive or declaratory relief to enforce the  
14 provisions of this section and any rules promulgated pursuant to  
15 this section;

16 22. Inspect and examine without notice all premises wherein  
17 medical marijuana is cultivated, manufactured, sold or distributed,  
18 and summarily seize, remove and impound, without notice or hearing  
19 from such premises, any equipment, devices, supplies, books or  
20 records for the purpose of examination or inspection;

21 23. Enter into contracts with any governmental entity to carry  
22 out its duties;

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1        24. Exercise such other incidental powers as may be necessary  
2 to ensure the safe and orderly regulation of medical marijuana and  
3 the secure collection of all revenues, taxes and license fees;

4        25. Establish internal control procedures for licenses,  
5 including accounting, procedures, reporting procedures and personnel  
6 policies;

7        26. Establish and collect fees for performing background checks  
8 on all applicants for licenses and on all persons with whom the  
9 Board may agree with or contract with for providing goods or  
10 services, as the Board deems appropriate;

11       27. Demand, at any time when business is being conducted,  
12 access to and inspect, examine, photocopy and audit all papers,  
13 books and records of applicants and licensees on their premises or  
14 elsewhere as practicable and in the presence of the licensee or  
15 agent of the licensee, pertaining to the gross income produced by  
16 any medical marijuana establishment;

17       28. Require verification of income and all other matters  
18 affecting the enforcement of the policies of the Board or any  
19 provision of this section;

20       29. Impound or remove all papers, books and records of  
21 applicants and licensees, without hearing, for inspection or  
22 examination; and  
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1       30. Prescribe voluntary alternative methods for the making,  
2 filing, signing, subscribing, verifying, transmitting, receiving or  
3 storing of returns or other documents.

4       SECTION 4.       NEW LAW       A new section of law to be codified  
5 in the Oklahoma Statutes as Section 10024 of Title 74, unless there  
6 is created a duplication in numbering, reads as follows:

7       A. Upon certification of election returns favoring passage of  
8 State Question No. 788, Initiative Petition No. 412, there is hereby  
9 created the Oklahoma Cannabis Commissioner.

10       B. The Oklahoma Cannabis Commissioner shall be the head of the  
11 Oklahoma Cannabis Commission and shall be appointed by the Governor  
12 with the advice and consent of the Senate. The initial Commissioner  
13 shall be appointed by the Governor with the temporary consent of the  
14 Pro Tempore of the Oklahoma State Senate and full confirmation by  
15 the Oklahoma State Senate within the 1st Session of the 57th  
16 Legislature.

17       C. The Commissioner shall have been a qualified elector of the  
18 state for at least five (5) years prior to the appointment, shall be  
19 at least thirty-five (35) years old and cannot have been convicted  
20 of a felony. The Commissioner shall be appointed for a term of four  
21 (4) years. The Commissioner shall continue to serve until a  
22 successor is duly appointed, confirmed and qualified. The  
23 Commissioner may be removed by the Governor for cause after notice  
24 and hearing. A successor to a Commissioner who dies, resigns or is

1 removed from office shall be appointed in the same manner as  
2 provided in this section.

3 D. The Commissioner shall prepare in writing a manual of all  
4 employee positions for the Oklahoma Cannabis Commission including,  
5 but not limited to, job classifications, seniority status, personnel  
6 qualifications, duties, maximum and minimum salary schedules and  
7 other personnel information as approved by the Oklahoma Cannabis  
8 Commission Governing Board. The Commissioner may select, appoint  
9 and employ such accountants, attorneys, auditors, inspectors,  
10 examiners, clerks, secretaries and other personnel as the  
11 Commissioner deems necessary for the proper administration of the  
12 Oklahoma Cannabis Commission and any other statutory duties of the  
13 Commissioner.

14 E. All officers and employees of the Commission shall be in the  
15 exempt unclassified service as provided for in Section 840-5.5 of  
16 Title 74 of the Oklahoma Statutes. All future appointees to such  
17 positions shall be in the exempt unclassified service. Officers and  
18 employees of the Commission shall not be terminable except for cause  
19 as defined by the Board.

20 F. The Commissioner may delegate to any officer or employee of  
21 the Commission any of the powers of the Commissioner and may  
22 designate any officer or employee of the Commission to perform any  
23 of the duties of the Commissioner.

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1 G. The Commissioner and all other personnel shall, before  
2 entering upon the discharge of their duties, take and subscribe to  
3 the oath of office required of state officers as provided by Section  
4 36.2A of Title 51 of the Oklahoma Statutes.

5 H. The Commissioner shall adopt an appropriate seal as the Seal  
6 of the State Cannabis Commissioner.

7 I. Every certificate, assignment and conveyance executed by the  
8 Commissioner, in pursuance of the authority conferred upon the  
9 Commissioner by law and sealed with the seal of the Commission,  
10 shall be received in evidence and recorded in the proper recording  
11 offices in the same manner as a deed regularly acknowledged, as  
12 required by law.

13 J. Whenever it is necessary for the Commissioner to approve any  
14 instrument or to affix the official seal thereto, the Commissioner  
15 may charge a fee for affixing the approval of the Commissioner or  
16 the official seal to such instrument. Copies of all records and  
17 papers in the office of the Commission, certified by the  
18 Commissioner and authenticated by the seal, shall be received in  
19 evidence in all cases equally and of like effect as the original.  
20 Whenever it is proper to furnish a copy of any paper filed in the  
21 Commission or to certify such paper, the Commissioner may charge a  
22 fee for furnishing such copy, for affixing the official seal on such  
23 copy or for certifying the same.

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1 K. The Commissioner shall be authorized to promulgate rules and  
2 regulations governing the oversight of licensed medical marijuana  
3 dispensaries located within this state. The rules and regulations  
4 shall address inventory control, sales, personnel and security at  
5 licensed medical marijuana dispensaries. The Commissioner is  
6 further authorized to inspect any licensed medical marijuana  
7 dispensary to determine if the dispensary is in compliance with  
8 rules and regulations promulgated by the Commissioner and applicable  
9 state laws that govern the dispensing of medical marijuana to  
10 medical marijuana license holders.

11 SECTION 5. This act shall become effective July 1, 2018.

12 SECTION 6. It being immediately necessary for the preservation  
13 of the public peace, health or safety, an emergency is hereby  
14 declared to exist, by reason whereof this act shall take effect and  
15 be in full force from and after its passage and approval.

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17 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03/01/2018 - DO PASS,  
18 As Amended.

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