

March 12, 2020

The Honorable Gene Suellentrop, Chairperson  
Senate Committee on Public Health and Welfare  
Statehouse, Room 441B-E  
Topeka, Kansas 66612

Dear Senator Suellentrop:

**SUBJECT:** Fiscal Note for SB 493 by Senate Committee on Ways and Means

In accordance with KSA 75-3715a, the following fiscal note concerning SB 493 is respectfully submitted to your committee.

SB 493 would increase the required minimum medical malpractice liability insurance coverage from \$200,000 per claim/\$600,000 per year aggregate to \$500,000 per claim/\$1,500,000 per year aggregate beginning on January 1, 2021. The bill would also reduce from three to two the number of options for levels of coverage.

If the Kansas Supreme Court overturns the medical malpractice damages cap statute, all medical malpractice liability insurance requirements under current Kansas law would become null and void as of July 1 following the Supreme Court decision. If the elimination of the liability insurance requirement is triggered, medical doctors, doctors of osteopathy, doctors of chiropractic, doctors of podiatric medicine, physician assistants, and advanced practice registered nurses would no longer be required to carry malpractice insurance. However, other classifications of practitioners licensed by the Board of Healing Arts, such as physical therapists and acupuncturists, would still be required to carry liability insurance. Additionally, the Health Care Stabilization Fund would be subject to elimination through a delinquency/liquidation proceeding initiated by the Commissioner of Insurance.

The Health Care Stabilization Fund states that the fiscal impact of enactment of SB 493 is unclear. Current law allows providers to choose between three option for levels of coverage. The proposed change would allow for two options for levels of coverage and the coverage provided by both options would more than double the current levels. The fund would collect higher surcharge rates from providers and expenditures would increase if the changes result in higher judgements and settlements. The cost of attorney and attorney related expenses would most likely increase. It is not possible to accurately estimate future revenues or expenditures. The change would require an additional actuary study to be conducted to determine the fiscal effect this bill would have on the agency.

The Kansas Insurance Department states that if under the provisions of the bill the Commissioner were required to institute a delinquency proceeding involving the Health Care Stabilization Fund, the Department would need one additional staff attorney and one additional administrative support position. First year costs for salaries and other operating expenditures are estimated at \$138,600 from the agency fee fund.

The Office of Judicial Administration estimates the bill could increase expenditures for the Judicial Branch from additional cases filed in district courts. This would increase the time spent by court personnel to process and research the petitions. Also, any cases filed under the provisions of the bill could increase revenues received from docket fees. However, the Office of Judicial Administration is unable to estimate the number of cases that would occur under the bill; therefore, the fiscal effect on the Judicial Branch is unknown. Any fiscal effect associated with SB 493 is not reflected in *The FY 2021 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink that reads "L. L. Campbell". The signature is written in a cursive style with a large, sweeping initial "L".

Larry L. Campbell  
Director of the Budget

cc: Clark Shultz, Health Care Stabilization Fund  
Bobbi Mariani, Insurance  
Mary Rinehart, Judiciary