

February 13, 2019

The Honorable Susan Concannon, Chairperson
House Committee on Children and Seniors
Statehouse, Room 149-S
Topeka, Kansas 66612

Dear Representative Concannon:

SUBJECT: Fiscal Note for HB 2149 by House Committee on Children and Seniors

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2149 is respectfully submitted to your committee.

HB 2149 would assess penalties to the Kansas Department of Health and Environment's (KDHE) eligibility contractor if any nursing facility eligibility determinations are not completed within 45 days. The bill indicates that the penalty would be charged by KDHE to the contractor and made payable to the applicant's nursing facility. The fine would be 1.0 percent of the per diem reimbursement for applications that would be deemed to be beyond the 45 days under normal exceptions for unusual circumstances, and the fine would be 3.0 percent for applications that would not be identified as normal exceptions. KDHE indicates that there is a potential that applications that go beyond 45 days are a result of a lack of information from the applicant, and it should be noted that these applications would still result in a fine against the contractor.

KDHE indicates it would incur costs for administrative expenses to track, calculate and administer the provisions of the HB 2149. The Department would require additional FTE positions to track each application that is beyond 45 days and determine whether the delay is deemed as a normal exception or not. The Department indicates that it is unclear who will be charged with monitoring payments to the nursing facilities and if there would be any required reporting.

The penalties assessed against the contractor would be approximately \$1.94 per day for the late applications that fall under the provision for unusual circumstances and \$5.82 per day for those that do not. The bill would require KDHE to amend the current eligibility contract, in order to take effect in FY 2019, as the current contract is in play through June 30, 2019. Future contracts that include this penalty provision could increase the cost to the contract for the state. Since the state already has performance standard and assesses liquidated damages against the contractor for

untimely processing, KDHE indicates this would be duplicative. KDHE indicates it is not possible to estimate the number of exceptions that would arise or how complex and time-consuming they would be. Therefore, a precise fiscal effect cannot be determined. Any fiscal effect associated with HB 2149 is not reflected in *The FY 2020 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "L. L. Campbell". The signature is fluid and cursive, with a large initial "L" and a long, sweeping underline.

Larry L. Campbell
Director of the Budget

cc: Dan Thimmesch, Health & Environment