

March 20, 2019

The Honorable Carolyn McGinn, Chairperson  
Senate Committee on Ways and Means  
Statehouse, Room 545-S  
Topeka, Kansas 66612

Dear Senator McGinn:

**SUBJECT:** Fiscal Note for SB 225 by Senate Committee on Ways and Means

In accordance with KSA 75-3715a, the following fiscal note concerning SB 225 is respectfully submitted to your committee.

SB 225 would update the current provider assessment program referred to as the Healthcare Access Improvement Panel (HCAIP). The bill would change the tax structure being assessed against the prospective payment system hospitals. Hospitals would be charged 3.0 percent (versus the current 1.83 percent) of net inpatient and outpatient revenues (currently the tax applies only to net inpatient revenue) for the hospital's fiscal year occurring three years prior to the assessment period. The base year for assessing the tax would roll forward every year (currently the base year is 2010 and does not roll forward). The bill would leave intact the current disbursement levels of no less than 80.0 percent to hospitals, nor more than 20.0 percent to physicians, and no more than 3.2 percent for medical education. The bill clearly indicates that the HCAIP program would not be required to be State General Fund neutral. Additionally, the bill makes modifications to the membership of the HCAIP panel and the reporting requirements of the panel.

Estimated State Fiscal Effect				
	FY 2019 SGF	FY 2019 All Funds	FY 2020 SGF	FY 2020 All Funds
Revenue	--	--	--	\$271.5 million
Expenditure	--	--	--	\$271.5 million
FTE Pos.	--	--	--	--

The Kansas Department for Health and Environment (KDHE) indicates that the Centers for Medicare and Medicaid Services (CMS) approval would be required prior to implementation of SB 225. It is important to note that the changes in the bill would exceed the total cushion the KDHE is afforded in their budget neutrality calculation for the life of the current 1115 waiver. CMS would need to allow the KDHE to re-negotiate the budget neutrality calculations, to apply these payments in a manner that would not erode the current cushion.

Per data received from the Kansas Hospital Association (KHA), 3.0 percent of net 2016 inpatient and outpatient revenues would generate \$381.5 million in total revenue, including \$163.6 million of provider tax revenue. This represents an increase of \$271.5 million of revenue from all funding sources over the current provider assessment. In year one, HCAIP program expenditures would be equal to revenues. The HCAIP dollar amounts paid to hospitals in year one would be calculated as a rate add-on percentage of total Medicaid volume, which would establish a minimum add-on rate percentage to be maintained in subsequent years. Beginning in year two, the program would not be required to be revenue neutral. If HCAIP expenditures would exceed revenues, the State General Fund would subsidize the program. If revenues would exceed expenditures, it is unclear whether the hospitals would receive additional payments or whether the excess would remain in the HCAIP fund.

As mentioned above, year one would be used to set the percent rate add-on percentage that the hospitals would receive on a quarterly basis, and that rate would set the minimum percentage rate add-on going forward. For example, if the revenues in year one yield a hospital add on equal to 100.0 percent of total Medicaid volume, then in each of the following years the program would pay no less than 100.0 percent of total Medicaid volume, regardless of program revenues that year.

With regards to HCAIP disbursements to physicians, the bill does not specify how rate add-on percentages are affected. KDHE's understanding, from conversations with KHA, indicate that KHA anticipates the panel would not make changes to current physician HCAIP add-on rates, but that total disbursements from the HCAIP fund to physicians would be capped at 10.0 percent of annual HCAIP total revenues, and that physician rate add-on expenditures in excess of this 10.0 percent cap would be funded by the State General Fund.

It is difficult to estimate the fiscal effect on the State General Fund in the out years, as there are several factors which would influence both revenues and expenditures including:

1. Rate of growth for net inpatient and outpatient revenues for tax paying hospitals;
2. Rate of growth for total Medicaid volume for all hospitals receiving add on payments; and
3. Change in the Federal Medical Assistance Percentage (FMAP) from year to year.

The comparative rates of year over year growth between net inpatient and outpatient revenues and Medicaid volume and costs, along with changes in FMAP, would determine whether the HCAIP program would be self-funding. The FY 2020 FMAP is among the highest federal matching years in recent history, therefore, it is likely that the FMAP will decline leading to a larger state share of program costs.

This bill clearly indicates that the program is not required to be revenue neutral, and that the increased payment and add-on rates established in the first year of operation would be carried on in perpetuity. To the extent that Medicaid volume grows at a rate higher than total inpatient and outpatient revenues, the fund would be in a deficit position, requiring additional State General Fund. The opposite would be true if net operating revenues grow faster than Medicaid volume and costs. If increased payment and add-on rates to physicians exceeds 10.0 percent of HCAIP total revenue, there would be a negative fiscal effect on the State General Fund if the HCAIP panel imposes this cap.

There is a provision in the current provider assessment law that requires the State Treasurer to credit the HCAIP fund 80.0 percent of anticipated revenues on July 1st of each year, which would be paid back to the Treasurer once hospitals remit their tax payment. Given that the revenues are not due until November 30th and May 31st of each year, this effectively requires State General Fund to be advanced to KDHE for the first quarter's program payments. However, the Treasurer's Office has not been following this procedure, so it would require an operating change for the Office and would also require an advance of State General Fund of approximately \$30.0 million. In addition, hospital provider assessment tax remittances to the Treasurer's Office would be one quarter in arrears in perpetuity. Any fiscal effect associated with SB 225 is not reflected in *The FY 2020 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink that reads "L. L. Campbell". The signature is fluid and cursive, with the first and last names being clearly legible.

Larry L. Campbell  
Director of the Budget

cc: Dan Thimmesch, Health & Environment