

March 5, 2008

The Honorable Brenda Landwehr, Chairperson  
House Committee on Health and Human Services  
Statehouse, Room 161-W  
Topeka, Kansas 66612

Dear Representative Landwehr:

**SUBJECT:** Fiscal Note for HB 2934 by House Committee on Appropriations

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2934 is respectfully submitted to your committee.

HB 2934 would make a variety of changes in state health insurance statutes regarding coverage offered in the commercial market and for small employers. The primary changes would require employers that pay for health insurance coverage to also provide Section 125 plans and require insurance carriers to offer Section 125 plans. The bill would also extend health insurance coverage to employees who are eligible for continuing benefits under the COBRA rule from six months to 18 months and would increase the lifetime benefit under the high risk insurance pool from \$1.0 million to \$3.0 million. HB 2934 would also include hospital based clinics in the definition of Primary Care Safety Net Clinic and allow the Secretary of Health and Environment to enter into contracts with hospital based clinics to act as primary care safety net clinics.

HB 2934 would require Medicaid beneficiaries to enroll in wellness programs if they smoke, are obese, or abuse drugs. If after two years the beneficiary does not have a certificate from a doctor showing progress has been made, the beneficiary shall receive only the minimum federal assistance authorized. If after three years there is no progress, the beneficiary would be removed from the Medicaid program altogether. If a beneficiary were terminated, the beneficiary could purchase a health care benefit plan that is equal to the minimum mandated federal Medicaid coverage. The bill would also require children who receive state or federal medical assistance to be a United States citizen or a legal alien. HB 2934 would make the Inspector General reportable to the Kansas Health Policy Authority (KHPA) Board. Currently, the Inspector General reports to the KHPA Executive Director. The bill would require the appropriation of 50.0 percent of money recovered, as a result of fraud investigations by the Inspector General, to be appropriated to the Office of Inspector General. The amount would be

capped at \$2.0 million per year until 2013. The bill would also prevent the state Medicaid program from using a contractor who has caused the state to pay fines or reimburse the federal government more than \$1.0 million because of waste, fraud or abuse.

HB 2934 would give any state employee the option of receiving a health care benefit that is the actuarial equivalent of the mandated benefits required under federal Medicaid regulations. The bill would also require that the state's employer contribution to a Health Savings Account (HSA) be equal to the state's employer contribution to any fully insured plans offered to state employees.

HB 2934 would allow a refundable income tax credit for individuals for amounts paid for providing health insurance or care in the form of a health benefit plan and amounts contributed to health savings accounts. For any individual who establishes a health benefit plan after December 31, 2008, the amount of the credit would be \$35 per month or 50.0 percent, whichever is less, of the total amount paid toward the health benefit plan for the first two years. In subsequent years, the credit would be reduced until it reaches zero by the sixth year. The bill would allow individuals to subtract all of the cost of qualified health insurance premiums from federally adjusted gross income.

HB 2934 would require the Legislative Coordinating Council to appoint a legislative study committee during the 2008 interim to study and review the establishment of individual and small employer reinsurance program. The bill would be effective for tax years beginning after December 31, 2008.

KHPA states that the provisions of HB 2934 relating to the Office of Inspector General would have no fiscal effect on KHPA. The revenue generated from fraud prosecutions is currently deposited in the Medicaid Fraud Prosecution Revolving Fund in the Attorney General's Office. Passage of HB 2934 could reduce the amount of revenue to the fund to defray the cost of future prosecutions. However, the Attorney General states that the office would not require additional resources to deal with this change.

According to KHPA, the Medicaid changes in HB 2934 would risk a loss of Medicaid funding by placing the Kansas Medicaid State Plan in violation of federal law. The bill would require Medicaid beneficiaries to participate in a wellness program to improve their health conditions related to obesity, drug use, or smoking. Medicaid eligibility is determined by a combination of income and/or functional guidelines determined by states with federal requirements. The federal law does not allow states to limit eligibility for a certain group of beneficiaries based on criteria other than income or functional guidelines. If Kansas Medicaid restricts eligibility in ways that are inconsistent with federal rules, federal funds can be withdrawn from the program. This could result in a loss of more than \$1.3 billion in federal funding.

KHPA states that the requirement to offer a health care benefit for the State Employees Health Benefits Plan (SEHBP) that is actuarially equivalent to Medicaid would increase state expenditures in Plan Year 2009 by \$54,875,000. KHPA used the actuarial services of Mercer to

develop this cost estimate. Mercer estimates that Medicaid benefits are 23.0 percent richer than state employee benefits, and that virtually all state employees would take advantage of the richer set of benefits and join the Medicaid-like plan. The estimate of \$54.9 million is only the cost for the employer contribution. Additional employee contributions of \$16,391,000 would be required as well to fund the new plan making the total additional cost \$71.3 million in Plan Year 2009. The estimate assumes that the Medicaid plan option would be offered alongside the currently offered Plan A, Plan B, and the high deductible plan, and would be offered by existing carriers for purposes of provider network contracting and administrative services. These contractual obligations would entail the use of private sector rates of reimbursement to providers. Private sector reimbursement rates are higher than Medicaid rates.

The requirement in HB 2934 that the state's employer contribution to an HSA be equal to the state's employer contribution to any fully insured plans offered to state employees would not have a fiscal effect because SEHBP no longer purchases insured products on behalf of state plan participants.

The Department of Revenue states that passage of the income tax credit in HB 2934 would require additional expenditures of \$442,879 from the State General Fund in FY 2010. The costs include \$237,600, or 2,970 hours, of contract programming time. The estimated user testing resources necessary to implement the bill are \$29,120, or 860 hours, for testing the new programs. The agency would also require 3.00 additional FTE positions to help enforce this new tax modification. Ongoing costs for salary and expenses are estimated at \$162,869, and the one-time cost for new workstations is \$13,290.

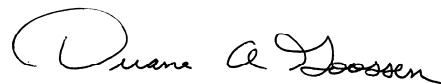
HB 2934 would provide a refundable income tax credit to individuals for amounts paid for providing health insurance or care in the form of a health benefit plan and amounts contributed to health savings accounts. It is estimated that about 210,000 Kansas taxpayers do not have health insurance. If 10.0 percent of those taxpayers, or 21,000, took advantage of the refundable credit of \$420 allowed for the first two years, the effect to State General Fund tax receipts would be about \$8.8 million each year.

The bill would also allow the deduction of health insurance premiums from federal adjusted gross income. Information from a 2007 survey conducted by the Kaiser Family Foundation and the Health Research Educational Trust found that 60.0 percent of businesses with three or more employees offered their employees health care benefits. The average total premium in 2007 was about \$4,500 for a single plan and about \$12,100 for a family plan. A single plan employee paid about \$700 for health benefits, a family plan employee paid about \$3,300 for health benefits and the employer paid the balance. Assuming 60.0 percent of Kansas taxpayers have health insurance through their employer, 15.0 percent have no health insurance, the remaining 25.0 percent have private insurance and using the average insurance premium costs mentioned above, total health insurance premiums in Kansas would be about \$4.3 billion in 2007. Assuming 6.0 percent growth in 2008 and 2009, the total premiums that could be deducted would be about \$4.8 billion.

Using tax year 2006 income tax data, approximately 16.0 percent of all Kansas taxpayers will have no taxable income, so this deduction would have no effect for them. About 26.0 percent of Kansas taxpayers would be able to use only about 50.0 percent of this deduction, which leaves about 71.0 percent of health premiums that could be deducted. Kansas residents deducted about \$538.0 million in medical and dental expenses on their tax year 2005 federal returns and are estimated to have itemized deductions for medical and dental expenses in 2009 of about \$630 million. Assuming about 50.0 percent of the itemized amount is for premiums paid for health insurance; about \$315.0 million would be subtracted from any allowable Kansas deduction for health care premiums.

The March 2007 National Compensation Survey indicates that nearly 40.0 percent of private industry employees participate in health savings accounts or flexible spending accounts. Assuming that 40.0 percent of the estimated \$4.8 billion in premium expenditures are currently excluded from federal adjusted gross income and the remaining 60.0 percent would be deducted as a subtraction modification, that \$315.0 million is currently included in the itemized deductions of some taxpayers and that only about 71.0 percent of the deduction for premiums can be used by taxpayers, the net effect of this section of the bill is a reduction in State General Fund tax revenues of about \$91.1 million ( $\$4.8 \text{ billion} \times 60\% - \$315 \text{ million} \times 71\% \times 5\%$ ). Any fiscal effect resulting from enactment of HB 2934 is not accounted for in *The FY 2009 Governor's Budget Report*.

Sincerely,



Duane A. Goossen  
Director of the Budget

cc: Scott Brunner, Health Policy Authority  
John Campbell, Insurance  
Sharon Schwartz, Legislative Services  
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Matt Sinovic, Attorney General's Office  
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