

February 21, 2014

The Honorable Mary Pilcher-Cook, Chairperson
Senate Committee on Public Health and Welfare
Statehouse, Room 441-E
Topeka, Kansas 66612

Dear Senator Pilcher-Cook:

SUBJECT: Fiscal Note for SB 362 by Senate Committee on Public Health and Welfare

In accordance with KSA 75-3715a, the following fiscal note concerning SB 362 is respectfully submitted to your committee.

SB 362 would establish the Health Care Insurance Navigator Registration Act. The Act would make it unlawful for individuals certified as navigators operating under federal programs required under the Affordable Care Act to perform or offer to perform services as a navigator unless the individual has been issued a navigator registration by the Attorney General in accordance with the requirements of the bill. The Act sets standards for licensure and charges the Attorney General with the administrative and enforcement aspects of the regulation. The bill defines the duties and qualifications that a navigator would be required to meet, including a \$10,000 surety bond. The bill also provides a complaint process for violations of the Act.

Any data breaches that result in the unauthorized release of a consumer's personal information would have to be reported to the Attorney General and the affected individual within 24 hours. The Attorney General would report to the leadership of the House of Representative and the Senate the number and circumstances of each breach.

The Attorney General estimates that SB 362 would require a new 0.5 FTE position at a cost of \$27,900 per year to implement SB 362. Also, \$6,100 for rent, \$1,500 for initial set-up expenses and \$5,000 in annual operating expenditures would be needed. Altogether, \$40,500 would be needed for FY 2015 and \$39,000 annually thereafter. Additional expenses could be incurred from defending any legal challenges upon passage of SB 362 and obtaining injunctive relief for any violations of the law. In its present form, there are portions of the bill which would likely be challenged in court. The Office of the Attorney General would handle any lawsuit in-house, but may need to retain outside counsel if the number of cases is large. There would be some case expenses that would involve the use of Kansas Tort Claims Act resources. The total cost of potential litigation is estimated to range from \$10,000 to \$75,000.

The Honorable Mary Pilcher-Cook, Chairperson

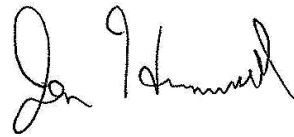
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The bill would allow the Attorney General to collect a registration fee from the navigators and charge for the cost of investigations and examinations of health insurance navigator's operations. Both of these revenue sources would go into the Health Care Insurance Navigator Registration Fund, which could be used only to pay the Kansas Bureau of Investigation for background checks. Civil penalties imposed by the Attorney General would go to the State General Fund.

The Office of Judicial Administration reports that passage of SB 362 could increase the number of cases filed in district courts and the number of appeals relating to regulation of insurance navigators. Any complaints filed with the Attorney General could be investigated by that agency or could be referred to any county or district attorney. The Attorney General would be given the power to administer oaths and affirmations, subpoena witnesses, adduce evidence and impose civil penalties. The court system would become involved in the process if a health care insurance navigator failed to comply with the subpoena or order by the Attorney General. The court could order compliance with the Attorney General. Failure to obey would be punishable as contempt of court. Following an administrative action, an aggrieved party could appeal the final order to the district court. However, it is not possible to predict how complex or time-consuming the cases would be. Therefore, a precise fiscal effect cannot be determined. Any fiscal effect associated with SB 362 is not reflected in *The FY 2015 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Hummell". The signature is fluid and cursive, with the first name "Jon" being more prominent than the last name "Hummell".

Jon Hummell,
Interim Director of the Budget

cc: Zac Anshutz, Insurance Department
Willie Prescott, Attorney General's Office
Mary Rinehart, Judiciary