

**HOUSE BILL No. 2416**

By Joint Committee on Health Policy Oversight

12-1

1 AN ACT concerning the division of health care finance of the department  
2 of health and environment; relating to updating references and  
3 corresponding changes due to transfer of powers and duties from the  
4 Kansas health policy authority *and hospital provider assessment*;  
5 amending K.S.A. 22-4612 and K.S.A. 2011 Supp. 2-224a, 38-2001, 38-  
6 2006, 39-760, 39-7,116, 39-7,118, 39-7,119, 39-7,120, 39-7,121, 39-  
7 7,121a, 39-7,121d, 39-7,121e, 39-7,159, 39-968, 40-2134, 40-2136, 40-  
8 2251, 40-2252, 40-4702, 40-4706, 46-3501, 65-435a, 65-1685, **65-**  
9 **6208**, 65-6801, 65-6803, 65-6804, 65-6805, 65-6806, 65-6807, 65-  
10 6809, 65-7405, 75-37,121, 75-5601, 75-6102, 75-7403, 75-7404, 75-  
11 7405, 75-7408, 75-7409, 75-7410, 75-7411, 75-7412, 75-7413, 75-  
12 7423, 75-7424, 75-7425, 75-7426, 75-7427, 75-7429, 75-7430, 75-  
13 7433, 75-7435, 75-7436 and 77-421 and repealing the existing sections;  
14 also repealing K.S.A. 2011 Supp. 75-7401, 75-7402, 75-7414, 75-7415,  
15 75-7416, 75-7417, 75-7418, 75-7419, 75-7420, 75-7421, 75-7422 and  
16 75-7428.

17

18 *Be it enacted by the Legislature of the State of Kansas:*

19 Section 1. K.S.A. 2011 Supp. 2-224a is hereby amended to read as  
20 follows: 2-224a. (a) Notwithstanding the provisions of K.S.A. 44-576,  
21 and amendments thereto, the state fair board is hereby authorized to  
22 purchase workers compensation insurance from an admitted carrier. Any  
23 contract for the purchase of workers compensation insurance entered into  
24 by the state fair board shall be purchased in the manner prescribed for the  
25 purchase of supplies, materials, equipment and contractual services as  
26 provided in K.S.A. 75-3738 through 75-3744, and amendments thereto,  
27 and any such contract having a premium or rate in excess of \$500 shall be  
28 purchased on the basis of sealed bids. Such contract shall not be subject to  
29 the provisions of K.S.A. 75-4101 through 75-4114 and K.S.A. 2011 Supp.  
30 75-4125, and amendments thereto.

31 (b) If the state fair board enters into a contract for the purchase of  
32 workers compensation insurance as described in subsection (a), from and  
33 after the end of the payroll period in which such workers compensation  
34 policy takes effect, the state fair board shall not be subject to the self-  
35 insurance assessment prescribed by K.S.A. 44-576, and amendments  
36 thereto, and the director of accounts and reports shall cease to transfer any

1 amounts for such self-assessment for the state fair board pursuant to such  
2 statute, except that any moneys paid relating to existing claims with the  
3 state workers compensation self-insurance fund made by the state fair  
4 board shall be assessed to the state fair board until all such claims have  
5 been closed and settled.

6 (c) Notwithstanding the provisions of K.S.A. 44-575, and  
7 amendments thereto, if the state fair board enters into a contract for the  
8 purchase of workers compensation insurance as described in subsection  
9 (a), the state workers compensation self-insurance fund shall not be liable  
10 for any compensation claims under the workers compensation act relating  
11 to the state fair board and arising during the term of such contract, or for  
12 any other amounts otherwise required to be paid under the workers  
13 compensation act during the term of such contract.

14 (d) The state fair board shall notify the secretary of administration  
15 and the ~~Kansas health policy authority~~ *secretary of health and environment*  
16 of the effective date of any workers compensation policy acquired  
17 pursuant to this section.

18 Sec. 2. K.S.A. 22-4612 is hereby amended to read as follows: 22-  
19 4612. (a) Except as otherwise provided in this section, a county, a city, a  
20 county or city law enforcement agency, a county department of corrections  
21 or the Kansas highway patrol shall be liable to pay a health care provider  
22 for health care services rendered to persons in the custody of such agencies  
23 the lesser of the actual amount billed by such health care provider or the  
24 medicaid rate. The provisions of this section shall not apply if a person in  
25 the custody of a county or city law enforcement agency, a county  
26 department of corrections or the Kansas highway patrol is covered under a  
27 current individual or group accident and health insurance policy, medical  
28 service plan contract, hospital service corporation contract, hospital and  
29 medical service corporation contract, fraternal benefit society or health  
30 maintenance organization contract.

31 (b) Nothing in this section shall prevent a county or city law  
32 enforcement agency, a county department of corrections, the Kansas  
33 highway patrol or such agencies authorized vendors from entering into  
34 agreements with health care providers for the provision of health care  
35 services at terms, conditions and amounts which are different than the  
36 medicaid rate.

37 (c) It shall be the responsibility of the custodial county or city law  
38 enforcement agency, county department of corrections or the Kansas  
39 highway patrol or such agencies' agents, to determine, under agreement  
40 with the ~~Kansas health policy authority~~ *secretary of health and*  
41 *environment*, the amount payable for the services provided and to  
42 communicate that determination along with the remittance advice and  
43 payment for the services provided.

1 (d) Nothing in this section shall be construed to create a duty on the  
2 part of a health care provider to render health care services to a person in  
3 the custody of a county or city law enforcement agency, a county  
4 department of corrections or the Kansas highway patrol.

5 (e) As used in this section:

6 (1) "County or city law enforcement agency" means a city police  
7 department, a county sheriff's department, a county law enforcement  
8 department as defined in K.S.A. 19-4401, and amendments thereto, or a  
9 law enforcement agency established pursuant to the consolidated city-  
10 county powers in K.S.A. 12-345, and amendments thereto.

11 (2) "Health care provider" means a person licensed to practice any  
12 branch of the healing arts by the state board of healing arts, a person who  
13 holds a temporary permit to practice any branch of the healing arts issued  
14 by the state board of healing arts, a person engaged in a postgraduate  
15 training program approved by the state board of healing arts, a licensed  
16 physician assistant, a person licensed by the behavioral sciences regulatory  
17 board, a medical care facility licensed by the department of health and  
18 environment, a podiatrist licensed by the state board of healing arts, an  
19 optometrist licensed by the board of examiners in optometry, a registered  
20 nurse, and advanced nurse practitioner, a licensed professional nurse who  
21 is authorized to practice as a registered nurse anesthetist, a licensed  
22 practical nurse, a licensed physical therapist, a professional corporation  
23 organized pursuant to the professional corporation law of Kansas by  
24 persons who are authorized by such law to form such a corporation and  
25 who are health care providers as defined by this subsection, a Kansas  
26 limited liability company organized for the purpose of rendering  
27 professional services by its members who are health care providers as  
28 defined by this subsection and who are legally authorized to render the  
29 professional services for which the limited liability company is organized,  
30 a partnership of persons who are health care providers under this  
31 subsection, a Kansas not-for-profit corporation organized for the purpose  
32 of rendering professional services by persons who are health care  
33 providers as defined by this subsection, a dentist certified by the state  
34 board of healing arts to administer anesthetics under K.S.A. 65-2899, and  
35 amendments thereto, a psychiatric hospital licensed under K.S.A. 75-  
36 3307b, and amendments thereto, a licensed social worker or a mental  
37 health center or mental health clinic licensed by the secretary of social and  
38 rehabilitation services and any health care provider licensed by the  
39 appropriate regulatory body in another state that has a current approved  
40 provider agreement with the ~~Kansas health policy authority~~ *secretary of*  
41 *health and environment*.

42 (3) "Medicaid rate" means the terms, conditions and amounts a health  
43 care provider would be paid for health care services rendered pursuant to a

1 contract or provider agreement with the ~~Kansas health policy~~  
2 ~~authority~~ *secretary of health and environment*.

3 Sec. 3. K.S.A. 2011 Supp. 38-2001 is hereby amended to read as  
4 follows: 38-2001. (a) The ~~Kansas health policy authority~~ *department of*  
5 *health and environment* shall develop and submit a plan consistent with  
6 federal guidelines established under section 4901 of public law 105-33 (42  
7 U.S.C. 1397aa et seq.; title XXI).

8 (b) The plan developed under subsection (a) shall be a capitated  
9 managed care plan covering Kansas children from zero to 19 years which:

10 (1) Contains benefit levels at least equal to those for the early and  
11 periodic screening, diagnosis and treatment program;

12 (2) provides for presumptive eligibility for children where applicable;

13 (3) provides continuous eligibility for 12 months once a formal  
14 determination is made that a child is eligible subject to subsection (e);

15 (4) has performance based contracting with measurable outcomes  
16 indicating age appropriate utilization of plan services to include, but not  
17 limited to, such measurable services as immunizations, vision, hearing and  
18 dental exams, emergency room utilization, annual physical exams and  
19 asthma;

20 (5) shall use the same prior authorization standards and requirements  
21 as used for health care services under medicaid to further the goal of  
22 seamlessness of coverage between the two programs;

23 (6) shall provide targeted low-income children, as defined under  
24 section 4901 of public law 105-33 (42 U.S.C. § 1397aa, et seq.), coverage  
25 subject to appropriations;

26 (7) shall provide coverage, subject to appropriation of funds and  
27 eligibility requirements, for children residing in a household having a  
28 gross household income (A) for 2009, at or under 225% of the 2008  
29 federal poverty income guidelines and (B) for 2010 and subsequent years,  
30 at or under 250% of the 2008 federal poverty income guidelines; the  
31 participants receiving coverage shall contribute to the payment for such  
32 coverage through a sliding-fee scale based upon ability to pay as  
33 established by rules and regulations of the ~~Kansas health policy~~  
34 ~~authority~~ *secretary of health and environment*; and

35 (8) contains a provision which requires the newly enrolled  
36 participants with a family income over 200% of the federal poverty  
37 income guidelines to wait at least 8 months before participating in this  
38 program, if such participants previously had comprehensive health benefit  
39 coverage through an individual policy or a health benefit plan provided by  
40 any health insurer as defined in K.S.A. 40-4602, and amendments thereto.  
41 This waiting period provision shall not apply when the prior coverage  
42 ended due to loss of employment other than the voluntary termination,  
43 change to a new employer that does not provide an option for dependent

1 coverage, discontinuation of health benefits to all employees, expiration of  
2 COBRA coverage period or any other situations where the prior coverage  
3 ended due to reasons unrelated to the availability of this program.

4 (c) The ~~Kansas health policy authority~~*secretary of health and*  
5 *environment* is authorized to contract with entities authorized to transact  
6 health insurance business in this state to implement the health insurance  
7 coverage plan pursuant to subsection (a) providing for several plan options  
8 to enrollees which are coordinated with federal and state child health care  
9 programs, except that when contracting to provide managed mental health  
10 care services the ~~Kansas health policy authority~~*secretary of health and*  
11 *environment* shall assure that contracted entities demonstrate the ability to  
12 provide a full array of mental health services in accordance with the early  
13 and periodic screening, diagnosis and treatment plan. The ~~Kansas health~~  
14 ~~policy authority~~*secretary of health and environment* shall not develop a  
15 request for proposal process which excludes community mental health  
16 centers from the opportunity to bid for managed mental health care  
17 services.

18 (d) When developing and implementing the plan in subsection (a), the  
19 ~~Kansas health policy authority~~*secretary of health and environment* to the  
20 extent authorized by law:

21 (1) Shall include provisions that encourage contracting insurers to  
22 utilize and coordinate with existing community health care institutions and  
23 providers;

24 (2) may work with public health care providers and other community  
25 resources to provide educational programs promoting healthy lifestyles  
26 and appropriate use of the plan's health services;

27 (3) shall plan for outreach and maximum enrollment of eligible  
28 children through cooperation with local health departments, schools, child  
29 care facilities and other community institutions and providers;

30 (4) shall provide for a simplified enrollment plan;

31 (5) shall provide cost sharing as allowed by law;

32 (6) shall not count the caring program for children, the Kansas health  
33 insurance association plan or any charity health care plan as insurance  
34 under subsection (e)(1);

35 (7) may provide for payment of health insurance premiums, including  
36 contributions to a health savings account if applicable, and, in conjunction  
37 with an employer sponsored insurance premium assistance plan, may  
38 provide that supplemental benefits be purchased outside of the capitated  
39 managed care plan, if it is determined cost effective, taking into account  
40 the number of children to be served and the benefits to be provided;

41 (8) may provide that prescription drugs, transportation services and  
42 dental services are purchased outside of the capitated managed care plan to  
43 improve the efficiency, accessibility and effectiveness of the program; and

1 (9) shall include a provision that requires any individual to be a  
2 citizen or an alien lawfully admitted to the United States for purposes of  
3 establishing eligibility for benefits under the plan and to present  
4 satisfactory documentary evidence of citizenship or lawful admission of  
5 the individual. The criteria for determining whether the documentation is  
6 satisfactory shall be no more restrictive than the criteria used by the social  
7 security administration to determine citizenship. A document issued by a  
8 federally-recognized Indian tribe evidencing membership or enrollment in,  
9 or affiliation with, such tribe, such as a tribal enrollment card or certificate  
10 of degree of Indian blood shall be satisfactory documentary evidence of  
11 citizenship or lawful admission.

12 (e) A child shall not be eligible for coverage and shall lose coverage  
13 under the plan developed under subsection (a) of K.S.A. 38-2001, and  
14 amendments thereto, if such child's family has not paid the enrollee's  
15 applicable share of any premium due.

16 If the family pays all of the delinquent premiums owed during the year,  
17 such child will again be eligible for coverage for the remaining months of  
18 the continuous eligibility period.

19 (f) The plan developed under section 4901 of public law 105-33 (42  
20 U.S.C. § 1397aa et seq., and amendments thereto) is not an entitlement  
21 program. The availability of the plan benefits shall be subject to funds  
22 appropriated. The ~~Kansas health policy authority~~*secretary of health and*  
23 *environment* shall not utilize waiting lists, but shall monitor costs of the  
24 program and make necessary adjustments to stay within the program's  
25 appropriations.

26 (g) Eligibility and benefits under the plan prescribed by subsection  
27 (b)(7) are not and shall not be construed to be entitlements, are for legal  
28 residents of the state of Kansas and are subject to availability of state and  
29 federal funds and to any state and federal requirements and the provisions  
30 of appropriation acts. If the ~~Kansas health policy authority~~*secretary of*  
31 *health and environment* determines that the available federal funds and the  
32 state funds appropriated are insufficient to sustain coverage for the income  
33 eligibility levels prescribed by subsection (b)(7), a lower income level  
34 shall be adopted and implemented by the ~~Kansas health policy~~  
35 ~~authority~~*secretary of health and environment*, within the limits of  
36 appropriations available therefor, and all such changes shall be published  
37 by the ~~Kansas health policy authority~~*secretary of health and environment*  
38 in the Kansas register.

39 Sec. 4. K.S.A. 2011 Supp. 38-2006 is hereby amended to read as  
40 follows: 38-2006. The *secretary of social and rehabilitation services* shall  
41 advise and consult with the ~~Kansas health policy authority~~*secretary of*  
42 *health and environment* on issues relating to children's health status.

43 Sec. 5. K.S.A. 2011 Supp. 39-760 is hereby amended to read as

1 follows: 39-760. (a) The ~~Kansas health policy authority~~*secretary of health*  
2 *and environment* and the secretary of social and rehabilitation services are  
3 hereby directed to establish a system for the reporting of suspected abuse  
4 or fraud in connection with state welfare or medical assistance programs,  
5 either by recipients or health care providers. The system shall be designed  
6 to permit any person in the state at any time to place a toll-free call into the  
7 system and report suspected cases of welfare abuse or suspected cases of  
8 health care provider fraud.

9 (b) The ~~Kansas health policy authority~~*secretary of health and*  
10 *environment* and the secretary of social and rehabilitation services are  
11 further directed to publicize the system throughout the state.

12 (c) Notice of the existence of the system established pursuant to this  
13 section shall be displayed prominently in the office or facility of every  
14 health care provider who provides services under the state medical  
15 assistance program.

16 (d) The ~~Kansas health policy authority~~*secretary of health and*  
17 *environment* shall notify annually each recipient of state medical assistance  
18 of the toll-free number of the system established pursuant to this section  
19 and the purpose thereof. If possible, such notice shall be printed on the  
20 medical cards issued to recipients by the ~~authority~~*secretary*.

21 Sec. 6. K.S.A. 2011 Supp. 39-7,116 is hereby amended to read as  
22 follows: 39-7,116. As used in this act:

23 (a) "Restrictive drug formulary" means a list of prescription-only  
24 drugs established by the department which excludes in whole or in part  
25 reimbursement by the department for such drugs under a program  
26 administered by the department.

27 (b) The words and phrases used in this section shall have the same  
28 meanings as are ascribed to such words and phrases under K.S.A. 65-  
29 1626, and amendments thereto.

30 (c) "Physician" means a person licensed to practice medicine and  
31 surgery.

32 (d) "~~Authority~~" means the ~~Kansas health policy authority~~ established  
33 by K.S.A. 2011 Supp. 75-7401, and amendments thereto. "~~Department~~"  
34 means the department of health and environment.

35 Sec. 7. K.S.A. 2011 Supp. 39-7,118 is hereby amended to read as  
36 follows: 39-7,118. The ~~Kansas health policy authority~~*secretary of health*  
37 *and environment* shall implement a drug utilization review program with  
38 the assistance of a medicaid drug utilization review board as provided in  
39 K.S.A. 39-7,119, and amendments thereto, to assure the appropriate  
40 utilization of drugs by patients receiving medical assistance under the  
41 medicaid program. The drug utilization review program shall include:

42 (a) Monitoring of prescription information including overutilization  
43 and underutilization of prescription-only drugs;

1 (b) making periodic reports of findings and recommendations to the  
2 ~~Kansas health policy authority~~*secretary of health and environment* and the  
3 United States department of health and human services regarding the  
4 activities of the board, drug utilization review programs, summary of  
5 interventions, assessments of education interventions and drug utilization  
6 review cost estimates;

7 (c) providing for prospective and retrospective drug utilization  
8 review, as specified in the federal omnibus budget reconciliation act of  
9 1990 (public law 101-508);

10 (d) monitoring provider and recipient compliance with program  
11 objectives;

12 (e) providing educational information on state program objectives,  
13 directly or by contract, to private and public sector health care providers to  
14 improve prescribing and dispensing practices;

15 (f) reviewing the increasing costs of purchasing prescription drugs  
16 and making recommendations on cost containment;

17 (g) reviewing profiles of medicaid beneficiaries who have multiple  
18 prescriptions above a level specified by the board; and

19 (h) recommending any modifications or changes to the medicaid  
20 prescription drug program.

21 Sec. 8. K.S.A. 2011 Supp. 39-7,119 is hereby amended to read as  
22 follows: 39-7,119. (a) There is hereby created the medicaid drug utilization  
23 review board which shall be responsible for the implementation of  
24 retrospective and prospective drug utilization programs under the Kansas  
25 medicaid program.

26 (b) Except as provided in subsection (i), the board shall consist of at  
27 least seven members appointed as follows:

28 (1) Two licensed physicians actively engaged in the practice of  
29 medicine, nominated by the Kansas medical society and appointed by the  
30 ~~Kansas health policy authority~~*secretary of health and environment* from a  
31 list of four nominees;

32 (2) one licensed physician actively engaged in the practice of  
33 osteopathic medicine, nominated by the Kansas association of osteopathic  
34 medicine and appointed by the ~~Kansas health policy authority~~*secretary of*  
35 *health and environment* from a list of four nominees;

36 (3) two licensed pharmacists actively engaged in the practice of  
37 pharmacy, nominated by the Kansas pharmacy association and appointed  
38 by the ~~Kansas health policy authority~~*secretary of health and environment*  
39 from a list of four nominees;

40 (4) one person licensed as a pharmacist and actively engaged in  
41 academic pharmacy, appointed by the ~~Kansas health policy~~  
42 ~~authority~~*secretary of health and environment* from a list of four nominees  
43 provided by the university of Kansas;



1 (5) one licensed professional nurse actively engaged in long-term  
2 care nursing, nominated by the Kansas state nurses association and  
3 appointed by the ~~Kansas health policy authority~~ *secretary of health and*  
4 *environment* from a list of four nominees.

5 (c) The ~~Kansas health policy authority~~ *secretary of health and*  
6 *environment* may add two additional members so long as no class of  
7 professional representatives exceeds 51% of the membership.

8 (d) The physician and pharmacist members shall have expertise in the  
9 clinically appropriate prescribing and dispensing of outpatient drugs.

10 (e) The appointments to the board shall be for terms of three years. In  
11 making the appointments, the ~~Kansas health policy authority~~ *secretary of*  
12 *health and environment* shall provide for geographic balance in the  
13 representation on the board to the extent possible. Subject to the provisions  
14 of subsection (i), members may be reappointed.

15 (f) The board shall elect a chairperson from among board members  
16 who shall serve a one-year term. The chairperson may serve consecutive  
17 terms.

18 (g) The board, in accordance with K.S.A. 75-4319, and amendments  
19 thereto, may recess for a closed or executive meeting when it is  
20 considering matters relating to identifiable patients or providers.

21 (h) All actions of the medicaid drug utilization review board shall be  
22 upon the affirmative vote of five members of the board and the vote of  
23 each member present when action was taken shall be recorded by roll call  
24 vote.

25 (i) Upon the expiration of the term of office of any member of the  
26 medicaid drug utilization review board on or after the effective date of this  
27 act and in any case of a vacancy existing in the membership position of  
28 any member of the medicaid drug utilization review board on or after the  
29 effective date of this act, a successor shall be appointed by the ~~Kansas~~  
30 ~~health policy authority~~ *secretary of health and environment* so that as the  
31 terms of members expire, or vacancies occur, members are appointed and  
32 the composition of the board is changed in accordance with the following  
33 and such appointment shall be made by the ~~Kansas health policy~~  
34 ~~authority~~ *secretary of health and environment* in the following order of  
35 priority:

36 (1) One member shall be a licensed pharmacist who is actively  
37 performing or who has experience performing medicaid pharmacy services  
38 for a hospital and who is nominated by the Kansas hospital association and  
39 appointed by the ~~Kansas health policy authority~~ *secretary of health and*  
40 *environment* from a list of two or more nominees;

41 (2) one member shall be a licensed pharmacist who is actively  
42 performing or who has experience performing medicaid pharmacy services  
43 for a licensed adult care home and who is nominated by the state board of

1 pharmacy and appointed by the ~~Kansas health policy authority~~ *secretary of*  
2 *health and environment* from a list of two or more nominees;

3 (3) one member shall be a licensed physician who is actively engaged  
4 in the general practice of allopathic medicine and who has practice  
5 experience with the state medicaid plan and who is nominated by the  
6 Kansas medical society and appointed by the ~~Kansas health policy~~  
7 ~~authority~~ *secretary of health and environment* from a list of two or more  
8 nominees;

9 (4) one member shall be a licensed physician who is actively engaged  
10 in mental health practice providing care and treatment to persons with  
11 mental illness, who has practice experience with the state medicaid plan  
12 and who is nominated by the Kansas psychiatric society and appointed by  
13 the ~~Kansas health policy authority~~ *secretary of health and environment*  
14 from a list of two or more nominees;

15 (5) one member shall be a licensed physician who is the medical  
16 director of a nursing facility, who has practice experience with the state  
17 medicaid plan and who is nominated by the Kansas medical society and  
18 appointed by the ~~Kansas health policy authority~~ *secretary of health and*  
19 *environment* from a list of two or more nominees;

20 (6) one member shall be a licensed physician who is actively engaged  
21 in the general practice of osteopathic medicine, who has practice  
22 experience with the state medicaid plan and who is nominated by the  
23 Kansas association of osteopathic medicine and who is appointed by the  
24 ~~Kansas health policy authority~~ *secretary of health and environment* from a  
25 list of two or more nominees;

26 (7) one member shall be a licensed pharmacist who is actively  
27 engaged in retail pharmacy, who has practice experience with the state  
28 medicaid plan and who is nominated by the state board of pharmacy and  
29 appointed by the ~~Kansas health policy authority~~ *secretary of health and*  
30 *environment* from a list of two or more nominees;

31 (8) one member shall be a licensed pharmacist who is actively  
32 engaged in or who has experience in research pharmacy and who is  
33 nominated jointly by the Kansas task force for the pharmaceutical research  
34 and manufacturers association and the university of Kansas and appointed  
35 by the ~~Kansas health policy authority~~ *secretary of health and environment*  
36 from a list of two or more jointly nominated persons; and

37 (9) one member shall be a licensed advanced practice registered nurse  
38 or physician assistant actively engaged in the practice of providing the  
39 health care and treatment services such person is licensed to perform, who  
40 has practice experience with the state medicaid plan and who is nominated  
41 jointly by the Kansas state nurses' association and the Kansas academy of  
42 physician assistants and appointed by the ~~Kansas health policy~~  
43 ~~authority~~ *secretary of health and environment* from a list of two or more

1 jointly nominated persons.

2 Sec. 9. K.S.A. 2011 Supp. 39-7,120 is hereby amended to read as  
3 follows: 39-7,120. (a) The ~~Kansas health policy authority~~*secretary of*  
4 *health and environment* shall not restrict patient access to prescription-only  
5 drugs pursuant to a program of prior authorization or a restrictive  
6 formulary except by rules and regulations adopted in accordance with  
7 K.S.A. ~~77-415 et seq.~~*75-5625*, and amendments thereto. Prior to the  
8 promulgation of any such rules and regulations, the ~~Kansas health policy~~  
9 ~~authority~~*secretary of health and environment* shall submit such proposed  
10 rules and regulations to the medicaid drug utilization review board for  
11 written comment. The ~~Kansas health policy authority~~*secretary of health*  
12 *and environment* may not implement permanent prior authorization until  
13 30 days after receipt of comments by the drug utilization review board.

14 (b) When considering recommendations from the medicaid drug  
15 utilization review board regarding the prior authorization of a drug, the  
16 ~~Kansas health policy authority~~*secretary of health and environment* shall  
17 consider the net economic impact of such prior authorization, including,  
18 but not limited to, the costs of specific drugs, rebates or discounts pursuant  
19 to 42 U.S.C. § 1396r-8, dispensing costs, dosing requirements and  
20 utilization of other drugs or other medicaid health care services which may  
21 be related to the prior authorization of such drug.

22 Sec. 10. K.S.A. 2011 Supp. 39-7,121 is hereby amended to read as  
23 follows: 39-7,121. (a) The ~~Kansas health policy authority~~*department of*  
24 *health and environment* shall establish and implement an electronic  
25 pharmacy claims management system in order to provide for the on-line  
26 adjudication of claims and for electronic prospective drug utilization  
27 review.

28 (b) The system shall provide for electronic point-of-sale review of  
29 drug therapy using predetermined standards to screen for potential drug  
30 therapy problems including incorrect drug dosage, adverse drug-drug  
31 interactions, drug-disease contraindications, therapeutic duplication,  
32 incorrect duration of drug treatment, drug-allergy interactions and clinical  
33 abuse or misuse.

34 (c) The ~~Kansas health policy authority~~*department of health and*  
35 *environment* shall not utilize this system, or any other system or program  
36 to require that a recipient has utilized or failed with a drug usage or drug  
37 therapy prior to allowing the recipient to receive the product or therapy  
38 recommended by the recipient's physician.

39 Sec. 11. K.S.A. 2011 Supp. 39-7,121a is hereby amended to read as  
40 follows: 39-7,121a. (a) The ~~Kansas health policy authority~~*department of*  
41 *health and environment* may establish an advisory committee pursuant to  
42 K.S.A. ~~75-531375-5616~~, and amendments thereto, to advise the ~~Kansas~~  
43 ~~health policy authority~~*department of health and environment* in the

1 development of a preferred formulary listing of covered drugs by the state  
2 medicaid program.

3 (b) The ~~Kansas health policy authority~~*department of health and*  
4 *environment* shall evaluate drugs and drug classes for inclusion in the state  
5 medicaid preferred drug formulary based on safety, effectiveness and  
6 clinical outcomes of such treatments. In addition, the ~~Kansas health policy~~  
7 ~~authority~~*department of health and environment* shall evaluate drugs and  
8 drug classes to determine whether inclusion of such drugs or drug classes  
9 in a starter dose program would be clinically efficacious and cost effective.  
10 If the factors of safety, effectiveness and clinical outcomes among drugs  
11 being considered in the same class indicate no therapeutic advantage, then  
12 the ~~Kansas health policy authority~~*department of health and environment*  
13 shall consider the cost effectiveness and the net economic impact of such  
14 drugs in making recommendations for inclusion in the state medicaid  
15 preferred drug formulary. Drugs which do not have a significant, clinically  
16 meaningful therapeutic advantage in terms of safety, effectiveness or  
17 clinical outcomes over other drugs in the same class which have been  
18 selected for the preferred drug formulary may be excluded from the  
19 preferred drug formulary and may be subject to prior authorization in  
20 accordance with state and federal law, except, prior to July 1, 2003, where  
21 a prescriber has personally written "dispense as written" or "D.A.W.", or  
22 has signed the prescriber's name on the "dispense as written" signature line  
23 in accordance with K.S.A. 65-1637, and amendments thereto.

24 (c) The ~~Kansas health policy authority~~*department of health and*  
25 *environment* shall consider the net economic impact of drugs selected or  
26 excluded from the preferred formulary and may gather information on the  
27 costs of specific drugs, rebates or discounts pursuant to 42 U.S.C. § 1396r-  
28 8, dispensing costs, dosing requirements and utilization of other drugs or  
29 other medicaid health care services.

30 (d) The ~~Kansas health policy authority~~*department of health and*  
31 *environment* may accept all services, including, but not limited to, disease  
32 state management, associated with the delivery of pharmacy benefits under  
33 the state medicaid program having a determinable cost effect in addition to  
34 the medicaid prescription drug rebates required pursuant to 42 U.S.C.  
35 ~~section~~§ 1396r-8.

36 (e) The state medicaid preferred drug formulary shall be submitted to  
37 the medicaid drug utilization review board for review and policy  
38 recommendations.

39 Sec. 12. K.S.A. 2011 Supp. 39-7,121d is hereby amended to read as  
40 follows: 39-7,121d. (a) The state medicaid plan shall include provisions  
41 for a program of differential dispensing fees for pharmacies that provide  
42 prescriptions for adult care homes under a unit dose system in accordance  
43 with rules and regulations of the state board of pharmacy and that

1 participate in the return of unused medications program under the state  
2 medicaid plan.

3 (b) The state medicaid plan shall include provisions for differential  
4 ingredient cost reimbursement of generic and brand name pharmaceuticals.  
5 The ~~Kansas health policy authority~~*department of health and environment*  
6 shall set the rates for differential cost reimbursement of generic and brand  
7 name pharmaceuticals by rules and regulations.

8 (c) ~~On and after May 23, 2007,~~ The state medicaid plan shall require  
9 that every pharmacy claim form under the plan include the prescriber's  
10 unique identification number.

11 Sec. 13. K.S.A. 2011 Supp. 39-7,121e is hereby amended to read as  
12 follows: 39-7,121e. (a) Except where a prescriber has personally written  
13 "dispense as written" or "D.A.W.," or has signed the prescriber's name on  
14 the "dispense as written" signature line in accordance with K.S.A. 65-  
15 1637, and amendments thereto, the ~~Kansas health policy~~  
16 ~~authority~~*department of health and environment* may limit reimbursement  
17 for a prescription under the medicaid program to the multisource generic  
18 equivalent drug.

19 (b) No pharmacist participating in the medical assistance program  
20 shall be required to dispense a prescription-only drug that will not be  
21 reimbursed by the medical assistance program.

22 Sec. 14. K.S.A. 2011 Supp. 39-7,159 is hereby amended to read as  
23 follows: 39-7,159. (a) In the state of Kansas, long-term care services,  
24 including home and community based services, shall be provided through  
25 a comprehensive and coordinated system throughout the state.

26 (b) The system shall:

27 (1) Emphasize a delivery concept of self-direction, individual choice,  
28 home and community settings and privacy;

29 (2) ensure transparency, accountability, safety and high quality  
30 services;

31 (3) increase expedited eligibility determination;

32 (4) provide timely services;

33 (5) utilize informal services; and

34 (6) ensure the moneys follow the person into the community.

35 (c) All persons receiving services pursuant to this section shall be  
36 offered the appropriate services which are determined to be in aggregate  
37 the most economical available with regard to state general fund  
38 expenditures. For those persons moving from a nursing facility to the  
39 home and community based services, the nursing facility reimbursement  
40 shall follow the person into the community.

41 (d) The department on aging, the department of social and  
42 rehabilitation services and the ~~Kansas health policy authority~~*department of*  
43 *health and environment* shall design and implement the system, in

1 consultation with stakeholders and advocates related to long-term care  
2 services.

3 (e) The department on aging and the department of social and  
4 rehabilitation services, in consultation with the ~~Kansas health policy~~  
5 ~~authority~~ *department of health and environment*, shall submit an annual  
6 report on the long-term care system to the governor and the legislature  
7 annually, during the first week of the regular session.

8 Sec. 15. K.S.A. 2011 Supp. 39-968 is hereby amended to read as  
9 follows: 39-968. (a) To achieve a quality of life for Kansans with long-  
10 term care needs in an environment of choice that maximizes independent  
11 living capabilities and recognizes diversity, this act establishes a program  
12 which is intended to encourage a wide array of quality, cost-effective and  
13 affordable long-term care choices. This program shall be known as client  
14 assessment, referral and evaluation (CARE). The purposes of CARE is for  
15 data collection and individual assessment and referral to community-based  
16 services and appropriate placement in long-term care facilities.

17 (b) As used in this section:

18 (1) "Assessment services" means evaluation of an individual's health  
19 and functional status to determine the need for long-term care services and  
20 to identify appropriate service options which meet these needs utilizing the  
21 client assessment, referral and evaluation (CARE) form.

22 (2) "Health care data governing board" means the board abolished by  
23 K.S.A. 65-6803, and amendments thereto.

24 (3) "Medical care facility" shall have the meaning ascribed to such  
25 term under K.S.A. 65-425, and amendments thereto.

26 (4) "Nursing facility" shall have the meaning ascribed to such term  
27 under K.S.A. 39-923, and amendments thereto.

28 (5) "Secretary" means the secretary of aging.

29 (c) There is hereby established the client assessment, referral and  
30 evaluation (CARE) program. The CARE program shall be administered by  
31 the secretary of aging and shall be implemented on a phased-in basis in  
32 accordance with the provisions of this section.

33 (d) All rules and regulations adopted by the health care data  
34 governing board relating to client assessment, referral and evaluation  
35 (CARE) data entry form shall be deemed to be the rules and regulations of  
36 the ~~Kansas health policy authority~~ *department of health and environment*  
37 until revised, revoked or nullified pursuant to law. The purpose of this  
38 form is for data collection and referral services. Such form shall be concise  
39 and questions shall be limited to those necessary to carry out the stated  
40 purposes. The client assessment, referral and evaluation (CARE) data  
41 entry form shall include, but not be limited to, the preadmission screening  
42 and annual resident review (PASARR) questions. Prior to the adoption of  
43 the client assessment, referral and evaluation (CARE) data entry form by

1 the health care data governing board, the secretary of aging shall approve  
2 the form. The client assessment, referral and evaluation (CARE) data entry  
3 form shall be used by all persons providing assessment services.

4 (e) (1) ~~On and after January 1, 1995,~~ Each individual prior to  
5 admission to a nursing facility as a resident of the facility shall receive  
6 assessment services to be provided by the secretary of aging, with the  
7 assistance of area agencies on aging, except (A) such assessment services  
8 shall be provided by a medical care facility to a patient of the medical care  
9 facility who is considering becoming a resident of a nursing facility upon  
10 discharge from the medical care facility and (B) as authorized by rules and  
11 regulations adopted by the secretary of aging pursuant to subsection (i).

12 (2) The provisions of this subsection (e) shall not apply to any  
13 individual exempted from preadmission screening and annual resident  
14 review under 42 code of federal regulations 483.106.

15 (f) The secretary of aging shall cooperate with the area agencies on  
16 aging providing assessment services under this section.

17 (g) The secretary of aging shall assure that each area agency on aging  
18 shall compile comprehensive resource information for use by individuals  
19 and agencies related to long-term care resources including all area offices  
20 of the department of social and rehabilitation services and local health  
21 departments. This information shall include, but not be limited to,  
22 resources available to assist persons to choose alternatives to institutional  
23 care.

24 (h) Nursing facilities and medical care facilities shall make available  
25 information referenced in subsection (g) to each person seeking admission  
26 or upon discharge as appropriate. Any person licensed to practice the  
27 healing arts as defined in K.S.A. 65-2802, and amendments thereto, shall  
28 make the same resource information available to any person identified as  
29 seeking or needing long-term care. Each senior center and each area  
30 agency on aging shall make available such information.

31 (i) The secretary shall adopt rules and regulations to govern such  
32 matters as the secretary deems necessary for the administration of this act.

33 (j) (1) There is hereby established an eleven-member voluntary  
34 oversight council which shall meet monthly ~~prior to July 1, 1995,~~ for the  
35 purpose of assisting the secretary of aging in restructuring the assessment  
36 and referral program in a manner consistent with this act and shall meet  
37 quarterly thereafter for the purpose of monitoring and advising the  
38 secretary regarding the CARE program. The council shall be advisory  
39 only, except that the secretary of aging shall file with the council each six  
40 months the secretary's response to council comments or recommendations.

41 (2) The secretary of aging shall appoint two representatives of  
42 hospitals, two representatives of nursing facilities, two consumers and two  
43 representatives of providers of home and community-based services. The

1 secretary of health and environment and the secretary of social and  
2 rehabilitation services, or their designee, shall be members of the council  
3 in addition to the eight appointed members. The secretary of aging shall  
4 serve as chairperson of the council. The appointive members of the council  
5 shall serve at the pleasure of their appointing authority. Members of the  
6 voluntary oversight council shall not be paid compensation, subsistence  
7 allowances, mileage or other expenses as otherwise may be authorized by  
8 law for attending meetings, or subcommittee meetings, of the council.

9 (k) The secretary of aging shall report to the governor and to the  
10 legislature on or before December 31, 1995, and each year thereafter on or  
11 before such date, an analysis of the information collected under this  
12 section. In addition, the secretary of aging shall provide data from the  
13 CARE data forms to the ~~Kansas health policy authority~~*department of*  
14 *health and environment*. Such data shall be provided in such a manner so  
15 as not to identify individuals.

16 Sec. 16. K.S.A. 2011 Supp. 40-2134 is hereby amended to read as  
17 follows: 40-2134. (a) Subject to the provisions of subsection (e), the  
18 ~~Kansas health policy authority~~*department of health and environment* in  
19 conjunction with the Kansas department of insurance shall establish a  
20 long-term care partnership program in Kansas to provide for the financing  
21 of long-term care through a combination of private insurance and medical  
22 assistance. The long-term care partnership program shall:

23 (1) Provide incentives for individuals to insure against the costs of  
24 providing for their long-term care needs;

25 (2) provide a mechanism for individuals to qualify for coverage under  
26 medical assistance while having certain assets disregarded for eligibility  
27 determinations and recovery; and

28 (3) reduce the financial burden on the state's medical assistance  
29 program by encouraging the pursuit of private initiatives using qualified  
30 long-term care partnership insurance policies.

31 (b) An individual who is a beneficiary of a Kansas long-term care  
32 partnership program policy shall be eligible for assistance under the state's  
33 medical assistance program using the asset disregard as provided under  
34 subsection (e).

35 (c) The ~~Kansas health policy authority~~*department of health and*  
36 *environment* shall pursue reciprocal agreements with other states to extend  
37 the asset disregard to Kansas residents who purchased long-term care  
38 partnership policies in other states that are compliant with title VI, section  
39 6021 of the federal deficit reduction act of 2005, public law 109-171, and  
40 any applicable federal regulations or guidelines.

41 (d) As provided under subsection (e), certain assets of an individual  
42 who has received benefits from a qualified long-term care partnership  
43 policy shall not be considered when determining:



1 (1) The individual's medical assistance eligibility; and  
2 (2) any subsequent recovery by the state for a payment for medical  
3 services or long-term care services made by the medical assistance  
4 program on behalf of the individual.

5 (e) Under the individual's long-term care insurance policy if the  
6 individual is a beneficiary of a qualified long-term care partnership  
7 program policy at the time the individual applies for benefits under the  
8 Kansas medical assistance program, the assets an individual may own and  
9 retain under Kansas medical assistance program and still qualify for  
10 benefits under the program shall be increased dollar-for-dollar for each  
11 dollar paid out after the effective date of the state plan amendment, or after  
12 the issue date of a policy exchanged, whichever is later.

13 (f) If the long-term care partnership program established by this act is  
14 discontinued, any individual who purchased a Kansas long-term care  
15 partnership program policy before the date the program was discontinued  
16 shall be eligible to receive asset disregard if allowed as provided by title  
17 VI, section 6021 of the federal deficit reduction act of 2005, public law  
18 109-171.

19 (g) The ~~Kansas health policy authority~~*department of health and*  
20 *environment*, the department of social and rehabilitation services, the  
21 department on aging and the department of insurance shall post, on their  
22 respective websites, information on how to access the national  
23 clearinghouse established under the federal deficit reduction act of 2005,  
24 public law 109-171, when the national clearinghouse becomes available to  
25 consumers.

26 Sec. 17. K.S.A. 2011 Supp. 40-2136 is hereby amended to read as  
27 follows: 40-2136. Each issuer of qualified long-term care partnership  
28 program policies in this state shall: (a) Provide regular reports to both the  
29 secretary of the United States department of human services in accordance  
30 with federal law and regulations and to the ~~Kansas health policy~~  
31 ~~authority~~*secretary of health and environment* and the commissioner of  
32 insurance as provided in section 6021 of the federal deficit reduction act of  
33 2005, public law 109-171.

34 (b) Provide to consumers a notice explaining the benefits associated  
35 with a partnership policy and indicating that at the time issued, the policy  
36 is a qualified state long-term care insurance partnership policy at a time  
37 and in a manner to be determined by the commissioner of insurance.

38 (c) Submit a partnership certification form signed by an officer of the  
39 company with all policies submitted for certification as partnership  
40 policies.

41 (d) Obtain verification that producers receive training required by the  
42 commissioner of insurance before a producer is permitted to sell, solicit or  
43 negotiate the insurer's long-term care insurance products, maintain records

1 of compliance, and make the verification available to the commissioner of  
2 insurance upon request.

3 (e) Maintain records with respect to the training of its producers  
4 concerning the distribution of its partnership policies that will allow the  
5 department of insurance to provide assurance to the ~~Kansas health policy~~  
6 ~~authority~~ *department of health and environment* that producers have  
7 received the training required by the commissioner of insurance and that  
8 producers have demonstrated an understanding of the partnership policies  
9 and their relationship to public and private coverage of long-term care,  
10 including medical assistance in this state. These records shall be  
11 maintained and made available to the commissioner of insurance upon  
12 request.

13 (f) (1) Offer, on a one-time basis, in writing, to all existing  
14 policyholders that were issued long-term care coverage of the type  
15 certified by the insurer on or after February 8, 2006, the option to  
16 exchange their existing long-term care coverage for coverage that is  
17 intended to qualify under Kansas' long-term care partnership program. The  
18 mandatory offer of an exchange shall only apply to products issued by the  
19 insurer that are comparable to the type of policy form, such as group  
20 policies and individual policies and on the policy series that the company  
21 has certified as partnership qualified;

22 (2) the offer shall remain open for a minimum of 45 days from the  
23 date of mailing by the insurer;

24 (3) the offer shall be made on a nondiscriminatory basis without  
25 regard to the age or health status of the insured. However, the insurer may  
26 underwrite if the policy is amended to provide additional benefits or the  
27 exchange would require the issuance of a new policy. Any portion of the  
28 policy that was issued prior to the exchange date shall be priced based on  
29 the policyholder's age when the policy was originally issued. Any portion  
30 of the policy that is added as a result of the exchange may be priced based  
31 on the policyholder's age at the time of the exchange;

32 (4) if there is no change in coverage material to the risk, policies  
33 exchanged under this provision shall not be subject to any medical  
34 underwriting;

35 (5) notwithstanding paragraphs (1) and (3), an insurer is not required  
36 to offer an exchange to an individual who is eligible for benefits within an  
37 elimination period, who is, or who has been in claim status or who would  
38 not be eligible to apply for coverage due to issue age or plan design  
39 limitations under the new policy. The insurer may require that  
40 policyholders meet all eligibility requirements, including plan design,  
41 underwriting, if applicable and payment of the required premium;

42 (6) policies issued pursuant to this section shall be considered  
43 exchanges and not replacements and are not subject to K.A.R. 40-4-37i;

1 and

2 (7) a policy received in an exchange after the effective date of the  
3 long-term care partnership program act is treated as newly issued and is  
4 eligible for partnership policy status. For purposes of applying the  
5 medicaid rules relating to Kansas' long-term care partnership program, the  
6 addition of a rider, endorsement or change in schedule page for a policy  
7 may be treated as giving rise to an exchange.

8 Sec. 18. K.S.A. 2011 Supp. 40-2251 is hereby amended to read as  
9 follows: 40-2251. (a) The commissioner of insurance shall develop or  
10 approve statistical plans which shall be used by each insurer in the  
11 recording and reporting of its premium, accident and sickness insurance  
12 loss and expense experience, in order that the experience of all insurers  
13 may be made available at least annually in such form and detail as may be  
14 necessary to aid the commissioner and other interested parties in  
15 determining whether rates and rating systems utilized by insurance  
16 companies, mutual nonprofit hospital and medical service corporations,  
17 health maintenance organizations and other entities designated by the  
18 commissioner produce premiums and subscriber charges for accident and  
19 sickness insurance coverage on Kansas residents, employers and  
20 employees that are reasonable in relation to the benefits provided and to  
21 identify any accident and sickness insurance benefits or provisions that  
22 may be unduly influencing the cost. Such plans may also provide for the  
23 recording and reporting of expense experience items which are specifically  
24 applicable to the state. In promulgating such plans, the commissioner shall  
25 give due consideration to the rating systems, classification criteria and  
26 insurance and subscriber plans on file with the commissioner and, in order  
27 that such plans may be as uniform as is practicable among the several  
28 states, to the form of the plans and rating systems in other states.

29 (b) The ~~Kansas health policy authority~~*department of health and*  
30 *environment*, as administrator of the health care database, pursuant to  
31 K.S.A. 65-6804, and amendments thereto, shall serve as the statistical  
32 agent for the purpose of gathering, receiving and compiling the data  
33 required by the statistical plan or plans developed or approved under this  
34 section. The commissioner of insurance shall make an assessment upon the  
35 reporting insurance companies, health maintenance organizations, group  
36 self-funded pools, and other reporting entities sufficient to cover the  
37 anticipated expenses to be incurred by the ~~Kansas health policy~~  
38 ~~authority~~*department of health and environment* in gathering, receiving and  
39 compiling such data. Such assessment shall be in the form of an annual fee  
40 established by the ~~Kansas health policy authority~~*department of health and*  
41 *environment* and charged to each reporting entity in proportion to such  
42 entity's respective shares of total health insurance premiums, subscriber  
43 charges and member fees received during the preceding calendar year.

1 Such assessments shall be paid to the ~~Kansas health policy~~  
2 ~~authority~~ *department of health and environment* and the ~~Kansas health~~  
3 ~~policy authority~~ *department of health and environment* shall remit such  
4 fees to the state treasurer in accordance with the provisions of K.S.A. 75-  
5 4215, and amendments thereto. Upon receipt of each such remittance, the  
6 state treasurer shall deposit the entire amount in the state treasury to the  
7 credit of the insurance statistical plan fund. Compilations of aggregate data  
8 gathered under the statistical plan or plans required by this act shall be  
9 made available to insurers, trade associations and other interested parties.

10 (c) The ~~Kansas health policy authority~~ *department of health and*  
11 *environment*, in writing, shall report to the commissioner of insurance any  
12 insurance company, health maintenance organization, group self-funded  
13 pool, nonprofit hospital and medical service corporation and any other  
14 reporting entity which fails to report the information required in the form,  
15 manner or time prescribed by the ~~Kansas health policy~~  
16 ~~authority~~ *department of health and environment*. Upon receipt of such  
17 report, the commissioner of insurance shall impose an appropriate penalty  
18 in accordance with K.S.A. 40-2,125, and amendments thereto.

19 Sec. 19. K.S.A. 2011 Supp. 40-2252 is hereby amended to read as  
20 follows: 40-2252. The commissioner and the ~~executive director of the~~  
21 ~~Kansas health policy authority~~ *secretary of health and environment*, jointly,  
22 may adopt rules and regulations necessary to effect the purposes of K.S.A.  
23 40-19c09 and 40-2251, and amendments thereto.

24 Sec. 20. K.S.A. 2011 Supp. 40-4702 is hereby amended to read as  
25 follows: 40-4702. (a) The governor of the state of Kansas shall appoint a  
26 committee which shall be known as the Kansas business health policy  
27 committee, whose purpose is to explore opportunities and encourage  
28 employer participation in health plans developed by the committee for low  
29 and modest wage employees of small employers.

30 (b) The Kansas business health policy committee, hereinafter referred  
31 to as the health committee, shall consist of:

32 (1) The secretary of the department of commerce or the secretary's  
33 designee;

34 (2) the secretary of the department of social and rehabilitation  
35 services or the secretary's designee;

36 (3) the commissioner of insurance or the commissioner's designee;

37 (4) one member appointed by the president of the senate;

38 (5) one member appointed by the speaker of the house of  
39 representatives;

40 (6) one member appointed by the minority leader of the senate;

41 (7) one member appointed by the minority leader of the house of  
42 representatives; and

43 (8) three members at large from the private sector appointed by the

1 governor.

2 The secretary of each state agency represented on this committee shall  
3 provide such staff and other resources as the health committee may  
4 require.

5 (c) (1) The initial meeting of the health committee shall be convened  
6 within 60 days after the effective date of this act by the governor at a time  
7 and place designated by the governor.

8 (2) Meetings of the health committee subsequent to its initial meeting  
9 shall be held and conducted in accordance with policies and procedures  
10 established by the health committee.

11 (3) Commencing at the time of the initial meeting of the health  
12 committee, the powers, authorities, duties and responsibilities conferred  
13 and imposed upon the health committee by this act shall be operative and  
14 effective.

15 (d) The health committee shall develop and approve a request for  
16 proposals for a qualified entity to serve as the Kansas business health  
17 partnership, hereinafter referred to as health partnership, which shall  
18 provide a mechanism to combine federal and state subsidies with  
19 contributions from small employers and eligible employees to purchase  
20 health insurance in accordance with guidelines developed by the health  
21 committee.

22 (e) The health committee shall evaluate responses to the request for  
23 proposals and select the qualified entity to serve as the health partnership.

24 (f) The health committee shall:

25 (1) Develop, approve and revise subsidy eligibility criteria provided  
26 that:

27 (A) Low wage and modest wage employees of small employers shall  
28 be eligible for subsidies if:

29 (i) The small employer has not previously offered health insurance  
30 coverage within the two years next preceding the date upon which health  
31 insurance is offered; or

32 (ii) the small employer has previously offered health insurance  
33 coverage and a majority of such small employer's employees are low wage  
34 or modest wage employees as defined in K.S.A. 40-4701, and amendments  
35 thereto;

36 (B) any small employer's eligible employee with a child who is  
37 eligible for coverage under the state children's health insurance program  
38 established by K.S.A. 38-2001 et seq., and amendments thereto, or in the  
39 state medical assistance program shall be eligible automatically for a  
40 subsidy and shall be included in the determination of eligibility for the  
41 small employer and its low and modest wage employees; and

42 (C) at least 70% of the small employer's eligible employees without  
43 group health insurance coverage from another source are insured through

1 the partnership; and

2 (2) determine and arrange for eligibility determination for subsidies  
3 of low wage or modest wage employees; and

4 (3) develop subsidy schedules based upon eligible employee wage  
5 levels and family income; and

6 (4) be responsible for arranging for the provision of affordable health  
7 care coverage for eligible employees of small employers and evaluating  
8 and creating the opportunity to improve health care provided by plans in  
9 the small group health insurance program.

10 (g) The health committee shall oversee and monitor the ongoing  
11 operation of any subsidy program and the financial accountability of all  
12 subsidy funds. If, in the judgment of the health committee, the entity  
13 selected to serve as the health partnership fails to perform as intended, the  
14 health committee may terminate its selection and designation of that entity  
15 as the health partnership and may issue a new request for proposal and  
16 select a different qualified entity to serve as the health partnership.

17 (h) The health committee is hereby authorized to accept funds from  
18 the federal government, or its agencies, or any other source whatsoever for  
19 research studies, investigation, planning and other purposes related to  
20 implementation of the objectives of this act. Any funds so received shall be  
21 deposited in the state treasury and shall be credited to a special revenue  
22 fund which is hereby created and shall be known as the health committee  
23 insurance fund and used in accordance with or direction of the contributing  
24 federal agencies. Expenditures from such fund may be made for any  
25 purpose in keeping with the responsibilities, functions and authority of the  
26 department. Warrants on such fund shall be drawn in the same manner as  
27 required of other state agencies upon vouchers approved by the ~~Kansas~~  
28 ~~health policy authority~~ *secretary of health and environment*, or the  
29 ~~authority's~~ *secretary's* designee, upon receiving prior approval of the health  
30 committee.

31 (i) The health committee is authorized to develop policies for the  
32 administration of the subsidy program and for the use of additional federal  
33 or private funds to subsidize health insurance coverage for low and modest  
34 wage employees of predominantly low-wage small employers. The health  
35 committee shall be responsible for setting benefit levels and establishing  
36 performance measures for health plans providing health care coverage for  
37 this program that include quality, preventative health and other  
38 supplementary measures. The health committee shall limit access to the  
39 program subsidy to the projected annualized expenditure.

40 (j) The health committee is hereby authorized to organize, or cause to  
41 be organized, one or more advisory committees. No member of any  
42 advisory committee established under this subsection shall have previously  
43 received or currently receive any payment or other compensation from the

1 health partnership. The membership of each advisory committee  
2 established under this subsection shall contain at least one representative  
3 who is a small employer and one representative who is an eligible  
4 employee as defined in K.S.A. 40-4701, and amendments thereto, and one  
5 representative of the insurance industry.

6 (k) The health committee shall report on an annual basis on the  
7 following subjects:

8 (1) Quality assurance measures;

9 (2) disease prevention activities;

10 (3) disease management activities; and

11 (4) other activities or programs the committee decides to include.

12 Sec. 21. K.S.A. 2011 Supp. 40-4706 is hereby amended to read as  
13 follows: 40-4706. ~~The Kansas health policy authority~~ *division of health*  
14 *care finance of the department of health and environment* shall investigate  
15 and pursue all possible policy options to bring into this partnership title  
16 XIX and the title XXI eligible families of any eligible employees  
17 employed by a small employer. ~~On and after July 1, 2006, the Kansas~~  
18 ~~health policy authority~~ *The division of health care finance of the*  
19 *department of health and environment* shall develop and seek federal  
20 approval of any appropriate variance or state plan amendment for the state  
21 children's health insurance program established by K.S.A. 38-2001 et seq.,  
22 and amendments thereto, and the state medical assistance program  
23 required to accomplish the purposes of this act. ~~On and after July 1, 2006,~~  
24 ~~the Kansas health policy authority~~ *The division of health care finance of*  
25 *the department of health and environment* shall work with the health  
26 partnership to develop a single employee application that may be used by  
27 the health plan and the medicaid and state children's health insurance  
28 program to determine eligibility.

29 Sec. 22. K.S.A. 2011 Supp. 46-3501 is hereby amended to read as  
30 follows: 46-3501. (a) There is hereby created the joint committee on health  
31 policy oversight within the legislative branch of state government. The  
32 joint committee shall be composed of 12 members. Six members shall be  
33 members of the house of representatives and six members shall be  
34 members of the senate. Four of the members who are members of the  
35 house of representatives shall be appointed by the speaker of the house of  
36 representatives, four members who are senators shall be appointed by the  
37 president of the senate, two members who are members of the house of  
38 representatives shall be appointed by the minority leader of the house of  
39 representatives and two members who are senators shall be appointed by  
40 the minority leader of the senate.

41 (b) All members of the joint committee on health policy oversight  
42 shall serve for terms of two years ending on the first day of the regular  
43 session of the legislature commencing in the first odd-numbered year after

1 the year of appointment, except that the first members shall be appointed  
2 on July 1, 2005, and shall serve for terms ending on the first day of the  
3 regular session of the legislature commencing in 2007. If a vacancy occurs  
4 in the office of any member of the joint committee on health policy  
5 oversight, a successor shall be appointed in the same manner as the  
6 original appointment for the remainder of the term.

7 (c) (1) The chairperson of the joint committee on health policy  
8 oversight shall be appointed for a term of one year which ends on the first  
9 day of the next occurring regular session of the legislature. The speaker of  
10 the house of representatives shall appoint the first chairperson on July 1,  
11 2005, and shall appoint the chairperson for the term commencing on the  
12 first day of the regular session of the legislature commencing in 2006 for a  
13 one-year term to end on the first day of the regular session of the  
14 legislature commencing in the year 2007. The president of the senate shall  
15 appoint the next chairperson on the first day of the regular session of the  
16 legislature commencing in the year 2007 for a one-year term which ends  
17 on the first day of the next occurring regular session of the legislature.  
18 Thereafter the appointment of the chairperson shall continue to alternate  
19 between the speaker of the house of representatives and the president of  
20 the senate with each subsequent chairperson being appointed for a one-  
21 year term ending on the first day of the regular session of the legislature in  
22 the next occurring regular session of the legislature after the year of  
23 appointment.

24 (2) The vice-chairperson of the joint committee on health policy  
25 oversight shall be appointed for a term of one year which ends on the first  
26 day of the next occurring regular session of the legislature. The president  
27 of the senate shall appoint the first vice-chairperson on July 1, 2005, and  
28 shall appoint the vice-chairperson for the term commencing on the first  
29 day of the regular session of the legislature commencing in 2006 for a one-  
30 year term to end on the first day of the regular session of the legislature  
31 commencing in the year 2007. The speaker of the house of representatives  
32 shall appoint the next vice-chairperson on the first day of the regular  
33 session of the legislature commencing in the year 2007 for a one-year term  
34 which ends on the first day of the next occurring regular session of the  
35 legislature. Thereafter the appointment of the vice-chairperson shall  
36 continue to alternate between the speaker of the house of representatives  
37 and the president of the senate with each subsequent vice-chairperson  
38 being appointed for a one-year term ending on the first day of the regular  
39 session of the legislature in the next occurring regular session of the  
40 legislature after the year of appointment.

41 (3) If a vacancy occurs in the office of the chairperson or vice-  
42 chairperson, a member of the joint committee on health policy oversight  
43 who is a member of the same house of the legislature as the member who



1 vacated the office shall be appointed by the speaker of the house, if the  
2 vacating member was a member of the house of representatives, or by the  
3 president of the senate, if the vacating member was a member of the  
4 senate, to fill such vacancy.

5 (d) A quorum of the joint committee on health policy oversight shall  
6 be seven. All actions of the joint committee on health policy oversight  
7 shall be taken by a majority of all of the members of the joint committee.

8 (e) The joint committee on health policy oversight shall have the  
9 authority to meet at any time and at any place within the state on the call  
10 of the chairperson.

11 (f) The provisions of the acts contained in article 12 of chapter 46 of  
12 the Kansas Statutes Annotated, and amendments thereto, applicable to  
13 special committees shall apply to the joint committee on health policy  
14 oversight to the extent that the same do not conflict with the specific  
15 provisions of this section applicable to the joint committee.

16 (g) Members of the joint committee on health policy oversight shall  
17 receive compensation, travel expenses and subsistence expenses as  
18 provided in K.S.A. 75-3212, and amendments thereto, when attending  
19 meetings of the joint committee.

20 (h) The staff of the legislative research department, the office of  
21 revisor of statutes and the division of legislative administrative services  
22 shall provide such assistance as may be requested by the joint committee  
23 on health policy oversight and to the extent authorized by the legislative  
24 coordinating council.

25 (i) The joint committee on health policy oversight shall have the  
26 exclusive responsibility to monitor and study the operations and decisions  
27 of the ~~Kansas health policy authority~~ *division of health care finance of the*  
28 *department of health and environment*. In addition, the joint committee  
29 shall oversee the implementation and operation of the children's health  
30 insurance plans, including the assessment of the performance based  
31 contracting's measurable outcomes as set forth in subsection (b)(4) of  
32 K.S.A. 38-2001, and amendments thereto.

33 (j) In accordance with K.S.A. 46-1204, and amendments thereto, the  
34 legislative coordinating council may provide for such professional services  
35 as may be requested by the joint committee on health policy oversight.

36 (k) The joint committee on health policy oversight may introduce  
37 such legislation as it deems necessary in performing its functions.

38 (l) The provisions of this section shall expire on July 1, 2013.

39 Sec. 23. K.S.A. 2011 Supp. 65-435a is hereby amended to read as  
40 follows: 65-435a. The contents of the annual report under K.S.A. 65-429,  
41 and amendments thereto, and the contents of an inspection form for  
42 purposes of inspections under K.S.A. 65-433, and amendments thereto,  
43 shall be developed by the licensing agency in consultation with the Kansas

1 ~~health policy authority~~ and the Kansas hospital association. The licensing  
2 agency may specify the contents of the annual report and the contents of  
3 the inspection form by rules and regulations. Nothing in this section shall  
4 require the licensing agency to adopt the annual report or the inspection  
5 form by rules and regulations.

6 Sec. 24. K.S.A. 2011 Supp. 65-1685 is hereby amended to read as  
7 follows: 65-1685. (a) The prescription monitoring program database, all  
8 information contained therein and any records maintained by the board, or  
9 by any entity contracting with the board, submitted to, maintained or  
10 stored as a part of the database, shall be privileged and confidential, shall  
11 not be subject to subpoena or discovery in civil proceedings and may only  
12 be used for investigatory or evidentiary purposes related to violations of  
13 state or federal law and regulatory activities of entities charged with  
14 administrative oversight of those persons engaged in the prescribing or  
15 dispensing of scheduled substances and drugs of concern, shall not be a  
16 public record and shall not be subject to the Kansas open records act,  
17 K.S.A. 45-215 et seq., and amendments thereto, except as provided in  
18 subsections (c) and (d).

19 (b) The board shall maintain procedures to ensure that the privacy  
20 and confidentiality of patients and patient information collected, recorded,  
21 transmitted and maintained is not disclosed to persons except as provided  
22 in subsections (c) and (d).

23 (c) The board is hereby authorized to provide data in the prescription  
24 monitoring program to the following persons:

25 (1) Persons authorized to prescribe or dispense scheduled substances  
26 and drugs of concern, for the purpose of providing medical or  
27 pharmaceutical care for their patients;

28 (2) an individual who requests the individual's own prescription  
29 monitoring information in accordance with procedures established by the  
30 board;

31 (3) designated representatives from the professional licensing,  
32 certification or regulatory agencies charged with administrative oversight  
33 of those persons engaged in the prescribing or dispensing of scheduled  
34 substances and drugs of concern;

35 (4) local, state and federal law enforcement or prosecutorial officials  
36 engaged in the administration, investigation or enforcement of the laws  
37 governing scheduled substances and drugs of concern subject to the  
38 requirements in K.S.A. 22-2502, and amendments thereto;

39 (5) designated representatives from the ~~Kansas health policy~~  
40 ~~authority~~ *department of health and environment* regarding authorized  
41 medicaid program recipients;

42 (6) persons authorized by a grand jury subpoena, inquisition  
43 subpoena or court order in a criminal action;

1 (7) personnel of the prescription monitoring program advisory  
2 committee for the purpose of operation of the program; and

3 (8) personnel of the board for purposes of administration and  
4 enforcement of this act or the uniform controlled substances act, K.S.A 65-  
5 4101 et seq., and amendments thereto.

6 (d) The board is hereby authorized to provide data in the prescription  
7 monitoring program to public or private entities for statistical, research or  
8 educational purposes after removing information that could be used to  
9 identify individual practitioners, dispensers, patients or persons who  
10 received prescriptions from dispensers.

11 Sec. 25. K.S.A. 2011 Supp. 65-6801 is hereby amended to read as  
12 follows: 65-6801. (a) The legislature recognizes the urgent need to provide  
13 health care consumers, third-party payors, providers and health care  
14 planners with information regarding the trends in use and cost of health  
15 care services in this state for improved decision-making. This is to be  
16 accomplished by compiling a uniform set of data and establishing  
17 mechanisms through which the data will be disseminated.

18 (b) It is the intent of the legislature to require that the information  
19 necessary for a review and comparison of utilization patterns, cost, quality  
20 and quantity of health care services be supplied to the health care database  
21 by all providers of health care services and third-party payors to the extent  
22 required by *this section and* K.S.A. 65-6805, and amendments thereto ~~and~~  
23 ~~this section and amendments thereto~~. The ~~Kansas health policy~~  
24 ~~authority~~*department of health and environment* shall specify by rule and  
25 regulation the types of information which shall be submitted and the  
26 method of submission.

27 (c) The information is to be compiled and made available in a form  
28 prescribed by the ~~Kansas health policy authority~~*department of health and*  
29 *environment* to improve the decision-making processes regarding access,  
30 identified needs, patterns of medical care, price and use of health care  
31 services.

32 Sec. 26. K.S.A. 2011 Supp. 65-6803 is hereby amended to read as  
33 follows: 65-6803. (a) ~~On January 1, 2006, the health care data governing~~  
34 ~~board is hereby abolished.~~

35 ~~(b)(a) The chairperson of the Kansas health policy authority~~*secretary*  
36 *of health and environment* may appoint a task force or task forces of  
37 interested citizens and providers of health care for the purpose of studying  
38 technical issues relating to the collection of health care data. ~~At least one~~  
39 ~~member of the Kansas health policy authority~~*The secretary of health and*  
40 *environment or the secretary's designee* shall be a member of any task  
41 force appointed under this subsection.

42 ~~(e)(b) The Kansas health policy authority~~*department of health and*  
43 *environment* shall develop policy regarding the collection of health care

1 data and procedures for ensuring the confidentiality and security of these  
2 data.

3 Sec. 27. K.S.A. 2011 Supp. 65-6804 is hereby amended to read as  
4 follows: 65-6804. (a) The ~~Kansas health policy authority~~*secretary of*  
5 *health and environment* shall administer the health care database. In  
6 administering the health care database, the ~~authority~~*secretary* shall receive  
7 health care data from those entities identified in K.S.A. 65-6805, and  
8 amendments thereto, and provide for the dissemination of such data.

9 (b) The ~~Kansas health policy authority~~*secretary of health and*  
10 *environment* may contract with an organization experienced in health care  
11 data collection to collect the data from the health care facilities as  
12 described in subsection (h) of K.S.A. 65-425, and amendments thereto,  
13 build and maintain the database. The ~~Kansas health policy~~  
14 ~~authority~~*secretary of health and environment* may accept data submitted  
15 by associations or related organizations on behalf of health care providers  
16 by entering into binding agreements negotiated with such associations or  
17 related organizations to obtain data required pursuant to this section.

18 (c) The ~~Kansas health policy authority~~*secretary of health and*  
19 *environment* shall adopt rules and regulations governing the acquisition,  
20 compilation and dissemination of all data collected pursuant to this act.  
21 The rules and regulations shall provide at a minimum that:

22 (1) Measures have been taken to provide system security for all data  
23 and information acquired under this act;

24 (2) data will be collected in the most efficient and cost-effective  
25 manner for both the department and providers of data;

26 (3) procedures will be developed to assure the confidentiality of  
27 patient records;

28 (4) users may be charged for data preparation or information that is  
29 beyond the routine data disseminated and that the ~~authority~~ *secretary of*  
30 *health and environment* shall establish by the adoption of such rules and  
31 regulations a system of fees for such data preparation or dissemination;  
32 and

33 (5) the ~~Kansas health policy authority~~*secretary of health and*  
34 *environment* will ensure that the health care database will be kept current,  
35 accurate and accessible as prescribed by rules and regulations.

36 (d) Data and other information collected pursuant to this act shall not  
37 be disclosed by the ~~Kansas health policy authority~~*department of health*  
38 *and environment* or made public in any manner which would identify  
39 individuals. A violation of this subsection (d) is a class C misdemeanor.

40 (e) In addition to such criminal penalty under subsection (d), any  
41 individual whose identity is revealed in violation of subsection (d) may  
42 bring a civil action against the responsible person or persons for any  
43 damages to such individual caused by such violation.

1       Sec. 28. K.S.A. 2011 Supp. 65-6805 is hereby amended to read as  
2 follows: 65-6805. Each medical care facility as defined by subsection (h)  
3 of K.S.A. 65-425, and amendments thereto; health care provider as defined  
4 in K.S.A. 40-3401, and amendments thereto; providers of health care as  
5 defined in subsection (f) of K.S.A. 65-5001, and amendments thereto;  
6 health care personnel as defined in subsection (e) of K.S.A. 65-5001, and  
7 amendments thereto; home health agency as defined by subsection (b) of  
8 K.S.A. 65-5101, and amendments thereto; psychiatric hospitals licensed  
9 under K.S.A. 75-3307b, and amendments thereto; state institutions for the  
10 mentally retarded; community mental retardation facilities as defined  
11 under K.S.A. 65-4412, and amendments thereto; community mental health  
12 center as defined under K.S.A. 65-4432, and amendments thereto; adult  
13 care homes as defined by K.S.A. 39-923, and amendments thereto;  
14 laboratories described in K.S.A. 65-1,107, and amendments thereto;  
15 pharmacies; board of nursing; Kansas dental board; board of examiners in  
16 optometry; state board of pharmacy; state board of healing arts and third-  
17 party payors, including, but not limited to, licensed insurers, medical and  
18 hospital service corporations, health maintenance organizations, fiscal  
19 intermediaries for government-funded programs and self-funded employee  
20 health plans, shall file health care data with the ~~Kansas health policy~~  
21 ~~authority~~*department of health and environment* as prescribed by the  
22 ~~authority~~*secretary of health and environment*. The provisions of this  
23 section shall not apply to any individual, facility or other entity under this  
24 section which uses spiritual means through prayer alone in accordance  
25 with the tenets and practices of a recognized church or religious  
26 denomination for the treatment or cure of disease.

27       Sec. 29. K.S.A. 2011 Supp. 65-6806 is hereby amended to read as  
28 follows: 65-6806. The ~~Kansas health policy authority~~*department of health*  
29 *and environment* shall make the data available to interested parties on the  
30 basis prescribed by the ~~authority~~*department* and as directed by rules and  
31 regulations of the ~~authority~~.

32       Sec. 30. K.S.A. 2011 Supp. 65-6807 is hereby amended to read as  
33 follows: 65-6807. The ~~Kansas health policy authority~~*department of health*  
34 *and environment* shall on or before February 1 each year make a report to  
35 the governor and the legislature as to health care data activity, including  
36 examples of policy analyses conducted and purposes for which the data  
37 was disseminated and utilized, and as to the progress made in compiling  
38 and making available the information specified under K.S.A. 65-6801, and  
39 amendments thereto.

40       Sec. 31. K.S.A. 2011 Supp. 65-6809 is hereby amended to read as  
41 follows: 65-6809. (a) There is hereby established in the state treasury the  
42 health care database fee fund. The ~~Kansas health policy authority~~*secretary*  
43 *of health and environment* shall remit to the state treasurer, in accordance

1 with the provisions of K.S.A. 75-4215, and amendments thereto, all  
2 moneys collected or received by the ~~authority~~ *secretary* from the following  
3 sources:

- 4 (1) Fees collected under K.S.A. 65-6804, and amendments thereto;
- 5 (2) moneys received by the ~~authority~~ *secretary* in the form of gifts,  
6 donations or grants;
- 7 (3) interest attributable to investment of moneys in the fund; and
- 8 (4) any other moneys provided by law.

9 Upon receipt of each such remittance, the state treasurer shall deposit  
10 the entire amount in the state treasury to the credit of the health care  
11 database fee fund.

12 (b) Moneys deposited in the health care database fee fund shall be  
13 expended to supplement maintenance costs of the database, provide  
14 technical assistance and training in the proper use of health care data and  
15 provide funding for dissemination of information from the database to the  
16 public.

17 (c) On or before the 10th of each month, the director of accounts and  
18 reports shall transfer from the state general fund to the health care database  
19 fee fund interest earnings based on:

- 20 (1) The average daily balance of moneys in the health care database  
21 fee fund for the preceding month; and
- 22 (2) the net earnings rate of the pooled money investment portfolio for  
23 the preceding month.

24 (d) All expenditures from the health care database fee fund shall be  
25 made in accordance with appropriation acts upon warrants of the director  
26 of accounts and reports issued pursuant to vouchers approved by the  
27 ~~Kansas health policy authority~~ *secretary of health and environment* or the  
28 ~~authority's~~ *secretary's* designee for the purposes set forth in this section.

29 Sec. 32. K.S.A. 2011 Supp. 65-7405 is hereby amended to read as  
30 follows: 65-7405. (a) There is hereby established the primary care safety  
31 net clinic loan guarantee review committee within the department of health  
32 and environment. The committee shall consist of five members.

33 (b) The members of the primary care safety net clinic loan guarantee  
34 review committee shall be appointed by the secretary in accordance with  
35 the following: (1) Two members shall be representatives of the department  
36 of health and environment selected by the secretary; (2) one member shall  
37 be appointed by the secretary who is nominated by the Kansas  
38 development finance authority; (3) one member shall be appointed by the  
39 secretary who is nominated by the ~~Kansas health policy authority~~ *director*  
40 *of health care finance*; and (4) one member shall be appointed by the  
41 secretary who is nominated by the Kansas association for the medically  
42 underserved.

43 (c) The secretary may appoint persons as members of the primary

1 care safety net clinic loan guarantee review committee who are officers or  
2 employees of the agencies or organizations they are nominated by or that  
3 they are appointed to represent. Not more than three members of the  
4 committee shall be affiliated with the same political party. Members shall  
5 serve at the pleasure of the secretary.

6 (d) The primary care safety net clinic loan guarantee review  
7 committee shall review all proposals for loan financing guarantees under  
8 this act and shall approve those proposals that the committee deems to  
9 represent reasonable risks and to have a sufficient likelihood of repayment.  
10 The committee shall advise the secretary on matters regarding the  
11 administration of this act when requested by the secretary and may provide  
12 such advice when deemed appropriate by the committee.

13 (e) The secretary or the secretary's designee shall serve as a  
14 nonvoting chairperson of the primary care safety net clinic loan guarantee  
15 review committee, and the committee shall annually elect a vice-  
16 chairperson from among its members. The committee shall meet upon call  
17 of the chairperson or upon call of any two of its members. Three voting  
18 members shall constitute a quorum for the transaction of business.

19 (f) Members of the primary care safety net clinic loan guarantee  
20 review committee attending meetings of the committee, or attending a  
21 subcommittee meeting thereof authorized by the committee, shall be paid  
22 compensation, subsistence allowances, mileage and other expenses as  
23 provided in K.S.A. 75-3223, and amendments thereto.

24 Sec. 33. K.S.A. 2011 Supp. 75-37,121 is hereby amended to read as  
25 follows: 75-37,121. (a) There is created the office of administrative  
26 hearings within the department of administration, to be headed by a  
27 director appointed by the secretary of administration. The director shall be  
28 in the unclassified service under the Kansas civil service act.

29 (b) The office may employ or contract with presiding officers, court  
30 reporters and other support personnel as necessary to conduct proceedings  
31 required by the Kansas administrative procedure act for adjudicative  
32 proceedings of the state agencies, boards and commissions specified in  
33 subsection (h). The office shall conduct adjudicative proceedings of any  
34 state agency which is specified in subsection (h) when requested by such  
35 agency. Only a person admitted to practice law in this state or a person  
36 directly supervised by a person admitted to practice law in this state may  
37 be employed as a presiding officer. The office may employ regular part-  
38 time personnel. Persons employed by the office shall be under the  
39 classified civil service.

40 (c) If the office cannot furnish one of its presiding officers within 60  
41 days in response to a requesting agency's request, the director shall  
42 designate in writing a full-time employee of an agency other than the  
43 requesting agency to serve as presiding officer for the proceeding, but only

1 with the consent of the employing agency. The designee must possess the  
2 same qualifications required of presiding officers employed by the office.

3 (d) The director may furnish presiding officers on a contract basis to  
4 any governmental entity to conduct any proceeding other than a  
5 proceeding as provided in subsection (h).

6 (e) The secretary of administration may adopt rules and regulations:

7 (1) To establish procedures for agencies to request and for the  
8 director to assign presiding officers. An agency may neither select nor  
9 reject any individual presiding officer for any proceeding except in  
10 accordance with the Kansas administrative procedure act;

11 (2) to establish procedures and adopt forms, consistent with the  
12 Kansas administrative procedure act, the model rules of procedure, and  
13 other provisions of law, to govern presiding officers; and

14 (3) to facilitate the performance of the responsibilities conferred upon  
15 the office by the Kansas administrative procedure act.

16 (f) The director may implement the provisions of this section and  
17 rules and regulations adopted under its authority.

18 (g) The secretary of administration may adopt rules and regulations to  
19 establish fees to charge a state agency for the cost of using a presiding  
20 officer.

21 (h) The following state agencies, boards and commissions shall  
22 utilize the office of administrative hearings for conducting adjudicative  
23 hearings under the Kansas administrative procedures act in which the  
24 presiding officer is not the agency head or one or more members of the  
25 agency head:

26 (1) On and after July 1, 2005: Department of social and rehabilitation  
27 services, juvenile justice authority, department on aging, department of  
28 health and environment, Kansas public employees retirement system,  
29 Kansas water office, Kansas animal health department and Kansas  
30 insurance department.

31 (2) On and after July 1, 2006: Emergency medical services board,  
32 emergency medical services council; ~~Kansas health policy authority~~ and  
33 Kansas human rights commission.

34 (3) On and after July 1, 2007: Kansas lottery, Kansas racing and  
35 gaming commission, state treasurer, pooled money investment board,  
36 Kansas department of wildlife and parks and state court of tax appeals.

37 (4) On and after July 1, 2008: Department of human resources, state  
38 corporation commission, state conservation commission, agricultural labor  
39 relations board, department of administration, department of revenue,  
40 board of adult care home administrators, Kansas state grain inspection  
41 department, board of accountancy and Kansas wheat commission.

42 (5) On and after July 1, 2009, all other Kansas administrative  
43 procedure act hearings not mentioned in subsections (1), (2), (3) and (4).



1 (i) (1) Effective July 1, 2005, any presiding officer in agencies  
2 specified in subsection (h)(1) which conduct hearings pursuant to the  
3 Kansas administrative procedure act, except those exempted pursuant to  
4 K.S.A. 77-551, and amendments thereto, and support personnel for such  
5 presiding officers, shall be transferred to and shall become employees of  
6 the office of administrative hearings. Such personnel shall retain all rights  
7 under the state personnel system and retirement benefits under the laws of  
8 this state which had accrued to or vested in such personnel prior to the  
9 effective date of this section. Such person's services shall be deemed to  
10 have been continuous. All transfers of personnel positions in the classified  
11 service under the Kansas civil service act shall be in accordance with civil  
12 service laws and any rules and regulations adopted thereunder. This  
13 section shall not affect any matter pending before an administrative  
14 hearing officer at the time of the effective date of the transfer, and such  
15 matter shall proceed as though no transfer of employment had occurred.

16 (2) Effective July 1, 2006, any presiding officer in agencies specified  
17 in subsection (h)(2) which conduct hearings pursuant to the Kansas  
18 administrative procedure act, except those exempted pursuant to K.S.A.  
19 77-551, and amendments thereto, and support personnel for such presiding  
20 officers, shall be transferred to and shall become employees of the office  
21 of administrative hearings. Such personnel shall retain all rights under the  
22 state personnel system and retirement benefits under the laws of this state  
23 which had accrued to or vested in such personnel prior to the effective date  
24 of this section. Such person's services shall be deemed to have been  
25 continuous. All transfers of personnel positions in the classified service  
26 under the Kansas civil service act shall be in accordance with civil service  
27 laws and any rules and regulations adopted thereunder. This section shall  
28 not affect any matter pending before an administrative hearing officer at  
29 the time of the effective date of the transfer, and such matter shall proceed  
30 as though no transfer of employment had occurred.

31 (3) Effective July 1, 2007, any presiding officer in agencies specified  
32 in subsection (h)(3) which conduct hearings pursuant to the Kansas  
33 administrative procedure act, except those exempted pursuant to K.S.A.  
34 77-551, and amendments thereto, and support personnel for such presiding  
35 officers, shall be transferred to and shall become employees of the office  
36 of administrative hearings. Such personnel shall retain all rights under the  
37 state personnel system and retirement benefits under the laws of this state  
38 which had accrued to or vested in such personnel prior to the effective date  
39 of this section. Such person's services shall be deemed to have been  
40 continuous. All transfers of personnel positions in the classified service  
41 under the Kansas civil service act shall be in accordance with civil service  
42 laws and any rules and regulations adopted thereunder. This section shall  
43 not affect any matter pending before an administrative hearing officer at

1 the time of the effective date of the transfer, and such matter shall proceed  
2 as though no transfer of employment had occurred.

3 (4) Effective July 1, 2008, any full-time presiding officer in agencies  
4 specified in subsection (h)(4) which conduct hearings pursuant to the  
5 Kansas administrative procedure act, except those exempted pursuant to  
6 K.S.A. 77-551, and amendments thereto, and support personnel for such  
7 presiding officers, shall be transferred to and shall become employees of  
8 the office of administrative hearings. Such personnel shall retain all rights  
9 under the state personnel system and retirement benefits under the laws of  
10 this state which had accrued to or vested in such personnel prior to the  
11 effective date of this section. Such person's services shall be deemed to  
12 have been continuous. All transfers of personnel positions in the classified  
13 service under the Kansas civil service act shall be in accordance with civil  
14 service laws and any rules and regulations adopted thereunder. This  
15 section shall not affect any matter pending before an administrative  
16 hearing officer at the time of the effective date of the transfer, and such  
17 matter shall proceed as though no transfer of employment had occurred.

18 (5) Effective July 1, 2009, any full-time presiding officer in agencies  
19 specified in subsection (h)(5) which conduct hearings pursuant to the  
20 Kansas administrative procedure act, except those exempted pursuant to  
21 K.S.A. 77-551, and amendments thereto, and support personnel for such  
22 presiding officers, shall be transferred to and shall become employees of  
23 the office of administrative hearings. Such personnel shall retain all rights  
24 under the state personnel system and retirement benefits under the laws of  
25 this state which had accrued to or vested in such personnel prior to the  
26 effective date of this section. Such person's services shall be deemed to  
27 have been continuous. All transfers of personnel positions in the classified  
28 service under the Kansas civil service act shall be in accordance with civil  
29 service laws and any rules and regulations adopted thereunder. This  
30 section shall not affect any matter pending before an administrative  
31 hearing officer at the time of the effective date of the transfer, and such  
32 matter shall proceed as though no transfer of employment occurred.

33 Sec. 34. K.S.A. 2011 Supp. 75-5601 is hereby amended to read as  
34 follows: 75-5601. (a) There is hereby created a department of health and  
35 environment, the head of which shall be the secretary of health and  
36 environment, which office is hereby created. The governor shall appoint  
37 the secretary of health and environment, subject to confirmation by the  
38 senate as provided in K.S.A. 75-4315b, and amendments thereto, and the  
39 secretary shall serve at the pleasure of the governor. Except as provided by  
40 K.S.A. 46-2601, and amendments thereto, no person appointed as  
41 secretary shall exercise any power, duty or function as secretary until  
42 confirmed by the senate. The department of health and environment shall  
43 consist of the division of health, *the division of health care finance* and the

1 division of environment. The secretary of health and environment shall  
2 receive an annual salary fixed by the governor.

3 (b) The provisions of the Kansas governmental operations  
4 accountability law apply to the department of health and environment, and  
5 the department is subject to audit, review and evaluation under such law.

6 Sec. 35. K.S.A. 2011 Supp. 75-6102 is hereby amended to read as  
7 follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and  
8 amendments thereto, unless the context clearly requires otherwise:

9 (a) "State" means the state of Kansas and any department or branch of  
10 state government, or any agency, authority, institution or other  
11 instrumentality thereof.

12 (b) "Municipality" means any county, township, city, school district  
13 or other political or taxing subdivision of the state, or any agency,  
14 authority, institution or other instrumentality thereof.

15 (c) "Governmental entity" means state or municipality.

16 (d) (1) "Employee" means: (A) Any officer, employee, servant or  
17 member of a board, commission, committee, division, department, branch  
18 or council of a governmental entity, including elected or appointed  
19 officials and persons acting on behalf or in service of a governmental  
20 entity in any official capacity, whether with or without compensation and a  
21 charitable health care provider;

22 (B) any steward or racing judge appointed pursuant to K.S.A. 74-  
23 8818, and amendments thereto, regardless of whether the services of such  
24 steward or racing judge are rendered pursuant to contract as an  
25 independent contractor;

26 (C) employees of the United States marshal's service engaged in the  
27 transportation of inmates on behalf of the secretary of corrections;

28 (D) a person who is an employee of a nonprofit independent  
29 contractor, other than a municipality, under contract to provide educational  
30 or vocational training to inmates in the custody of the secretary of  
31 corrections and who is engaged in providing such service in an institution  
32 under the control of the secretary of corrections provided that such  
33 employee does not otherwise have coverage for such acts and omissions  
34 within the scope of their employment through a liability insurance contract  
35 of such independent contractor;

36 (E) a person who is an employee or volunteer of a nonprofit program,  
37 other than a municipality, who has contracted with the commissioner of  
38 juvenile justice or with another nonprofit program that has contracted with  
39 the commissioner of juvenile justice to provide a juvenile justice program  
40 for juvenile offenders in a judicial district provided that such employee or  
41 volunteer does not otherwise have coverage for such acts and omissions  
42 within the scope of their employment or volunteer activities through a  
43 liability insurance contract of such nonprofit program;

1 (F) a person who contracts with the Kansas guardianship program to  
2 provide services as a court-appointed guardian or conservator;

3 (G) an employee of an indigent health care clinic;

4 (H) former employees for acts and omissions within the scope of their  
5 employment during their former employment with the governmental  
6 entity;

7 (I) any member of a regional medical emergency response team,  
8 created under the provisions of K.S.A. 48-928, and amendments thereto, in  
9 connection with authorized training or upon activation for an emergency  
10 response; and

11 (J) medical students enrolled at the university of Kansas medical  
12 center who are in clinical training, on or after July 1, 2008, at the  
13 university of Kansas medical center or at another health care institution.

14 (2) "Employee" does not include: (A) An individual or entity for  
15 actions within the scope of K.S.A. 60-3614, and amendments thereto; or

16 (B) any independent contractor under contract with a governmental  
17 entity except those contractors specifically listed in paragraph (1) of this  
18 subsection.

19 (e) "Charitable health care provider" means a person licensed by the  
20 state board of healing arts as an exempt licensee or a federally active  
21 licensee, a person issued a limited permit by the state board of healing arts,  
22 a physician assistant licensed by the state board of healing arts, a mental  
23 health practitioner licensed by the behavioral sciences regulatory board, an  
24 ultrasound technologist currently registered in any area of sonography  
25 credentialed through the American registry of radiology technologists, the  
26 American registry for diagnostic medical sonography or cardiovascular  
27 credentialing international and working under the supervision of a person  
28 licensed to practice medicine and surgery, or a health care provider as the  
29 term "health care provider" is defined under K.S.A. 65-4921, and  
30 amendments thereto, who has entered into an agreement with:

31 (1) The secretary of health and environment under K.S.A. 75-6120,  
32 and amendments thereto, who, pursuant to such agreement, gratuitously  
33 renders professional services to a person who has provided information  
34 which would reasonably lead the health care provider to make the good  
35 faith assumption that such person meets the definition of medically  
36 indigent person as defined by this section or to a person receiving medical  
37 assistance from the programs operated by the ~~Kansas health policy-~~  
38 ~~authority~~ *department of health and environment*, and who is considered an  
39 employee of the state of Kansas under K.S.A. 75-6120, and amendments  
40 thereto;

41 (2) the secretary of health and environment and who, pursuant to such  
42 agreement, gratuitously renders professional services in conducting  
43 children's immunization programs administered by the secretary;

1 (3) a local health department or indigent health care clinic, which  
2 renders professional services to medically indigent persons or persons  
3 receiving medical assistance from the programs operated by the ~~Kansas~~  
4 ~~health policy authority~~ *department of health and environment* gratuitously  
5 or for a fee paid by the local health department or indigent health care  
6 clinic to such provider and who is considered an employee of the state of  
7 Kansas under K.S.A. 75-6120, and amendments thereto. Professional  
8 services rendered by a provider under this paragraph (3) shall be  
9 considered gratuitous notwithstanding fees based on income eligibility  
10 guidelines charged by a local health department or indigent health care  
11 clinic and notwithstanding any fee paid by the local health department or  
12 indigent health care clinic to a provider in accordance with this paragraph  
13 (3); or

14 (4) the secretary of health and environment to provide dentistry  
15 services defined by K.S.A. 65-1422 et seq., and amendments thereto, or  
16 dental hygienist services defined by K.S.A. 65-1456, and amendments  
17 thereto, that are targeted, but are not limited to medically indigent persons,  
18 and are provided on a gratuitous basis at a location sponsored by a not-for-  
19 profit organization that is not the dentist or dental hygienist office location.  
20 Except that such dentistry services and dental hygienist services shall not  
21 include "oral and maxillofacial surgery" as defined by ~~Kansas~~  
22 ~~administrative regulation~~ *K.A.R. 71-2-2*, or use sedation or general  
23 anesthesia that result in "deep sedation" or "general anesthesia" as defined  
24 by ~~Kansas administrative regulation 71-5-1~~ *K.A.R. 71-5-7*.

25 (f) "Medically indigent person" means a person who lacks resources  
26 to pay for medically necessary health care services and who meets the  
27 eligibility criteria for qualification as a medically indigent person  
28 established by the secretary of health and environment under K.S.A. 75-  
29 6120, and amendments thereto.

30 (g) "Indigent health care clinic" means an outpatient medical care  
31 clinic operated on a not-for-profit basis which has a contractual agreement  
32 in effect with the secretary of health and environment to provide health  
33 care services to medically indigent persons.

34 (h) "Local health department" shall have the meaning ascribed to  
35 such term under K.S.A. 65-241, and amendments thereto.

36 (i) "Fire control, fire rescue or emergency medical services  
37 equipment" means any vehicle, firefighting tool, protective clothing,  
38 breathing apparatus and any other supplies, tools or equipment used in  
39 firefighting or fire rescue or in the provision of emergency medical  
40 services.

41 Sec. 36. K.S.A. 2011 Supp. 75-7403 is hereby amended to read as  
42 follows: 75-7403. (a) The ~~Kansas health policy authority~~ *secretary of*  
43 *health and environment* is hereby authorized to establish policies and to

1 adopt rules and regulations for the implementation and administration of  
2 the powers, duties and functions prescribed for or transferred to the  
3 ~~authority~~*department* as provided by law.

4 (b) The ~~Kansas health policy authority~~*secretary of health and*  
5 *environment* may enter into contracts as may be necessary to perform the  
6 powers, duties and functions of ~~authority~~*department* and as provided by  
7 law. As provided by this act or as otherwise the ~~Kansas health policy~~  
8 ~~authority~~*secretary of health and environment* may enter into contracts with  
9 other state agencies or with local governmental entities for the  
10 coordination of health services, including care and prevention programs  
11 and activities, and public health programs.

12 (c) The ~~Kansas health policy authority~~*secretary of health and*  
13 *environment* may appoint advisory committees as deemed necessary by the  
14 ~~authority~~*secretary*. The advisory committees shall consult with and advise  
15 the ~~Kansas health policy authority~~*secretary of health and environment*  
16 regarding the matters referred thereto by the ~~authority~~*department*.  
17 Members of any advisory committee created under this section attending  
18 meetings of such committee or attending a subcommittee meeting thereof  
19 authorized by such committee shall be paid subsistence allowances,  
20 mileage and other expenses as provided in K.S.A. 75-3223, and  
21 amendments thereto, but shall receive no compensation for services as  
22 members of such advisory committee.

23 Sec. 37. K.S.A. 2011 Supp. 75-7404 is hereby amended to read as  
24 follows: 75-7404. The ~~Kansas health policy authority~~*department of health*  
25 *and environment* shall develop and maintain a coordinated health policy  
26 agenda that combines effective purchasing and administration of health  
27 care with health promotion oriented public health strategies. The powers,  
28 duties and functions of the ~~Kansas health policy authority~~*department of*  
29 *health and environment* are intended to be exercised to improve the health  
30 of the people of Kansas by increasing the quality, efficiency and  
31 effectiveness of health services and public health programs.

32 Sec. 38. K.S.A. 2011 Supp. 75-7405 is hereby amended to read as  
33 follows: 75-7405. (a) The ~~Kansas health policy authority~~*department of*  
34 *health and environment* is responsible for the development of a statewide  
35 health policy agenda including health care and health promotion  
36 components. The ~~Kansas health policy authority~~*department of health and*  
37 *environment* shall report to the legislature at the beginning of the regular  
38 session of the legislature in 2007 and at the beginning of each regular  
39 legislative session thereafter. The report of the ~~Kansas health policy~~  
40 ~~authority~~*department of health and environment* to the legislature shall  
41 include recommendations for implementation of the health policy agenda  
42 recommended by the ~~authority~~*department*. The ~~Kansas health policy~~  
43 ~~authority~~*department of health and environment* shall develop or adopt

1 health indicators and shall include baseline and trend data on the health  
2 costs and indicators in each annual report to the legislature. In accordance  
3 with the provisions of this act and the provisions of appropriation acts, the  
4 ~~Kansas health policy authority~~*department of health and environment* shall  
5 assume powers, duties and functions in accordance with the provisions of  
6 this act.

7 (b) ~~On January 1, 2006, the Kansas health policy authority~~*The*  
8 *department of health and environment* shall assume the functions of the  
9 health care data governing board and the functions of the department of  
10 social and rehabilitation services under the Kansas business health  
11 partnership act, as provided by this act.

12 (e) ~~On or before March 1, 2006, the Kansas health policy authority~~  
13 ~~shall submit a plan with recommendations for funding and any~~  
14 ~~recommended legislation for the powers, duties and functions transferred~~  
15 ~~to the authority on July 1, 2006, of the programs and activities specified in~~  
16 ~~subsection (d).~~

17 (d)(c) ~~On July 1, 2006, the Kansas health policy authority~~*The*  
18 *department of health and environment* shall assume operational and  
19 purchasing responsibility for (1) the regular medical portion of the state  
20 medicaid program, (2) the MediKan program, (3) the state children's  
21 health insurance program as provided in K.S.A. 38-2001 et seq., and  
22 amendments thereto, (4) the working healthy portion of the ticket to work  
23 program under the federal work incentive improvement act and the  
24 medicaid infrastructure grants received for the working healthy portion of  
25 the ticket to work program, (5) the medicaid management information  
26 system (MMIS), (6) the restrictive drug formulary, the drug utilization  
27 review program, including oversight of the medicaid drug utilization  
28 review board, and the electronic claims management system as provided in  
29 K.S.A. 39-7,116 through 39-7,121 and K.S.A. 2011 Supp. 39-7,121a  
30 through 39-7,121e, and amendments thereto, (7) the state health care  
31 benefits program as provided in K.S.A. 75-6501 through 75-6523, and  
32 amendments thereto, and (8) the state workers compensation self-  
33 insurance fund and program as provided in K.S.A. 44-575 through 44-580,  
34 and amendments thereto.

35 (e) (d) ~~At the beginning of the regular session of the legislature in~~  
36 ~~2007, the Kansas health policy authority~~*The department of health and*  
37 *environment* shall submit to the legislature recommendations and an  
38 implementation plan for the transfer of additional medicaid-funded  
39 programs to the ~~Kansas health policy authority~~*department of health and*  
40 *environment* which may include (1) mental health services, (2) home and  
41 community-based services (HCBS) waiver programs, (3) nursing facilities,  
42 (4) substance abuse prevention and treatment programs, and (5) the  
43 institutions, as defined in K.S.A. 76-12a01, and amendments thereto.

1       ~~(f) (e) At the beginning of the regular session of the legislature in~~  
2 ~~2008, the Kansas health policy authority~~*The department of health and*  
3 *environment* shall submit to the legislature recommendations and an  
4 implementation plan for the ~~Kansas health policy authority~~*department of*  
5 *health and environment* to assume responsibility for health care purchasing  
6 functions within additional state agencies, which may include (1) the  
7 department on aging, (2) the department of education for local education  
8 agencies, (3) the juvenile justice authority and the juvenile correctional  
9 institutions and facilities thereunder, and (4) the department of corrections  
10 and the correctional institutions and facilities thereunder.

11       Sec. 39. K.S.A. 2011 Supp. 75-7408 is hereby amended to read as  
12 follows: 75-7408. (a) ~~On and after July 1, 2006, the Kansas health policy~~  
13 ~~authority~~*The department of health and environment* shall coordinate health  
14 care planning, administration, and purchasing and analysis of health data  
15 for the state of Kansas with respect to the following health programs  
16 administered by the state of Kansas:

17       (1) Developing, implementing, and administering programs that  
18 provide medical assistance, health insurance programs, or waivers granted  
19 thereunder for persons who are needy, uninsured, or both, and that are  
20 financed by federal funds or state funds, or both, including the following:

21       (A) The Kansas program of medical assistance established in  
22 accordance with title XIX of the federal social security act, 42 U.S.C. §  
23 1396 et seq., and amendments thereto;

24       (B) the health benefits program for children established under K.S.A.  
25 38-2001 et seq., and amendments thereto, and developed and submitted in  
26 accordance with federal guidelines established under title XXI of the  
27 federal social security act, section 4901 of public law 105-33, 42 U.S.C. §  
28 1397aa et seq., and amendments thereto;

29       (C) any program of medical assistance for needy persons financed by  
30 state funds only, to the extent appropriations are made for such a program;

31       (D) the working healthy portion of the ticket to work program under  
32 the federal work incentive improvement act and the medicaid  
33 infrastructure grants received for the working healthy portion of the ticket  
34 to work program; and

35       (E) the medicaid management information system (MMIS);

36       (2) the restrictive drug formulary, the drug utilization review  
37 program, including oversight of the medicaid drug utilization review  
38 board, and the electronic claims management system as provided in K.S.A.  
39 39-7,116 through 39-7,121 and K.S.A. 2011 Supp. 39-7,121a through 39-  
40 7,121e, and amendments thereto; and

41       (3) administering any other health programs delegated to the ~~Kansas~~  
42 ~~health policy authority~~*department of health and environment* by the  
43 governor or by a contract with another state agency.



1 (b) Except to the extent required by its single state agency role as  
2 designated in K.S.A. 2011 Supp. 75-7409, and amendments thereto, or as  
3 otherwise provided pursuant to this act the ~~Kansas health policy~~  
4 ~~authority~~*department of health and environment* shall not be responsible for  
5 health care planning, administration, purchasing and data with respect to  
6 the following:

7 (1) The mental health reform act, K.S.A. 39-1601 et seq., and  
8 amendments thereto;

9 (2) the developmental disabilities reform act, K.S.A. 39-1801 et seq.,  
10 and amendments thereto;

11 (3) the mental health program of the state of Kansas as prescribed  
12 under K.S.A. 75-3304a, and amendments thereto;

13 (4) the addiction and prevention services prescribed under K.S.A. 65-  
14 4001 et seq., and amendments thereto; or

15 (5) any institution, as defined in K.S.A. 76-12a01, and amendments  
16 thereto.

17 Sec. 40. K.S.A. 2011 Supp. 75-7409 is hereby amended to read as  
18 follows: 75-7409. (a) ~~On and after July 1, 2006, the Kansas health policy~~  
19 ~~authority~~*The department of health and environment* shall be designated as  
20 the single state agency with responsibility for supervising and  
21 administering the state plan for medical assistance under the federal social  
22 security act, 42 U.S.C. § 1396 et seq., and amendments thereto. The  
23 ~~Kansas health policy authority~~*department of health and environment* shall  
24 develop state plans, as provided under the federal social security act,  
25 whereby the state cooperates with the federal government in its program of  
26 assisting the states financially in furnishing medical assistance and  
27 services to eligible individuals.

28 (b) The ~~Kansas health policy authority~~*department of health and*  
29 *environment* shall undertake to cooperate with the federal government on  
30 any other federal program providing federal financial assistance and  
31 services for medical assistance not inconsistent with this act. The ~~Kansas~~  
32 ~~health policy authority~~*department of health and environment* is not  
33 required to develop a state plan for participation or cooperation in all  
34 federal social security act programs relating to medical assistance or other  
35 available federal programs that relate to medical assistance.

36 Sec. 41. K.S.A. 2011 Supp. 75-7410 is hereby amended to read as  
37 follows: 75-7410. ~~On and after July 1, 2006, the Kansas health policy~~  
38 ~~authority~~*The department of health and environment* shall have the power,  
39 but is not required, to develop a state plan with regard to medical  
40 assistance and services in which the federal government does not  
41 participate, within the limits of appropriations therefor.

42 Sec. 42. K.S.A. 2011 Supp. 75-7411 is hereby amended to read as  
43 follows: 75-7411. (a) Subject to the limitations of subsection (b), the

1 ~~Kansas health policy authority~~*department of health and environment* may  
2 enter into a contract with one or more state agencies or local governmental  
3 entities providing for the state agency or local governmental entity to  
4 perform services for the division of health policy and finance or delegating  
5 to the state agency or local governmental entity the administration of  
6 certain functions, services or programs under any of the programs for  
7 which the ~~Kansas health policy authority~~*department of health and*  
8 *environment* is responsible.

9 (b) With respect to any plan or program that is subject to or financed  
10 in part under the federal social security act, 42 U.S.C. § 1396 et seq., and  
11 amendments thereto, the authority of the ~~Kansas health policy~~  
12 ~~authority~~*department of health and environment* to exercise administrative  
13 discretion in the administration or supervision of the plan or program and  
14 to issue policies and to adopt rules and regulations on plan or program  
15 matters shall not be delegated by the ~~Kansas health policy~~  
16 ~~authority~~*secretary of health and environment*, other than to officials and  
17 employees of the ~~authority~~*department of health and environment*. To the  
18 extent that the ~~Kansas health policy authority~~*secretary of health and*  
19 *environment* enters into a contract with a state agency or local  
20 governmental entity under this section, the other state agency or the local  
21 governmental entity shall not have the authority to change or disapprove  
22 any administrative decision of the ~~Kansas health policy~~  
23 ~~authority~~*department of health and environment* or to otherwise substitute  
24 its judgment for that of the ~~Kansas health policy authority~~*department of*  
25 *health and environment* with respect to the application of policies issued or  
26 rules and regulations adopted by the ~~Kansas health policy~~  
27 ~~authority~~*department of health and environment* for any plan or program  
28 that is subject to or financed in part under the federal social security act, 42  
29 U.S.C. § 1396 et seq., and amendments thereto.

30 Sec. 43. K.S.A. 2011 Supp. 75-7412 is hereby amended to read as  
31 follows: 75-7412. (a) ~~On and after July 1, 2006, the Kansas health policy~~  
32 ~~authority~~*The department of health and environment* shall have the power  
33 and duty to establish general policies relating to the health programs under  
34 the ~~authority~~*department* as provided in K.S.A. 2011 Supp. 75-7408, and  
35 amendments thereto, and to adopt rules and regulations therefor.

36 (b) The ~~Kansas health policy authority~~*secretary of health and*  
37 *environment* shall advise the governor and the legislature on all health  
38 programs, policies and plans for which the ~~Kansas health policy~~  
39 ~~authority~~*department of health and environment* is responsible under this  
40 act.

41 (c) The ~~Kansas health policy authority~~*department of health and*  
42 *environment* shall establish an adequate system of financial records. The  
43 ~~Kansas health policy authority~~*department of health and environment* shall

1 make periodic reports to the governor and shall make any reports required  
2 by federal agencies.

3 (d) The ~~Kansas health policy authority~~*department of health and*  
4 *environment* may assist other departments, agencies and institutions of the  
5 state and federal government and of other states under interstate  
6 agreements, when so requested, by performing services in conformity with  
7 the purposes of this act.

8 (e) All contracts of the ~~Kansas health policy authority~~*department of*  
9 *health and environment* shall be made in the name of the "~~Kansas health~~  
10 ~~policy authority~~*department of health and environment.*" In that name, the  
11 ~~Kansas health policy authority~~*department of health and environment* may  
12 sue and be sued. The grant of authority under this subsection shall not be  
13 construed to be a waiver of any rights retained by the state under the 11th  
14 amendment to the United States constitution and shall be subject to and  
15 shall not supersede the provisions of any appropriation act of this state.

16 (f) After consulting with any agency that has responsibility under a  
17 contract with the ~~Kansas health policy authority~~*department of health and*  
18 *environment* for administration of any of the programs of the  
19 ~~authority~~*department*, the ~~Kansas health policy authority~~*secretary of health*  
20 *and environment* shall prepare annually, at the time and in the form  
21 directed by the governor, a budget covering the estimated receipts and  
22 expenditures of the ~~Kansas health policy authority~~*department of health*  
23 *and environment* for the coming fiscal year.

24 (g) The ~~Kansas health policy authority~~*secretary of health and*  
25 *environment* shall have authority to make grants of funds for the promotion  
26 of health programs in the state of Kansas, subject to the provisions of  
27 appropriation acts.

28 (h) The ~~Kansas health policy authority~~*secretary of health and*  
29 *environment* may receive grants, gifts, bequests, money, or aid of any  
30 character whatsoever, for purposes consistent with K.S.A. 2011 Supp. 75-  
31 7408 through 75-7413, and amendments thereto.

32 (i) The ~~Kansas health policy authority~~*secretary of health and*  
33 *environment* may enter into agreements with other states or the agency  
34 designated as the single state agency under the federal social security act,  
35 42 U.S.C. § 1396 et seq., and amendments thereto, for another state setting  
36 out the manner for determining the state of residence in disputed cases and  
37 the bearing or sharing of costs associated with those cases.

38 (j) The ~~Kansas health policy authority~~*secretary of health and*  
39 *environment* shall establish such advisory groups as are necessary to assist  
40 the division of health policy and finance in carrying out its responsibilities  
41 under K.S.A. 2011 Supp. 75-7408 through 75-7413, and amendments  
42 thereto, including the following:

43 (1) A consumer advisory board consisting of representatives of

1 consumers of health care services provided under title XIX of the federal  
2 social security act, 42 U.S.C. § 1396 et seq., and title XXI of the social  
3 security act, 42 U.S.C. § 1397aa et seq., and amendments thereto, and  
4 representatives of these consumers' family members; and

5 (2) a policy coordination board consisting of representatives from  
6 those state agencies with which the ~~Kansas health policy~~  
7 ~~authority~~*secretary of health and environment* enters into a contract under  
8 K.S.A. 2011 Supp. 75-7411, and amendments thereto, and representatives  
9 from any other state agencies, as determined by the ~~Kansas health policy~~  
10 ~~authority~~*department of health and environment*.

11 (k) The ~~Kansas health policy authority~~*department of health and*  
12 *environment* shall perform any other duties and services that are necessary  
13 to carry out the purposes of K.S.A. 2011 Supp. 75-7408 through 75-7413,  
14 and amendments thereto, and that are not inconsistent with state law.

15 Sec. 44. K.S.A. 2011 Supp. 75-7413 is hereby amended to read as  
16 follows: 75-7413. ~~On and after July 1, 2006,~~ Except as otherwise provided  
17 by this act, all of the following powers, duties and functions of the ~~division~~  
18 ~~of health policy and finance within the department of administration and~~  
19 ~~the director of health policy and finance~~*Kansas health policy authority* are  
20 hereby transferred to and imposed upon the ~~Kansas health policy authority~~  
21 ~~established by K.S.A. 2011 Supp. 75-7401, and amendments~~  
22 ~~thereto~~*department of health and environment*.

23 (a) All of the powers, duties and functions under chapter 39 of the  
24 Kansas Statutes Annotated, and amendments thereto, ~~that were transferred~~  
25 ~~on July 1, 2005, to the division of health planning and finance and the~~  
26 ~~director of health planning and finance and that~~ relate to development,  
27 implementation and administration of programs that provide medical  
28 assistance, health insurance programs or waivers granted thereunder for  
29 persons who are needy or uninsured, or both, and that are financed by  
30 federal funds or state funds, or both, including the following:

31 (1) The Kansas program of medical assistance established in  
32 accordance with title XIX of the federal social security act, 42 U.S.C. §  
33 1396 et seq., and amendments thereto; and

34 (2) any program of medical assistance for needy persons financed by  
35 state funds only;

36 (b) all of the powers, duties and functions ~~that were transferred on~~  
37 ~~July 1, 2005, to the division of health planning and finance and the director~~  
38 ~~of health planning and finance~~ with respect to the health benefits program  
39 for children established under K.S.A. 38-2001 et seq., and amendments  
40 thereto, and developed and submitted in accordance with federal  
41 guidelines established under title XXI of the federal social security act,  
42 section 4901 of public law 105-33, 42 U.S.C. § 1397aa et seq., and  
43 amendments thereto;

1 (c) the working healthy portion of the ticket to work program under  
2 the federal work incentive improvement act and the medicaid  
3 infrastructure grants received for the working healthy portion of the ticket  
4 to work program;

5 (d) the medicaid management information system (MMIS);

6 (e) the restrictive drug formulary, the drug utilization review  
7 program, including oversight of the medicaid drug utilization review  
8 board, and the electronic claims management system as provided in K.S.A.  
9 39-7,116 through 39-7,121 and K.S.A. 2011 Supp. 39-7,121a through 39-  
10 7,121e, and amendments thereto;

11 (f) all of the powers, duties and functions of the ~~division of health~~  
12 ~~policy and finance associated~~ *Kansas health policy authority* with  
13 designation as the single state agency under title XIX of the federal social  
14 security act, 42 U.S.C. § 1396 et seq., and amendments thereto. ~~On and~~  
15 ~~after July 1, 2006, the designation of the division of health and finance as~~  
16 ~~the single state agency for medicaid purposes is hereby transferred to the~~  
17 ~~Kansas health policy authority; and~~

18 ~~(g) hearings conducted pursuant to the transfer of powers, duties and~~  
19 ~~functions conveyed through this section shall be conducted in accordance~~  
20 ~~with the Kansas administrative procedure act utilizing a presiding officer~~  
21 ~~from the office of administrative hearings.~~

22 Sec. 45. K.S.A. 2011 Supp. 75-7423 is hereby amended to read as  
23 follows: 75-7423. The ~~Kansas health policy authority~~ *department of health*  
24 *and environment* in consultation with the joint committee on health policy  
25 oversight shall consider as part of the health reform in Kansas various  
26 medicaid reform options including, but not limited to: The experience of  
27 other states, long-term care, waste, fraud and abuse, health opportunity  
28 accounts, tax credits, vouchers and premium assistance, and wellness as  
29 provided through the federal deficit reduction act of 2005, *public law 109-*  
30 *171*. Such medicaid reforms should result in improved health outcomes for  
31 medicaid recipients, long-term cost controls and encourage primary and  
32 preventive care which will result in cost savings for the state.

33 Sec. 46. K.S.A. 2011 Supp. 75-7424 is hereby amended to read as  
34 follows: 75-7424. ~~(a) On or before November 1, 2007, the Kansas health~~  
35 ~~policy authority shall develop and deliver to the governor, the joint~~  
36 ~~committee on health policy oversight, the speaker of the house of~~  
37 ~~representatives, the majority leader of the house of representatives, the~~  
38 ~~minority leader of the house of representatives, the president of the senate,~~  
39 ~~the majority leader of the senate and the minority leader of the senate,~~  
40 ~~health care finance reform options for enactment by the legislature during~~  
41 ~~the 2008 regular session, including an analysis of a Kansas health care~~  
42 ~~insurance connector, a model for a voluntary health insurance connector,~~  
43 ~~and draft legislation for the proposed health care finance reform options.~~

1 In developing such options, the Kansas health policy authority shall solicit  
2 and consider information and recommendations from advisory committees  
3 established under subsection (c) of K.S.A. 75-7403, and amendments  
4 thereto, and shall advise and consult with the joint committee on health  
5 policy oversight regularly and on a continuing basis. The Kansas health  
6 policy authority shall develop and analyze other pertinent initiatives and  
7 policies designed to increase access to affordable health insurance and to  
8 otherwise promote health in developing the options.

9 (b)(a) The Kansas health policy authority ~~department of health and~~  
10 *environment* shall analyze and develop health care finance reform options  
11 with the goals of (1) financing health care and health promotion in a  
12 manner that is equitable, seamless and sustainable for consumers,  
13 providers, purchasers and government, (2) promoting market-based  
14 solutions that encourage fiscal and individual responsibility, (3) protecting  
15 the health care safety net in the development of such options, (4) facilitate  
16 purchasing of health insurance, and facilitating access to private sector  
17 health insurance by small businesses and individuals.

18 (e) (b) The Kansas health policy authority ~~department of health and~~  
19 *environment* shall identify and analyze policies that are designed to  
20 increase portability, to increase individual ownership of health care  
21 policies, to utilize pre-tax dollars for the purchase of health insurance, and  
22 to expand consumer responsibility for making health care decisions.

23 (d) (c) The Kansas health policy authority ~~department of health and~~  
24 *environment* shall obtain economic and actuarial analyses by an entity or  
25 entities that are recognized as having specific experience in the subject  
26 matter of all health care finance reform options proposed under subsection  
27 (a) to determine (1) the economic impact of proposed reforms on  
28 consumers, providers, purchasers, businesses and government and (2) the  
29 number of uninsured Kansans who have the potential to receive coverage  
30 as a result of the options proposed under subsection (a).

31 (e) (d) The Kansas health policy authority ~~department of health and~~  
32 *environment* shall investigate and identify possible public funding sources  
33 for the options proposed under subsection (a), including medicaid and  
34 other federal programs, specifically including possible waivers to specific  
35 federal program requirements.

36 (f) (e) In collaboration with the United States department of health  
37 and human services, the Kansas health policy authority ~~department of~~  
38 *health and environment* shall investigate (1) the development and  
39 availability of federal affordable choices initiatives funding, (2) waiver and  
40 funding opportunities under the federal deficit reduction act of 2005,  
41 *public law 109-171*, and (3) waivers under the federal health insurance  
42 flexibility and accountability demonstration initiative to expand health  
43 services to low income populations. ~~To the extent feasible, the Kansas~~

1 ~~health policy authority shall include such federal programs in the options~~  
2 ~~proposed under subsection (a).~~

3 ~~(g) In collaboration with the commissioner of insurance, the Kansas~~  
4 ~~health policy authority shall analyze the potential for reinsurance and state~~  
5 ~~subsidies for reinsurance as mechanisms to reduce premium volatility in~~  
6 ~~the small group insurance market, to increase predictability in premium~~  
7 ~~trends, to lower costs and to increase coverage as a component of the~~  
8 ~~options proposed under subsection (a).~~

9 Sec. 47. K.S.A. 2011 Supp. 75-7425 is hereby amended to read as  
10 follows: 75-7425. (a) The Kansas department of insurance shall conduct a  
11 study on the impact of extending continuation benefits under COBRA for a  
12 period of 18 months pursuant to K.S.A. 40-19c06, and amendments  
13 thereto, and other applicable statutes and other policy changes to make  
14 health insurance more competitive, affordable and portable. The  
15 commissioner of insurance shall prepare a report on its findings and  
16 present such report to the ~~Kansas health policy authority~~*secretary of*  
17 *health and environment* and the joint committee on health policy oversight.

18 (b) The legislative coordinating council shall appoint a legislative  
19 study committee during the 2007 interim period to study and review  
20 various options for tax credits and benefits for the purchase of long-term  
21 care insurance, health earned income tax credits, health insurance and  
22 health savings accounts.

23 Sec. 48. K.S.A. 2011 Supp. 75-7426 is hereby amended to read as  
24 follows: 75-7426. (a) All third parties, including health insurers, self-  
25 insured plans, group health plans (as defined in section 607(1) of the  
26 employee retirement income security act of 1974), service benefit plans,  
27 managed care organizations, pharmacy benefit managers or other parties  
28 that are, by statute, contract or agreement, legally responsible for payment  
29 of a claim for a health care item or service to pay for care and services  
30 available under the plan, shall not, in enrolling an individual or in making  
31 any payments for benefits to the individual or on the individual's behalf,  
32 take into account that the individual is eligible for or is provided medical  
33 assistance under the Kansas state plan under title XIX of the social  
34 security act, commonly known as medicaid or medical assistance,  
35 administered by the ~~Kansas health policy authority~~*department of health*  
36 *and environment*, or under any such plan of any other state.

37 (b) All third parties described in subsection (a), shall provide, with  
38 respect to individuals who are eligible for, or are provided, medical  
39 assistance under such state plan, upon the request of the ~~authority~~  
40 *department*, information to determine during what period individuals or  
41 their spouses or their dependents may be (or may have been) covered by a  
42 health insurer and the nature of the coverage that is or was provided by the  
43 health insurer (including the name, address and identifying number of the

1 plan) in a manner prescribed by the United States secretary of health and  
2 human services.

3 (c) All third parties described in subsection (a) shall: (1) Accept the  
4 ~~authority's~~*department's* right of recovery and the assignment to the  
5 ~~authority~~*department* of any right of an individual or other entity to  
6 payment from the party for an item or service for which payment has been  
7 made under the state plan; (2) respond to any inquiry by the  
8 ~~authority~~*department* or its designee regarding a claim for payment for any  
9 health care item or service that is submitted not later than three years after  
10 the date of the provision of such health care item or service; and (3) agree  
11 not to deny a claim submitted by the ~~authority~~*department* solely on the  
12 basis of the date of submission of the claim, the type or format of the claim  
13 form or a failure to present proper documentation at the point-of-sale that  
14 is the basis of the claim, if: (A) The claim is submitted by the  
15 ~~authority~~*department* within the three-year period beginning on the date on  
16 which the item or service was furnished; and (B) any action by the  
17 ~~authority~~*department* to enforce its rights with respect to such claim is  
18 commenced within six years of the ~~authority's~~*department's* submission of  
19 such claim.

20 (d) As used in this section, "~~Kansas health policy authority~~" or  
21 "~~authority~~" *"department"* means the ~~Kansas health policy authority~~  
22 ~~established by K.S.A. 2011 Supp. 75-7401, and amendments~~  
23 ~~thereto~~*department of health and environment*.

24 Sec. 49. K.S.A. 2011 Supp. 75-7427 is hereby amended to read as  
25 follows: 75-7427. (a) As used in this section:

26 (1) "Attorney general" means the attorney general, employees of the  
27 attorney general or authorized representatives of the attorney general.

28 (2) "Benefit" means the receipt of money, goods, items, facilities,  
29 accommodations or anything of pecuniary value.

30 (3) "Claim" means an electronic, electronic impulse, facsimile,  
31 magnetic, oral, telephonic or written communication that is utilized to  
32 identify any goods, service, item, facility or accommodation as  
33 reimbursable to the state medicaid program, or its fiscal agents, the state  
34 mediKan program or the state children's health insurance program or  
35 which states income or expense.

36 (4) "Client" means past or present beneficiaries or recipients of the  
37 state medicaid program, the state mediKan program or the state children's  
38 health insurance program.

39 (5) "Contractor" means any contractor, supplier, vendor or other  
40 person who, through a contract or other arrangement, has received, is to  
41 receive or is receiving public funds or in-kind contributions from the  
42 contracting agency as part of the state medicaid program, the state  
43 mediKan program or the state children's health insurance program, and



1 shall include any sub-contractor.

2 (6) "Contractor files" means those records of contractors which relate  
3 to the state medicaid program, the state mediKan program or the state  
4 children's health insurance program.

5 (7) "Fiscal agent" means any corporation, firm, individual,  
6 organization, partnership, professional association or other legal entity  
7 which, through a contractual relationship with the state of Kansas receives,  
8 processes and pays claims under the state medicaid program, the state  
9 mediKan program or the state children's health insurance program.

10 (8) "Health care provider" means a health care provider as defined  
11 under K.S.A. 65-4921, and amendments thereto, who has applied to  
12 participate in, who currently participates in, or who has previously  
13 participated in the state medicaid program, the state mediKan program or  
14 the state children's health insurance program.

15 (9) ~~"Kansas health policy authority" or "authority"~~ "Department"  
16 means the ~~Kansas health policy authority established under K.S.A. 2011~~  
17 ~~Supp. 75-7401, and amendments thereto~~ *department of health and*  
18 *environment*, or its successor agency.

19 (10) "Managed care program" means a program which provides  
20 coordination, direction and provision of health services to an identified  
21 group of individuals by providers, agencies or organizations.

22 (11) "Medicaid program" means the Kansas program of medical  
23 assistance for which federal or state moneys, or any combination thereof,  
24 are expended, or any successor federal or state, or both, health insurance  
25 program or waiver granted thereunder.

26 (12) "Person" means any agency, association, corporation, firm,  
27 limited liability company, limited liability partnership, natural person,  
28 organization, partnership or other legal entity, the agents, employees,  
29 independent contractors, and subcontractors, thereof, and the legal  
30 successors thereto.

31 (13) "Provider" means a person who has applied to participate in,  
32 who currently participates in, who has previously participated in, who  
33 attempts or has attempted to participate in the state medicaid program, the  
34 state mediKan program or the state children's health insurance program, by  
35 providing or claiming to have provided goods, services, items, facilities or  
36 accommodations.

37 (14) "Recipient" means an individual, either real or fictitious, in  
38 whose behalf any person claimed or received any payment or payments  
39 from the state medicaid program, or its fiscal agent, the state mediKan  
40 program or the state children's health insurance program, whether or not  
41 any such individual was eligible for benefits under the state medicaid  
42 program, the state mediKan program or the state children's health  
43 insurance program.

1 (15) "Records" means all written documents and electronic or  
2 magnetic data, including, but not limited to, medical records, X-rays,  
3 professional, financial or business records relating to the treatment or care  
4 of any recipient; goods, services, items, facilities or accommodations  
5 provided to any such recipient; rates paid for such goods, services, items,  
6 facilities or accommodations; and goods, services, items, facilities or  
7 accommodations provided to nonmedicaid recipients to verify rates or  
8 amounts of goods, services, items, facilities or accommodations provided  
9 to medicaid recipients, as well as any records that the state medicaid  
10 program, or its fiscal agents, the state mediKan program or the state  
11 children's health insurance program require providers to maintain.  
12 "Records" shall not include any report or record in any format which is  
13 made pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments  
14 thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925,  
15 and amendments thereto.

16 (16) "State children's health insurance program" means the state  
17 children's health insurance program as provided in K.S.A. 38-2001 et seq.,  
18 and amendments thereto.

19 (b) (1) There is hereby established within the ~~Kansas health policy~~  
20 ~~authority~~*department of health and environment* the office of inspector  
21 general. All budgeting, purchasing and related management functions of  
22 the office of inspector general shall be administered under the direction  
23 and supervision of the executive director of the ~~Kansas health policy~~  
24 ~~authority~~*department of health and environment*. The purpose of the office  
25 of inspector general is to establish a full-time program of audit,  
26 investigation and performance review to provide increased accountability,  
27 integrity and oversight of the state medicaid program, the state mediKan  
28 program and the state children's health insurance program within the  
29 jurisdiction of the ~~Kansas health policy authority~~*department of health and*  
30 *environment* and to assist in improving agency and program operations and  
31 in deterring and identifying fraud, waste, abuse and illegal acts. The office  
32 of inspector general shall be independent and free from political influence  
33 and in performing the duties of the office under this section shall conduct  
34 investigations, audits, evaluations, inspections and other reviews in  
35 accordance with professional standards that relate to the fields of  
36 investigation and auditing in government.

37 (2) (A) The inspector general shall be appointed by the ~~Kansas health~~  
38 ~~policy authority~~*department of health and environment* with the advice and  
39 consent of the senate and subject to confirmation by the senate as provided  
40 in K.S.A. 75-4315b, and amendments thereto. Except as provided in  
41 K.S.A. 46-2601, and amendments thereto, no person appointed to the  
42 position of inspector general shall exercise any power, duty or function of  
43 the inspector general until confirmed by the senate. The inspector general

1 shall be selected without regard to political affiliation and on the basis of  
2 integrity and capacity for effectively carrying out the duties of the office of  
3 inspector general. The inspector general shall possess demonstrated  
4 knowledge, skills, abilities and experience in conducting audits or  
5 investigations and shall be familiar with the programs subject to oversight  
6 by the office of inspector general.

7 (B) No former or current executive or manager of any program or  
8 agency subject to oversight by the office of inspector general may be  
9 appointed inspector general within two years of that individual's period of  
10 service with such program or agency. The inspector general shall hold at  
11 time of appointment, or shall obtain within one year after appointment,  
12 certification as a certified inspector general from a national organization  
13 that provides training to inspectors general.

14 (C) The term of the person first appointed to the position of inspector  
15 general shall expire on January 15, 2009. Thereafter, a person appointed to  
16 the position of inspector general shall serve for a term which shall expire  
17 on January 15 of each year in which the whole senate is sworn in for a new  
18 term.

19 (D) The inspector general shall be in the classified service and shall  
20 receive such compensation as is determined by law, except that such  
21 compensation may be increased but not diminished during the term of  
22 office of the inspector general. The inspector general may be removed  
23 from office prior to the expiration of the inspector general's term of office  
24 in accordance with the Kansas civil service act. The inspector general shall  
25 exercise independent judgment in carrying out the duties of the office of  
26 inspector general under subsection (b). Appropriations for the office of  
27 inspector general shall be made to the ~~Kansas health policy~~  
28 ~~authority~~ *department of health and environment* by separate line item  
29 appropriations for the office of inspector general. The inspector general  
30 shall report to the ~~Kansas health policy authority~~ *secretary of health and*  
31 *environment*.

32 (E) The inspector general shall have general managerial control over  
33 the office of the inspector general and shall establish the organization  
34 structure of the office as the inspector general deems appropriate to carry  
35 out the responsibilities and functions of the office.

36 (3) Within the limits of appropriations therefor, the inspector general  
37 may hire such employees in the unclassified service as are necessary to  
38 administer the office of the inspector general. Such employees shall serve  
39 at the pleasure of the inspector general. Subject to appropriations, the  
40 inspector general may obtain the services of certified public accountants,  
41 qualified management consultants, professional auditors, or other  
42 professionals necessary to independently perform the functions of the  
43 office.

1 (c) (1) In accordance with the provisions of this section, the duties of  
2 the office of inspector general shall be to oversee, audit, investigate and  
3 make performance reviews of the state medicaid program, the state  
4 mediKan program and the state children's health insurance program, which  
5 programs are within the jurisdiction of the ~~Kansas health policy~~  
6 ~~authority~~*department of health and environment*.

7 (2) In order to carry out the duties of the office, the inspector general  
8 shall conduct independent and ongoing evaluation of the ~~Kansas health~~  
9 ~~policy authority~~*department of health and environment* and of such  
10 programs administered by the ~~Kansas health policy authority~~*department of*  
11 *health and environment*, which oversight includes, but is not limited to, the  
12 following:

13 (A) Investigation of fraud, waste, abuse and illegal acts by the ~~Kansas~~  
14 ~~health policy authority~~*department of health and environment* and its  
15 agents, employees, vendors, contractors, consumers, clients and health  
16 care providers or other providers.

17 (B) Audits of the ~~Kansas health policy authority~~*department of health*  
18 *and environment*, its employees, contractors, vendors and health care  
19 providers related to ensuring that appropriate payments are made for  
20 services rendered and to the recovery of overpayments.

21 (C) Investigations of fraud, waste, abuse or illegal acts committed by  
22 clients of the ~~Kansas health policy authority~~*department of health and*  
23 *environment* or by consumers of services administered by the ~~Kansas~~  
24 ~~health policy authority~~*department of health and environment*.

25 (D) Monitoring adherence to the terms of the contract between the  
26 ~~Kansas health policy authority~~*department of health and environment* and  
27 an organization with which the ~~authority~~*department* has entered into a  
28 contract to make claims payments.

29 (3) Upon finding credible evidence of fraud, waste, abuse or illegal  
30 acts, the inspector general shall report its findings to the ~~Kansas health~~  
31 ~~policy authority~~*department of health and environment* and refer the  
32 findings to the attorney general.

33 (d) The inspector general shall have access to all pertinent  
34 information, confidential or otherwise, and to all personnel and facilities of  
35 the ~~Kansas health policy authority~~*department of health and environment*,  
36 their employees, vendors, contractors and health care providers and any  
37 federal, state or local governmental agency that are necessary to perform  
38 the duties of the office as directly related to such programs administered  
39 by the ~~authority~~*department*. Access to contractor or health care provider  
40 files shall be limited to those files necessary to verify the accuracy of the  
41 contractor's or health care provider's invoices or their compliance with the  
42 contract provisions or program requirements. No health care provider shall  
43 be compelled under the provisions of this section to provide individual

1 medical records of patients who are not clients of the state medicaid  
2 program, the state mediKan program or the state children's health  
3 insurance program. State and local governmental agencies are authorized  
4 and directed to provide to the inspector general requested information,  
5 assistance or cooperation.

6 (e) Except as otherwise provided in this section, the inspector general  
7 and all employees and former employees of the office of inspector general  
8 shall be subject to the same duty of confidentiality imposed by law on any  
9 such person or agency with regard to any such information, and shall be  
10 subject to any civil or criminal penalties imposed by law for violations of  
11 such duty of confidentiality. The duty of confidentiality imposed on the  
12 inspector general and all employees and former employees of the office of  
13 inspector general shall be subject to the provisions of subsection (f), and  
14 the inspector general may furnish all such information to the attorney  
15 general, Kansas bureau of investigation or office of the United States  
16 attorney in Kansas pursuant to subsection (f). Upon receipt thereof, the  
17 attorney general, Kansas bureau of investigation or office of the United  
18 States attorney in Kansas and all assistants and all other employees and  
19 former employees of such offices shall be subject to the same duty of  
20 confidentiality with the exceptions that any such information may be  
21 disclosed in criminal or other proceedings which may be instituted and  
22 prosecuted by the attorney general or the United States attorney in Kansas,  
23 and any such information furnished to the attorney general, the Kansas  
24 bureau of investigation or the United States attorney in Kansas under  
25 subsection (f) may be entered into evidence in any such proceedings.

26 (f) All investigations conducted by the inspector general shall be  
27 conducted in a manner that ensures the preservation of evidence for use in  
28 criminal prosecutions or agency administrative actions. If the inspector  
29 general determines that a possible criminal act relating to fraud in the  
30 provision or administration of such programs administered by the ~~Kansas~~  
31 ~~health policy authority~~ *department of health and environment* has been  
32 committed, the inspector general shall immediately notify the office of the  
33 Kansas attorney general. If the inspector general determines that a possible  
34 criminal act has been committed within the jurisdiction of the office, the  
35 inspector general may request the special expertise of the Kansas bureau of  
36 investigation. The inspector general may present for prosecution the  
37 findings of any criminal investigation to the office of the attorney general  
38 or the office of the United States attorney in Kansas.

39 (g) To carry out the duties as described in this section, the inspector  
40 general and the inspector general's designees shall have the power to  
41 compel by subpoena the attendance and testimony of witnesses and the  
42 production of books, electronic records and papers as directly related to  
43 such programs administered by the ~~Kansas health policy~~

1 ~~authority~~*department of health and environment*. Access to contractor files  
2 shall be limited to those files necessary to verify the accuracy of the  
3 contractor's invoices or its compliance with the contract provisions. No  
4 health care provider shall be compelled to provide individual medical  
5 records of patients who are not clients of the ~~authority~~*department*.

6 (h) The inspector general shall report all convictions, terminations  
7 and suspensions taken against vendors, contractors and health care  
8 providers to the ~~Kansas health policy authority~~*department of health and*  
9 *environment* and to any agency responsible for licensing or regulating  
10 those persons or entities. If the inspector general determines reasonable  
11 suspicion exists that an act relating to the violation of an agency licensure  
12 or regulatory standard has been committed by a vendor, contractor or  
13 health care provider who is licensed or regulated by an agency, the  
14 inspector general shall immediately notify such agency of the possible  
15 violation.

16 (i) The inspector general shall make annual reports, findings and  
17 recommendations regarding the office's investigations into reports of  
18 fraud, waste, abuse and illegal acts relating to any such programs  
19 administered by the ~~Kansas health policy authority~~*director of health care*  
20 *finance* to the ~~executive director of the Kansas health policy~~  
21 ~~authority~~*secretary of health and environment*, the legislative post auditor,  
22 the committee on ways and means of the senate, the committee on  
23 appropriations of the house of representatives, the joint committee on  
24 health policy oversight and the governor. These reports shall include, but  
25 not be limited to, the following information:

- 26 (1) Aggregate provider billing and payment information;
- 27 (2) the number of audits of such programs administered by the  
28 ~~Kansas health policy authority~~*department of health and environment* and  
29 the dollar savings, if any, resulting from those audits;
- 30 (3) health care provider sanctions, in the aggregate, including  
31 terminations and suspensions; and
- 32 (4) a detailed summary of the investigations undertaken in the  
33 previous fiscal year, which summaries shall comply with all laws and rules  
34 and regulations regarding maintaining confidentiality in such programs  
35 administered by the ~~Kansas health policy authority~~*department of health*  
36 *and environment*.

37 (j) Based upon the inspector general's findings under subsection (c),  
38 the inspector general may make such recommendations to the ~~Kansas~~  
39 ~~health policy authority~~*department of health and environment* or the  
40 legislature for changes in law, rules and regulations, policy or procedures  
41 as the inspector general deems appropriate to carry out the provisions of  
42 law or to improve the efficiency of such programs administered by the  
43 ~~Kansas health policy authority~~*department of health and environment*. The

1 inspector general shall not be required to obtain permission or approval  
2 from any other official or ~~authority~~*department* prior to making any such  
3 recommendation.

4 (k) (1) The inspector general shall make provision to solicit and  
5 receive reports of fraud, waste, abuse and illegal acts in such programs  
6 administered by the ~~Kansas health policy authority~~*department of health*  
7 *and environment* from any person or persons who shall possess such  
8 information. The inspector general shall not disclose or make public the  
9 identity of any person or persons who provide such reports pursuant to this  
10 subsection unless such person or persons consent in writing to the  
11 disclosure of such person's identity. Disclosure of the identity of any  
12 person who makes a report pursuant to this subsection shall not be ordered  
13 as part of any administrative or judicial proceeding. Any information  
14 received by the inspector general from any person concerning fraud,  
15 waste, abuse or illegal acts in such programs administered by the ~~Kansas~~  
16 ~~health policy authority~~*department of health and environment* shall be  
17 confidential and shall not be disclosed or made public, upon subpoena or  
18 otherwise, except such information may be disclosed if (A) release of the  
19 information would not result in the identification of the person who  
20 provided the information, (B) the person or persons who provided the  
21 information to be disclosed consent in writing prior to its disclosure, (C)  
22 the disclosure is necessary to protect the public health, or (D) the  
23 information to be disclosed is required in an administrative proceeding or  
24 court proceeding and appropriate provision has been made to allow  
25 disclosure of the information without disclosing to the public the identity  
26 of the person or persons who reported such information to the inspector  
27 general.

28 (2) No person shall:

29 (A) Prohibit any agent, employee, contractor or subcontractor from  
30 reporting any information under subsection (k)(1); or

31 (B) require any such agent, employee, contractor or subcontractor to  
32 give notice to the person prior to making any such report.

33 (3) Subsection (k)(2) shall not be construed as:

34 (A) Prohibiting an employer from requiring that an employee inform  
35 the employer as to legislative or auditing agency requests for information  
36 or the substance of testimony made, or to be made, by the employee to  
37 legislators or the auditing agency, as the case may be, on behalf of the  
38 employer;

39 (B) permitting an employee to leave the employee's assigned work  
40 areas during normal work hours without following applicable rules and  
41 regulations and policies pertaining to leaves, unless the employee is  
42 requested by a legislator or legislative committee to appear before a  
43 legislative committee or by an auditing agency to appear at a meeting with

1 officials of the auditing agency;

2 (C) authorizing an employee to represent the employee's personal  
3 opinions as the opinions of the employer; or

4 (D) prohibiting disciplinary action of an employee who discloses  
5 information which (A) the employee knows to be false or which the  
6 employee discloses with reckless disregard for its truth or falsity, (B) the  
7 employee knows to be exempt from required disclosure under the open  
8 records act, or (C) is confidential or privileged under statute or court rule.

9 (4) Any agent, employee, contractor or subcontractor who alleges that  
10 disciplinary action has been taken against such agent, employee, contractor  
11 or subcontractor in violation of this section may bring an action for any  
12 damages caused by such violation in district court within 90 days after the  
13 occurrence of the alleged violation.

14 (5) Any disciplinary action taken against an employee of a state  
15 agency or firm as such terms are defined under subsection (b) of K.S.A.  
16 75-2973, and amendments thereto, for making a report under subsection  
17 (k)(1) shall be governed by the provisions of K.S.A. 75-2973, and  
18 amendments thereto.

19 (l) The scope, timing and completion of any audit or investigation  
20 conducted by the inspector general shall be within the discretion of the  
21 inspector general. Any audit conducted by the inspector general's office  
22 shall adhere and comply with all provisions of generally accepted  
23 governmental auditing standards promulgated by the United States  
24 government accountability office.

25 (m) Nothing in this section shall limit investigations by any state  
26 department or agency that may otherwise be required by law or that may  
27 be necessary in carrying out the duties and functions of such agency.

28 (n) No contractor who has been convicted of fraud, waste, abuse or  
29 illegal acts or whose actions have caused the state of Kansas to pay fines  
30 to or reimburse the federal government more than \$1,000,000 in the  
31 medicaid program shall be eligible for any state medicaid contracts  
32 subsequent to such conviction unless the ~~Kansas health policy~~  
33 ~~authority~~*department of health and environment* finds that the contractor is  
34 the sole source for such contracts, is the least expensive source for the  
35 contract, has reimbursed the state of Kansas for all losses caused by the  
36 contractor, or the removal of the contractor would create a substantial loss  
37 of access for medicaid beneficiaries, in which case the  
38 ~~authority~~*department* after a specific finding to this effect may waive the  
39 prohibition of this subsection. Nothing in this section shall be construed to  
40 conflict with federal law, or to require or permit the use of federal funds  
41 where prohibited.

42 (o) The ~~Kansas health policy authority~~*department of health and*  
43 *environment*, in accordance with K.S.A. 75-4319, and amendments



1 thereto, may recess for a closed, executive meeting under the open  
2 meetings act, K.S.A. 75-4317 through 75-4320a, and amendments thereto,  
3 to discuss with the inspector general any information, records or other  
4 matters that are involved in any investigation or audit under this section.  
5 All information and records of the inspector general that are obtained or  
6 received under any investigation or audit under this section shall be  
7 confidential, except as required or authorized pursuant to this section.

8 Sec. 50. K.S.A. 2011 Supp. 75-7429 is hereby amended to read as  
9 follows: 75-7429. (a) As used in this section, "medical home" means a  
10 health care delivery model in which a patient establishes an ongoing  
11 relationship with a physician or other personal care provider in a  
12 physician-directed team, to provide comprehensive, accessible and  
13 continuous evidence-based primary and preventive care, and to coordinate  
14 the patient's health care needs across the health care system in order to  
15 improve quality and health outcomes in a cost effective manner.

16 ~~(b) The Kansas health policy authority established under K.S.A. 2011~~  
17 ~~Supp. 75-7401, and amendments thereto, department of health and~~  
18 ~~environment shall incorporate the use of the medical home delivery system~~  
19 ~~within:~~

20 (1) The Kansas program of medical assistance established in  
21 accordance with title XIX of the federal social security act, 42 U.S.C. §  
22 1396 et seq., and amendments thereto;

23 (2) the health benefits program for children established under K.S.A.  
24 38-2001 et seq., and amendments thereto, and developed and submitted in  
25 accordance with federal guidelines established under title XXI of the  
26 federal social security act, section 4901 of public law 105-33, 42 U.S.C. §  
27 1397aa et seq., and amendments thereto; and

28 (3) the state mediKan program.

29 (c) The Kansas state employees health care commission established  
30 under K.S.A. 75-6502, and amendments thereto, shall incorporate the use  
31 of a medical home delivery system within the state health care benefits  
32 program as provided in K.S.A. 75-6501 through 75-6523, and amendments  
33 thereto. Except that compliance with a medical home delivery system shall  
34 not be required of program participants receiving treatment in accordance  
35 with a religious method of healing pursuant to the provisions of K.S.A.  
36 2011 Supp. 75-6501, and amendments thereto.

37 ~~(d) On or before February 1, 2009, the Kansas health policy authority~~  
38 ~~in conjunction with the department of health and environment and state~~  
39 ~~stakeholders shall develop systems and standards for the implementation~~  
40 ~~and administration of a medical home in Kansas.~~

41 ~~(e) The provisions of this section shall not take effect until July 1,~~  
42 ~~2008.~~

43 Sec. 51. K.S.A. 2011 Supp. 75-7430 is hereby amended to read as

1 follows: 75-7430. The ~~Kansas health policy authority~~*secretary of health*  
2 *and environment* shall, subject to appropriations, establish and implement  
3 the following:

4 (a) Dental coverage for pregnant medicaid beneficiaries the cost of  
5 which shall not exceed \$545,833;

6 (b) expansion of medicaid eligibility up to 200% of the federal  
7 poverty level and smoking cessation programs for pregnant women, the  
8 cost of which will be approximately \$460,000 from the state general fund;

9 (c) the statewide community health records program, the cost of  
10 which shall not exceed \$383,600.

11 ~~(d) The provisions of this section shall not take effect until July 1,~~  
12 ~~2008.~~

13 Sec. 52. K.S.A. 2011 Supp. 75-7433 is hereby amended to read as  
14 follows: 75-7433. (a) The ~~Kansas health policy authority~~*secretary of*  
15 *health and environment* is hereby authorized to make grants or no interest  
16 loans for the purpose of financing the initial costs associated with the  
17 forming and organizing of associations to assist members of the  
18 association to obtain access to quality and affordable health care plans.  
19 Such grants or loans may be used to pay for actuarial or feasibility studies.

20 (b) Such grants and loans shall be made upon such terms and  
21 conditions as the ~~Kansas health policy authority~~*secretary of health and*  
22 *environment* may deem appropriate, except that: (1) Such loans shall be  
23 made interest free and with recourse, and (2) the association shall provide  
24 a match for such grant or loan. Such grants and loans shall be made from  
25 funds credited to the association assistance plan fund.

26 (c) There is hereby established in the state treasury the association  
27 assistance plan fund. The ~~Kansas health policy authority~~*secretary of health*  
28 *and environment* shall administer such fund and expenditures from the  
29 association assistance plan fund for the purpose of providing grants and no  
30 interest loans in accordance with this section. All expenditures from the  
31 association assistance plan fund shall be made in accordance with  
32 appropriation acts upon warrants of the director of accounts and reports  
33 issued pursuant to vouchers approved by the ~~Kansas health policy~~  
34 ~~authority~~*secretary of health and environment* or the designee of the  
35 ~~authority~~*secretary*.

36 (d) On July 1, 2007, the director of accounts and reports shall transfer  
37 \$500,000 from the state general fund to the association assistance plan  
38 fund.

39 (e) On or before the 10th day of each month, the director of accounts  
40 and reports shall transfer from the state general fund to the association  
41 assistance plan fund interest earnings based on:

42 (1) The average daily balance of moneys in the association assistance  
43 plan fund for the preceding month; and

1 (2) the net earnings rate for the pooled money investment portfolio  
2 for the preceding month.

3 (f) For the purpose of this section:

4 (1) "Association" means a small business or an organization of  
5 persons having a common interest; and

6 (2) "small business" means any business that employs 50 or less  
7 employees.

8 (g) The ~~Kansas health policy authority~~*secretary of health and*  
9 *environment* may adopt rules and regulations to implement the provisions  
10 of this section.

11 (h) Any health care plans offered through any association funded in  
12 whole or in part with grants or loans pursuant to this section shall be  
13 underwritten by an insurance company or health maintenance organization  
14 that holds a valid Kansas certificate of authority as verified by the  
15 commissioner of insurance and any such association shall be subject to the  
16 provisions of K.S.A. 40-2209, 40-2209a through 40-2209p and 40-2222,  
17 and amendments thereto.

18 Sec. 53. K.S.A. 2011 Supp. 75-7435 is hereby amended to read as  
19 follows: 75-7435. (a) As used in this section, and amendments thereto,  
20 unless the context requires otherwise:

21 (1) Words and phrases have the meanings respectively ascribed  
22 thereto by K.S.A. 39-923, and amendments thereto.

23 (2) "Skilled nursing care facility" means a licensed nursing facility,  
24 nursing facility for mental health as defined in K.S.A. 39-923, and  
25 amendments thereto, or a hospital long-term care unit licensed by the  
26 ~~Kansas~~ department of health and environment, providing skilled nursing  
27 care, but shall not include the Kansas soldiers' home or the Kansas  
28 veterans' home.

29 (3) "Licensed bed" means those beds within a skilled nursing care  
30 facility which the facility is licensed to operate.

31 (4) ~~"Authority" means the Kansas health policy authority.~~

32 (5) "Agent" means the Kansas department on aging.

33 (6)(5) "Continuing care retirement facility" means a facility holding a  
34 certificate of registration issued by the commissioner of insurance pursuant  
35 to K.S.A. 40-2235, and amendments thereto.

36 (b) (1) Except as otherwise provided in this section and in subsection  
37 (f), there is hereby imposed and the ~~authority~~*secretary of health and*  
38 *environment* shall assess an annual assessment per licensed bed,  
39 hereinafter called a quality care assessment, on each skilled nursing care  
40 facility. The assessment on all facilities in the aggregate shall be an  
41 amount fixed by rules and regulations of the ~~authority~~*secretary of health*  
42 *and environment*, shall not exceed \$1,950 annually per licensed bed, shall  
43 be imposed as an amount per licensed bed and shall be imposed uniformly

1 on all skilled nursing care facilities except that the assessment rate for  
2 skilled nursing care facilities that are part of a continuing care retirement  
3 facility, small skilled nursing care facilities and high medicaid volume  
4 skilled nursing care facilities shall not exceed 1/6 of the actual amount  
5 assessed all other skilled nursing care facilities. No rules and regulations  
6 of the ~~authority~~*secretary of health and environment* shall grant any  
7 exception to or exemption from the quality care assessment. The  
8 assessment shall be paid quarterly, with one fourth of the annual amount  
9 due by the 30th day after the end of the month of each calendar quarter.  
10 The ~~authority~~*secretary of health and environment* is authorized to establish  
11 delayed payment schedules for skilled nursing care facilities which are  
12 unable to make quarterly payments when due under this section due to  
13 financial difficulties, as determined by the ~~authority~~*secretary of health and*  
14 *environment*. The assessment made for years subsequent to the third year  
15 from the date the provisions of this section are implemented shall not  
16 exceed 60% of the first assessment made under this section. As used in this  
17 subsection (b)(1), the terms "small skilled nursing care facilities" and  
18 "high medicaid volume skilled nursing care facilities" shall have the  
19 meanings ascribed thereto by the ~~authority~~*secretary of health and*  
20 *environment* by rules and regulations, except that the definition of small  
21 skilled nursing care facility shall not be lower than 40 beds.

22 (2) Beds licensed after July 1 each year shall pay a prorated amount  
23 of the applicable annual assessment so that the assessment applies only for  
24 the days such new beds are licensed. The proration shall be calculated by  
25 multiplying the applicable assessment by the percentage of days the beds  
26 are licensed during the year. Any change which reduces the number of  
27 licensed beds in a facility shall not result in a refund being issued to the  
28 skilled nursing care facility.

29 (3) If an entity conducts, operates or maintains more than one  
30 licensed skilled nursing care facility, the entity shall pay the nursing  
31 facility assessment for each facility separately. No skilled nursing care  
32 facility shall create a separate line-item charge for the purpose of passing  
33 through the quality care assessment to residents. No skilled nursing care  
34 facility shall be guaranteed, expressly or otherwise, that any additional  
35 moneys paid to the facility under this section will equal or exceed the  
36 amount of its quality care assessment.

37 (4) The payment of the quality care assessment to the  
38 ~~authority~~*secretary of health and environment* shall be an allowable cost for  
39 medicaid reimbursement purposes. A rate adjustment pursuant to  
40 paragraph (5) of subsection (d) shall be made effective on the date of  
41 imposition of the assessment, to reimburse the portion of this cost imposed  
42 on medicaid days.

43 (5) The ~~authority~~*secretary of health and environment* shall seek a

1 waiver from the United States department of health and human services to  
2 allow the state to impose varying levels of assessments on skilled nursing  
3 care facilities based on specified criteria. It is the intent of the legislature  
4 that the waiver sought by the ~~authority~~*secretary of health and environment*  
5 be structured to minimize the negative fiscal impact on certain classes of  
6 skilled nursing care facilities.

7 (c) Each skilled nursing care facility shall prepare and submit to the  
8 ~~authority~~*secretary of health and environment* any additional information  
9 required and requested by the ~~authority~~*secretary of health and*  
10 *environment* to implement or administer the provisions of this section.  
11 Each skilled nursing care facility shall prepare and submit quarterly to the  
12 secretary of aging the rate the facility charges to private pay residents, and  
13 the secretary shall cause this information to be posted on the web site of  
14 the department on aging.

15 (d) (1) There is hereby created in the state treasury the quality care  
16 fund, which shall be administered by the ~~authority~~*secretary of health and*  
17 *environment*. All moneys received for the assessments imposed pursuant to  
18 subsection (b), including any penalty assessments imposed thereon  
19 pursuant to subsection (e), shall be remitted to the state treasurer in  
20 accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt  
21 of each such remittance, the state treasurer shall deposit the entire amount  
22 in the state treasury to the credit of the quality care fund. All expenditures  
23 from the quality care fund shall be made in accordance with appropriation  
24 acts upon warrants of the director of accounts and reports issued pursuant  
25 to vouchers approved by the ~~authority~~*secretary of health and environment*  
26 or the ~~authority's~~*secretary's* agent.

27 (2) All moneys in the quality care fund shall be used to finance  
28 initiatives to maintain or improve the quantity and quality of skilled  
29 nursing care in skilled nursing care facilities in Kansas. No moneys  
30 credited to the quality care fund shall be transferred to or otherwise revert  
31 to the state general fund at any time. Notwithstanding the provisions of  
32 any other law to the contrary, if any moneys credited to the quality care  
33 fund are transferred or otherwise revert to the state general fund, 30 days  
34 following the transfer or reversion the quality care assessment shall  
35 terminate and the ~~authority~~*secretary of health and environment* shall  
36 discontinue the imposition, assessment and collection of the assessment.  
37 Upon termination of the assessment, all collected assessment revenues,  
38 including the moneys inappropriately transferred or reverting to the state  
39 general fund, less any amounts expended by the ~~authority~~*secretary of*  
40 *health and environment*, shall be returned on a pro rata basis to skilled  
41 nursing care facilities that paid the assessment.

42 (3) Any moneys received by the state of Kansas from the federal  
43 government as a result of federal financial participation in the state

1    medicaid program that are derived from the quality care assessment shall  
2    be deposited in the quality care fund and used to finance actions to  
3    maintain or increase healthcare in skilled nursing care facilities.

4    (4) Moneys in the fund shall be used exclusively for the following  
5    purposes:

6    (A) To pay administrative expenses incurred by the  
7    ~~authority~~*secretary of health and environment* or the agent in performing  
8    the activities authorized by this section, except that such expenses shall not  
9    exceed a total of 1% of the aggregate assessment funds collected pursuant  
10   to subsection (b) for the prior fiscal year;

11   (B) to increase nursing facility payments to fund covered services to  
12   medicaid beneficiaries within medicare upper payment limits, as may be  
13   negotiated;

14   (C) to reimburse the medicaid share of the quality care assessment as  
15   a pass-through medicaid allowable cost;

16   (D) to restore the medicaid rate reductions implemented January 1,  
17   2010;

18   (E) to restore funding for fiscal year 2010, including rebasing and  
19   inflation to be applied to rates in fiscal year 2011;

20   (F) the remaining amount, if any, shall be expended first to increase  
21   the direct health care costs center limitation up to 150% of the case mix  
22   adjusted median, and then, if there are remaining amounts, for other  
23   quality care enhancement of skilled nursing care facilities as approved by  
24   the quality care improvement panel but shall not be used directly or  
25   indirectly to replace existing state expenditures for payments to skilled  
26   nursing care facilities for providing services pursuant to the state medicaid  
27   program.

28   (5) Any moneys received by a skilled nursing care facility from the  
29   quality care fund shall not be expended by any skilled nursing care facility  
30   to provide for bonuses or profit-sharing for any officer, employee or parent  
31   corporation but may be used to pay to employees who are providing direct  
32   care to a resident of such facility.

33   (6) Adjustment payments may be paid quarterly or within the daily  
34   medicaid rate to reimburse covered medicaid expenditures in the aggregate  
35   within the upper payment limits.

36   (7) On or before the 10th day of each month, the director of accounts  
37   and reports shall transfer from the state general fund to the quality care  
38   fund interest earnings based on:

39   (A) The average daily balance of moneys in the quality care fund for  
40   the preceding month; and

41   (B) the net earnings rate of the pooled money investment portfolio for  
42   the preceding month.

43   (e) If a skilled nursing care facility fails to pay the full amount of the

1 quality care assessment imposed pursuant to subsection (b), when due and  
2 payable, including any extensions of time granted under that subsection,  
3 the ~~authority~~*secretary of health and environment* shall assess a penalty in  
4 the amount of the lesser of \$500 per day or 2% of the quality care  
5 assessment owed for each day the assessment is delinquent. The  
6 ~~authority~~*secretary of health and environment* is authorized to establish  
7 delayed payment schedules for skilled nursing care facilities that are  
8 unable to make installment payments when due under this section because  
9 of financial difficulties, as determined by the ~~authority~~*secretary of health*  
10 *and environment*.

11 (f) (1) The ~~authority~~*secretary of health and environment* shall assess  
12 and collect quality care assessments imposed pursuant to subsection (b),  
13 including any penalty assessments imposed thereon pursuant to subsection  
14 (e), from skilled nursing care facilities on and after July 1, 2010, except  
15 that no assessments or penalties shall be assessed under subsections (a)  
16 through (h) until:

17 (A) An amendment to the state plan for medicaid, which increases the  
18 rates of payments made to skilled nursing care facilities for providing  
19 services pursuant to the federal medicaid program and which is proposed  
20 for approval for purposes of subsections (a) through (h) is approved by the  
21 federal government in which case the initial assessment is due no earlier  
22 than 60 days after state plan approval; and

23 (B) the skilled nursing care facilities have been compensated  
24 retroactively within 60 days after state plan approval at the increased rate  
25 for services provided pursuant to the federal medicaid program for the  
26 period commencing on and after July 1, 2010.

27 (2) The ~~authority~~*secretary of health and environment* shall implement  
28 and administer the provisions of subsections (a) through (h) in a manner  
29 consistent with applicable federal medicaid laws and regulations. The  
30 ~~authority~~*secretary of health and environment* shall seek any necessary  
31 approvals by the federal government that are required for the  
32 implementation of subsections (a) through (h).

33 (3) The provisions of subsections (a) through (h) shall be null and  
34 void and shall have no force and effect if one of the following occur:

35 (A) The medicaid plan amendment, which increases the rates of  
36 payments made to skilled nursing care facilities for providing services  
37 pursuant to the federal medicaid program and which is proposed for  
38 approval for purposes of subsections (a) through (h) is not approved by the  
39 federal centers for medicare and medicaid services;

40 (B) the rates of payments made to skilled nursing care facilities for  
41 providing services pursuant to the federal medicaid program are reduced  
42 below the rates calculated on December 31, 2009, increased by revenues in  
43 the quality care fund and matched by federal financial participation and

1 rebasing as provided for in K.S.A. 2011 Supp. 75-5958, and amendments  
2 thereto;

3 (C) any funds are utilized to supplant funding for skilled nursing care  
4 facilities as required by subsection (g);

5 (D) any funds are diverted from those purposes set forth in subsection  
6 (d)(4); or

7 (E) upon the governor signing, or allowing to become law without  
8 signature, legislation which by proviso or otherwise directs any funds from  
9 those purposes set forth in subsection (d)(4) or which would propose to  
10 suspend the operation of this section.

11 (g) On and after July 1, 2010, reimbursement rates for skilled nursing  
12 care facilities shall be restored to those in effect during December 2009.  
13 No funds generated by the assessments or federal funds generated  
14 therefrom shall be utilized for such restoration, but such funds may be  
15 used to restore the rate reduction in effect from January 1, 2010, to June  
16 30, 2010.

17 (h) Rates of reimbursement shall not be limited by private pay  
18 charges.

19 (i) If the provisions of subsections (a) through (h) are repealed, expire  
20 or become null and void and have no further force and effect, all moneys  
21 in the quality care fund which were paid under the provisions of  
22 subsections (a) through (h) shall be returned to the skilled nursing care  
23 facilities which paid such moneys on the basis on which such payments  
24 were assessed and paid pursuant to subsections (a) through (h).

25 (j) The ~~authority~~*department of health and environment* may adopt  
26 rules and regulations necessary to implement the provisions of this section.

27 (k) For purposes of administering and selecting the reimbursements  
28 of moneys in the quality care assessment fund, the quality care  
29 improvement panel is hereby established. The panel shall consist of the  
30 following members: Two persons appointed by Kansas homes and services  
31 for the aging; two persons appointed by the Kansas health care association;  
32 one person appointed by Kansas advocates for better care; one person  
33 appointed by the Kansas hospital association; one person appointed by the  
34 governor who is a member of the Kansas adult care executives association;  
35 one person appointed by the governor who is a skilled nursing care facility  
36 resident or the family member of such a resident; one person appointed by  
37 the Kansas foundation for medical care; one person appointed by the  
38 governor from the department on aging; and one person appointed by the  
39 governor from the ~~Kansas health policy authority~~*department of health and*  
40 *environment*. The person appointed by the governor from the department  
41 on aging and the person appointed by the governor from the ~~Kansas health~~  
42 ~~policy authority~~*department of health and environment* shall be nonvoting  
43 members of the panel. The panel shall meet as soon as possible subsequent



1 to the effective date of this act and shall elect a chairperson from among  
 2 the members appointed by the trade organizations specified in this  
 3 subsection. The members of the quality care improvement panel shall  
 4 serve without compensation or expenses. The quality care improvement  
 5 panel shall report annually on or before January 10 to the joint committee  
 6 on health policy oversight and the legislature concerning the activities of  
 7 the panel during the preceding calendar year and any recommendations  
 8 which the panel may have concerning the administration of and  
 9 expenditures from the quality care assessment fund.

10 (l) The ~~authority~~*department of health and environment* shall certify to  
 11 the director of the budget of the department of administration the date  
 12 upon which the provisions of this section are implemented. The provisions  
 13 of this section shall expire four years subsequent to the implementation of  
 14 this section.

15 Sec. 54. K.S.A. 2011 Supp. 75-7436 is hereby amended to read as  
 16 follows: 75-7436. (a) As used in this section, unless the context requires  
 17 otherwise:

18 (1) ~~"Authority" means the Kansas health policy authority.~~

19 (2) "Developmental disability" is as defined in K.S.A. 39-1803, and  
 20 amendments thereto, under the Kansas developmental disabilities reform  
 21 act.

22 (3) (2) "Entity" means individual, corporation, partnership, limited  
 23 liability company, joint venture or other legal entity.

24 (4) (3) "Gross revenues" means the revenues received by waiver  
 25 providers for furnishing services to individuals with developmental  
 26 disabilities who qualify for the waiver program with eligibility criteria and  
 27 scope of services not less than those in effect as of January 1, 2011; the  
 28 revenues received by waiver providers from or on behalf of individuals  
 29 with developmental disabilities who qualify for the waiver program but for  
 30 whom the services defined under the waiver program are not reimbursed  
 31 through such waiver; and, the revenues received by waiver providers from  
 32 or on behalf of individuals with developmental disabilities who do not  
 33 qualify for the waiver program but for whom receive the same services  
 34 offered under such waiver. Gross revenues does not include revenues  
 35 received for services to individuals with developmental disabilities funded  
 36 exclusively by state or local governments, or any revenues received for  
 37 furnishing services to individuals who are not developmentally disabled,  
 38 or charitable donations.

39 (5) (4) "Quality based community ~~fee~~*assessment fund*" means a  
 40 segregated account within the state treasury for which moneys are  
 41 collected in accordance with the provisions of this act from developmental  
 42 disability home and community-based waiver service providers.

43 (6) (5) "Waiver program" means a developmental disability home and

1 community-based services waiver program authorized under the social  
2 security act, 42 U.S.C. § 1915, for persons with a developmental disability.

3 ~~(7)~~ (6) "Waiver provider" means an entity that participates in the  
4 Kansas developmental disability home and community-based waiver  
5 program and that provides services to a person with a developmental  
6 disability, regardless of whether such person qualifies under the waiver  
7 program.

8 ~~(8)~~ (7) "Waiver provider assessment" means an assessment imposed  
9 on all waiver providers at the maximum rate allowable by federal law on  
10 the gross revenues applicable to services provided to persons with  
11 developmental disabilities.

12 (b) (1) Except as otherwise provided in this section, the  
13 ~~authority~~ *secretary of health and environment* shall impose an annual  
14 assessment, hereinafter called a waiver provider assessment, on each  
15 waiver provider at the maximum rate allowable by federal law, on the  
16 gross revenues the waiver provider received from providing services to  
17 individuals with developmental disabilities during the fiscal year  
18 beginning with the effective date of the assessment. The waiver provider  
19 assessment shall be imposed as follows:

20 (A) Withheld on a claim-by-claim basis from each waiver provider's  
21 uniform percentage increased HCBS MR/DD medicaid waiver payment  
22 rates beginning with the effective date of this section; and,

23 (B) paid on a quarterly basis by waiver providers based on the  
24 preceding fiscal revenues received by waiver providers from or on behalf  
25 of individuals with developmental disabilities who qualify for the waiver  
26 program but for whom the services defined under the waiver program are  
27 not reimbursed through such waiver; and, the revenues received by waiver  
28 providers from or on behalf of individuals with developmental disabilities  
29 who do not qualify for the waiver program but for whom receive the same  
30 services offered under such waiver.

31 (2) The waiver provider assessment will become effective beginning  
32 with the first full month after:

33 (A) The federal centers for medicare and medicaid services (CMS)  
34 authorizes developmental disability home and community-based services  
35 as a permissible class of health care services on which states may impose a  
36 health care-related assessment without penalty; and

37 (B) the CMS has approved any and all amendments necessary to  
38 authorize the uniform percentage rate increases to the medicaid payment  
39 rates under Kansas developmental disability home and community-based  
40 waiver program.

41 (3) The duration of the waiver provider assessment shall be all or a  
42 portion of the first state fiscal year in which the waiver provider  
43 assessment is effective and the subsequent four full state fiscal years.

1 (4) The moneys collected under the provisions of this section shall be  
2 used solely as the nonfederal share of uniform percentage increases to the  
3 medicaid payment rates for developmental disability home and  
4 community-based services waiver providers.

5 (5) The waiver provider assessment will be offset on a per claim basis  
6 against each waiver provider's home and community-based services  
7 MR/DD medicaid waiver payments in an amount equal to the maximum  
8 rate allowable by federal law beginning with the effective date of this  
9 section. For gross revenues received by waiver providers from or on behalf  
10 of individuals with developmental disabilities who qualify for the waiver  
11 program but for whom the services defined under the waiver program are  
12 not reimbursed through such waiver, and the revenues received by waiver  
13 providers from or on behalf of individuals with developmental disabilities  
14 who do not qualify for the waiver program but for whom receive the same  
15 services offered under such waiver, the maximum rate allowable by federal  
16 law will be applied to the annual revenues received for such services for  
17 the waiver providers' preceding fiscal year.

18 (6) The ~~authority~~*secretary of health and environment* shall collect any  
19 and all assessment pursuant to the provisions of this section. The  
20 ~~authority~~*secretary of health and environment* shall adopt administrative  
21 rules and regulations necessary to implement and enforce the provisions of  
22 this section within 30 days of the CMS authorization. No rules and  
23 regulations of the ~~authority~~*secretary of health and environment* shall grant  
24 any exception to or exemption from the waiver provider assessment.

25 (7) If a waiver provider fails to pay the full amount of the waiver  
26 provider assessment imposed pursuant to this subsection when due and  
27 payable, including any extensions of time granted, the ~~authority~~*secretary*  
28 *of health and environment* shall impose a penalty in the amount of the  
29 lesser of \$500 per day or 2% of the assessment owed for the current fiscal  
30 year.

31 (c) (1) There is hereby created in the state treasury the quality based  
32 community assessment fund, which shall be administered by the  
33 ~~authority~~*secretary of health and environment*. All moneys received or  
34 withheld for the assessment imposed pursuant to subsection (b) shall be  
35 remitted to the state treasurer in accordance with K.S.A. 75-4215, and  
36 amendments thereto. Upon receipt of each such remittance the state  
37 treasurer shall deposit the entire amount in the state treasury to the credit  
38 of the quality based community assessment fund. All expenditures from  
39 the quality based community assessment fund shall be made in accordance  
40 with appropriation acts upon warrants of the director of accounts and  
41 reports issued pursuant to vouchers approved by the ~~authority~~*secretary of*  
42 *health and environment* or the ~~authority's~~*secretary's* designee.

43 (2) The quality based community assessment fund shall be a no limit

1 fund and shall consist of:

2 (A) The assessments collected by the ~~authority~~*secretary of health and*  
3 *environment* under this section;

4 (B) any interest and penalties levied with the administration of this  
5 section; and,

6 (C) any other funds received as donations for the quality based  
7 community assessment fund and appropriations from other sources.

8 All moneys in the quality based community assessment fund shall be  
9 used solely as the nonfederal share of uniform percentage increases to the  
10 medicaid payment rates for waiver providers in order to maintain the  
11 quality of services provided to individuals qualifying under Kansas  
12 developmental disability waiver program. The fund will reimburse  
13 administrative expenses incurred by the ~~authority~~*department of health and*  
14 *environment* or its agent in performing the activities authorized by this  
15 section, except that such expenses shall not exceed a total of .5% of the  
16 aggregate assessment fees collected during the first fiscal year in which the  
17 assessment becomes effective for purposes of start-up costs. The fund shall  
18 reimburse the ~~authority~~*department of health and environment* or its agent  
19 in the amount of \$100,000 each year thereafter to administer the  
20 assessment program.

21 (3) No moneys credited to the fund shall be transferred to or  
22 otherwise revert to the state general fund at any time. Notwithstanding the  
23 provisions of any other law to the contrary, if any moneys credited to the  
24 quality based community assessment fund are transferred or otherwise  
25 revert to the state general fund, 30 days following the transfer or reversion,  
26 the waiver provider assessment shall terminate and the ~~authority~~*secretary*  
27 *of health and environment* shall discontinue the imposition, assessment  
28 and collection of the assessment. Upon termination of the assessment, any  
29 collected assessment revenues, including any moneys transferred or  
30 otherwise reverting to the state general fund which resulted in the  
31 termination of the assessment, less any administrative expenses incurred  
32 by the ~~authority~~*department of health and environment* under paragraph (2),  
33 shall be returned on a pro rata basis to waiver providers who paid the  
34 assessment.

35 (4) On or before the 10th day of each month, beginning with the first  
36 full month following the effective date of the waiver provider assessment,  
37 the director of accounts and reports shall transfer from the state general  
38 fund to the quality based community assessment fund, interest earnings  
39 based on:

40 (A) The average daily balance of moneys in the fund for the  
41 preceding month; and

42 (B) the net earnings rate of the pooled money investment portfolio for  
43 the preceding month.

1 (d) Any moneys received by the state of Kansas from the federal  
2 government as a result of federal financial participation in the state's  
3 developmental disability waiver program that are derived from the waiver  
4 provider assessment shall be used to maintain the quality of services  
5 provided by the waiver program.

6 (e) No moneys collected under the provisions of this section shall be  
7 used directly or indirectly to replace or supplant existing state expenditures  
8 for payments to waiver providers for services furnished to individuals with  
9 developmental disabilities.

10 (f) (1) The waiver provider assessment and associated uniform  
11 percentage increases for all waiver provider medicaid payment rates shall  
12 become effective on the first day of the first full month after which the  
13 CMS has adopted rules that recognize the waiver provider assessment as a  
14 permissible class of health care services on which states may impose such  
15 an assessment:

16 (A) Upon the approval from the CMS of any and all amendments to  
17 the medicaid state plan, medicaid developmental disability waiver  
18 program, or both, necessary to increase the rates of payments made to the  
19 waiver providers for providing services pursuant to the waiver program;  
20 and,

21 (B) the waiver providers have been compensated at the uniform  
22 percentage increased medicaid payment rates for services provided  
23 pursuant to the developmental disability waiver program for the period  
24 commencing on and after the authorization of the waiver provider  
25 assessment by the CMS.

26 (2) The ~~authority~~ *secretary of health and environment* shall implement  
27 and administer the provisions of subsections (a) through (e) in a manner  
28 consistent with applicable federal laws and regulations. The  
29 ~~authority~~ *secretary of health and environment* shall seek any necessary  
30 approvals of the federal government that are required for the  
31 implementation of subsections (a) through (e).

32 (3) The provisions of subsections (a) through (e) shall be null and  
33 void and shall have no force and effect if either of the following occurs:

34 (A) The medicaid state plan amendment or an amendment to the  
35 medicaid waiver program, or both, as applicable, that would otherwise  
36 authorize the uniform percentage increases to the medicaid rates of  
37 payment made to waiver providers for providing services pursuant to the  
38 developmental disability waiver programs and which is proposed for  
39 approval for purposes of subsections (a) through (e) is not approved by the  
40 CMS;

41 (B) the medicaid payment rates made to waiver providers for  
42 providing services pursuant to the developmental disability waiver  
43 program are reduced below the rates calculated on the day immediately

1 preceding the effective date of this section, increased by revenues in the  
2 quality based community assessment fund and matched by federal  
3 financial participation. Nothing in this provision should be construed to  
4 preclude additional increases to the medicaid payment rates to waiver  
5 providers funded through state general fund appropriation;

6 (C) the medicaid eligibility criteria applicable to individuals  
7 qualifying under the Kansas developmental disability waiver program are  
8 reduced below the criteria in effect on the day immediately preceding the  
9 effective date of this section; or

10 (D) the medicaid services available to individuals qualifying under  
11 the Kansas developmental disability waiver program are reduced below  
12 the services available on the day immediately preceding the effective date  
13 of this section.

14 (g) If the provisions of subsections (a) through (e) are repealed,  
15 expire or become null and void and have no further force and effect, all  
16 moneys in the quality based community assessment fund which were paid  
17 under the provisions of subsections (a) through (e) shall be returned to the  
18 waiver provider which paid such moneys on the basis on which such  
19 payments were assessed and paid pursuant to subsections (a) through (e).

20 (h) The provisions of this section shall expire five years subsequent to  
21 the implementation of this section.

22 Sec. 55. K.S.A. 2011 Supp. 77-421 is hereby amended to read as  
23 follows: 77-421. (a) (1) Except as provided by subsection (a)(2),  
24 subsection (a)(3) or subsection (a)(4), prior to the adoption of any  
25 permanent rule and regulation or any temporary rule and regulation which  
26 is required to be adopted as a temporary rule and regulation in order to  
27 comply with the requirements of the statute authorizing the same and after  
28 any such rule and regulation has been approved by the secretary of  
29 administration and the attorney general, the adopting state agency shall  
30 give at least 60 days' notice of its intended action in the Kansas register  
31 and to the secretary of state and to the joint committee on administrative  
32 rules and regulations established by K.S.A. 77-436, and amendments  
33 thereto. The notice shall be provided to the secretary of state and to the  
34 chairperson, vice chairperson, ranking minority member of the joint  
35 committee and legislative research department and shall be published in  
36 the Kansas register. A complete copy of all proposed rules and regulations  
37 and the complete economic impact statement required by K.S.A. 77-416,  
38 and amendments thereto, shall accompany the notice sent to the secretary  
39 of state. The notice shall contain:

40 (A) A summary of the substance of the proposed rules and  
41 regulations;

42 (B) a summary of the economic impact statement indicating the  
43 estimated economic impact on governmental agencies or units, persons

1 subject to the proposed rules and regulations and the general public;

2 (C) a summary of the environmental benefit statement, if applicable,  
3 indicating the need for the proposed rules and regulations;

4 (D) the address where a complete copy of the proposed rules and  
5 regulations, the complete economic impact statement, the environmental  
6 benefit statement, if applicable, required by K.S.A. 77-416, and  
7 amendments thereto, may be obtained;

8 (E) the time and place of the public hearing to be held; the manner in  
9 which interested parties may present their views; and

10 (F) a specific statement that the period of 60 days' notice constitutes a  
11 public comment period for the purpose of receiving written public  
12 comments on the proposed rules and regulations and the address where  
13 such comments may be submitted to the state agency. Publication of such  
14 notice in the Kansas register shall constitute notice to all parties affected  
15 by the rules and regulations.

16 (2) Prior to adopting any rule and regulation which establishes  
17 seasons and fixes bag, creel, possession, size or length limits for the taking  
18 or possession of wildlife and after such rule and regulation has been  
19 approved by the secretary of administration and the attorney general, the  
20 secretary of the department of wildlife and parks shall give at least 30  
21 days' notice of its intended action in the Kansas register and to the  
22 secretary of state and to the joint committee on administrative rules and  
23 regulations created pursuant to K.S.A. 77-436, and amendments thereto.  
24 All other provisions of subsection (a)(1) shall apply to such rules and  
25 regulations, except that the statement required by subsection (a)(1)(E)  
26 shall state that the period of 30 days' notice constitutes a public comment  
27 period on such rules and regulations.

28 (3) Prior to adopting any rule and regulation which establishes any  
29 permanent prior authorization on a prescription-only drug pursuant to  
30 K.S.A. 39-7,120, and amendments thereto, or which concerns coverage or  
31 reimbursement for pharmaceuticals under the pharmacy program of the  
32 state medicaid plan, and after such rule and regulation has been approved  
33 by the secretary of administration and the attorney general, the ~~Kansas~~  
34 ~~health policy authority~~ *secretary of health and environment* shall give at  
35 least 30 days' notice of its intended action in the Kansas register and to the  
36 secretary of state and to the joint committee on administrative rules and  
37 regulations created pursuant to K.S.A. 77-436, and amendments thereto.  
38 All other provisions of subsection (a)(1) shall apply to such rules and  
39 regulations, except that the statement required by subsection (a)(1)(E)  
40 shall state that the period of 30 days' notice constitutes a public comment  
41 period on such rules and regulations.

42 (4) Prior to adopting any rule and regulation pursuant to subsection  
43 (c), the state agency shall give at least 30 days' notice of its intended action

1 in the Kansas register and to the secretary of state and to the joint  
2 committee on administrative rules and regulations created pursuant to  
3 K.S.A. 77-436, and amendments thereto. All other provisions of  
4 subsection (a)(1) shall apply to such rules and regulations, except that the  
5 statement required by subsection (a)(1)(E) shall state that the period of  
6 notice constitutes a public comment period on such rules and regulations.

7 (b) (1) On the date of the hearing, all interested parties shall be given  
8 reasonable opportunity to present their views or arguments on adoption of  
9 the rule and regulation, either orally or in writing. At the time it adopts or  
10 amends a rule and regulation, the state agency shall prepare a concise  
11 statement of the principal reasons for adopting the rule and regulation or  
12 amendment thereto, including:

13 (A) The agency's reasons for not accepting substantial arguments  
14 made in testimony and comments; and

15 (B) the reasons for any substantial change between the text of the  
16 proposed adopted or amended rule and regulation contained in the  
17 published notice of the proposed adoption or amendment of the rule and  
18 regulation and the text of the rule and regulation as finally adopted.

19 (2) Whenever a state agency is required by any other statute to give  
20 notice and hold a hearing before adopting, amending, reviving or revoking  
21 a rule and regulation, the state agency, in lieu of following the  
22 requirements or statutory procedure set out in such other law, may give  
23 notice and hold hearings on proposed rules and regulations in the manner  
24 prescribed by this section.

25 (3) Notwithstanding the other provisions of this section, the Kansas  
26 parole board and the secretary of corrections, may give notice or an  
27 opportunity to be heard to any inmate in the custody of the secretary of  
28 corrections with regard to the adoption of any rule and regulation, but the  
29 secretary shall not be required to give such notice or opportunity.

30 (c) (1) The agency shall initiate new rulemaking proceedings under  
31 this act, if a state agency proposes to adopt a final rule and regulation that:

32 (A) Differs in subject matter or effect in any material respect from the  
33 rule and regulation as originally proposed; and

34 (B) is not a logical outgrowth of the rule and regulation as originally  
35 proposed.

36 (2) In accordance with subsection (a), the period for public comment  
37 required by K.S.A. 77-421, and amendments thereto, may be shortened to  
38 not less than 30 days.

39 (3) For the purposes of this provision, a rule and regulation is not the  
40 logical outgrowth of the rule and regulation as originally proposed if a  
41 person affected by the final rule and regulation was not put on notice that  
42 such person's interests were affected in the rulemaking.

43 (d) When, pursuant to this or any other statute, a state agency holds a



1 hearing on the adoption of a proposed rule and regulation, the agency shall  
2 cause written minutes or other records, including a record maintained on  
3 sound recording tape or on any electronically accessed media or any  
4 combination of written or electronically accessed media records of the  
5 hearing to be made. If the proposed rule and regulation is adopted and  
6 becomes effective, the state agency shall maintain, for not less than three  
7 years after its effective date, such minutes or other records, together with  
8 any recording, transcript or other record made of the hearing and a list of  
9 all persons who appeared at the hearing and who they represented, any  
10 written testimony presented at the hearing and any written comments  
11 submitted during the public comment period.

12 (e) No rule and regulation shall be adopted by a board, commission,  
13 authority or other similar body except at a meeting which is open to the  
14 public and notwithstanding any other provision of law to the contrary, no  
15 rule and regulation shall be adopted by a board, commission, authority or  
16 other similar body unless it receives approval by roll call vote of a  
17 majority of the total membership thereof.

18 ***Sec. 56. K.S.A. 2011 Supp. 65-6208 is hereby amended to read as***  
19 ***follows: 65-6208. (a) Subject to the provisions of K.S.A. 2011 Supp. 65-***  
20 ***6209, and amendments thereto, an annual assessment on inpatient***  
21 ***services is imposed on each hospital provider in an amount equal to***  
22 ***1.83% of each hospital's net inpatient operating revenue for the***  
23 ***hospital's fiscal year 2009+ 2010. In the event that a hospital does not***  
24 ***have a complete twelve-month 2009+ 2010 fiscal year, the assessment***  
25 ***under this section shall be \$200,000 until such date that such hospital***  
26 ***has completed the hospital's first twelve-month fiscal year. Upon***  
27 ***completing such first twelve-month fiscal year, such hospital's***  
28 ***assessment under this section shall be the amount equal to 1.83% of***  
29 ***such hospital's net operating revenue for such first completed twelve-***  
30 ***month fiscal year.***

31 ***(b) Nothing in this act shall be construed to authorize any home***  
32 ***rule unit or other unit of local government to license for revenue or***  
33 ***impose a tax or assessment upon hospital providers or a tax or***  
34 ***assessment measured by the income or earnings of a hospital provider.***

35 ***Sec. 56-57. K.S.A. 22-4612 2-224a, 38-2001, 38-2006, 39-760, 39-***  
36 ***7,116, 39-7,118, 39-7,119, 39-7,120, 39-7,121, 39-7,121a, 39-7,121d, 39-***  
37 ***7,121e, 39-7,159, 39-968, 40-2134, 40-2136, 40-2251, 40-2252, 40-4702,***  
38 ***40-4706, 46-3501, 65-435a, 65-1685, 65-6208, 65-6801, 65-6803, 65-***  
39 ***6804, 65-6805, 65-6806, 65-6807, 65-6809, 65-7405, 75-37,121, 75-5601,***  
40 ***75-6102, 75-7403, 75-7404, 75-7405, 75-7408, 75-7409, 75-7410, 75-***  
41 ***7411, 75-7412, 75-7413, 75-7423, 75-7424, 75-7425, 75-7426, 75-7427,***  
42 ***75-7429, 75-7430, 75-7433, 75-7435, 75-7436 and 77-421 are hereby***  
43 ***repealed.***

1       Sec. ~~57~~ **58**. This act shall take effect and be in force from and after  
2 its publication in the statute book.  
3