

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-

1 insurance assessment prescribed by K.S.A. 44-576, and amendments
2 thereto, and the director of accounts and reports shall cease to transfer any
3 amounts for such self-assessment for the state fair board pursuant to such
4 statute, except that any moneys paid relating to existing claims with the
5 state workers compensation self-insurance fund made by the state fair
6 board shall be assessed to the state fair board until all such claims have
7 been closed and settled.

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

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

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

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

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

1 communicate that determination along with the remittance advice and
2 payment for the services provided.

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

7 (e) As used in this section:

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

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

1 (3) "Medicaid rate" means the terms, conditions and amounts a health
2 care provider would be paid for health care services rendered pursuant to a
3 contract or provider agreement with the ~~Kansas health policy~~
4 ~~authority~~*secretary of health and environment*.

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

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

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

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

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

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

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

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

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

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

1 ended due to loss of employment other than the voluntary termination,
2 change to a new employer that does not provide an option for dependent
3 coverage, discontinuation of health benefits to all employees, expiration of
4 COBRA coverage period or any other situations where the prior coverage
5 ended due to reasons unrelated to the availability of this program.

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

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

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

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

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

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

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

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

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

43 (8) may provide that prescription drugs, transportation services and

1 dental services are purchased outside of the capitated managed care plan to
2 improve the efficiency, accessibility and effectiveness of the program; and

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

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

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

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

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

41 Sec. 4. K.S.A. 2011 Supp. 38-2006 is hereby amended to read as
42 follows: 38-2006. The *secretary of social and rehabilitation services* shall
43 advise and consult with the ~~Kansas health policy authority~~ *secretary of*

1 *health and environment* on issues relating to children's health status.

2 Sec. 5. K.S.A. 2011 Supp. 39-760 is hereby amended to read as
3 follows: 39-760. (a) The ~~Kansas health policy authority~~*secretary of health*
4 *and environment* and the secretary of social and rehabilitation services are
5 hereby directed to establish a system for the reporting of suspected abuse
6 or fraud in connection with state welfare or medical assistance programs,
7 either by recipients or health care providers. The system shall be designed
8 to permit any person in the state at any time to place a toll-free call into the
9 system and report suspected cases of welfare abuse or suspected cases of
10 health care provider fraud.

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

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

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

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

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

29 (b) The words and phrases used in this section shall have the same
30 meanings as are ascribed to such words and phrases under K.S.A. 65-
31 1626, and amendments thereto.

32 (c) "Physician" means a person licensed to practice medicine and
33 surgery.

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

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

1 (a) Monitoring of prescription information including overutilization
2 and underutilization of prescription-only drugs;

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

9 (c) providing for prospective and retrospective drug utilization
10 review, as specified in the federal omnibus budget reconciliation act of
11 1990 (public law 101-508);

12 (d) monitoring provider and recipient compliance with program
13 objectives;

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

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

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

21 (h) recommending any modifications or changes to the medicaid
22 prescription drug program.

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

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

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

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

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

42 (4) one person licensed as a pharmacist and actively engaged in
43 academic pharmacy, appointed by the ~~Kansas health policy~~

1 ~~authority~~*secretary of health and environment* from a list of four nominees
2 provided by the university of Kansas;

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

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

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

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

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

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

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

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

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

43 (2) one member shall be a licensed pharmacist who is actively

1 performing or who has experience performing medicaid pharmacy services
2 for a licensed adult care home and who is nominated by the state board of
3 pharmacy and appointed by the ~~Kansas health policy authority~~ *secretary of*
4 *health and environment* from a list of two or more nominees;

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

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

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

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

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

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

39 (9) one member shall be a licensed advanced practice registered nurse
40 or physician assistant actively engaged in the practice of providing the
41 health care and treatment services such person is licensed to perform, who
42 has practice experience with the state medicaid plan and who is nominated
43 jointly by the Kansas state nurses' association and the Kansas academy of

1 physician assistants and appointed by the ~~Kansas health policy~~
2 ~~authority~~ *secretary of health and environment* from a list of two or more
3 jointly nominated persons.

4 Sec. 9. K.S.A. 2011 Supp. 39-7,120 is hereby amended to read as
5 follows: 39-7,120. (a) The ~~Kansas health policy authority~~ *secretary of*
6 *health and environment* shall not restrict patient access to prescription-only
7 drugs pursuant to a program of prior authorization or a restrictive
8 formulary except by rules and regulations adopted in accordance with
9 K.S.A. ~~77-415 et seq.~~ *75-5625*, and amendments thereto. Prior to the
10 promulgation of any such rules and regulations, the ~~Kansas health policy~~
11 ~~authority~~ *secretary of health and environment* shall submit such proposed
12 rules and regulations to the medicaid drug utilization review board for
13 written comment. The ~~Kansas health policy authority~~ *secretary of health*
14 *and environment* may not implement permanent prior authorization until
15 30 days after receipt of comments by the drug utilization review board.

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

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

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

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

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

1 K.S.A. ~~75-531375-5616~~, and amendments thereto, to advise the ~~Kansas~~
2 ~~health policy authority~~*department of health and environment* in the
3 development of a preferred formulary listing of covered drugs by the state
4 medicaid program.

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

26 (c) The ~~Kansas health policy authority~~*department of health and*
27 *environment* shall consider the net economic impact of drugs selected or
28 excluded from the preferred formulary and may gather information on the
29 costs of specific drugs, rebates or discounts pursuant to 42 U.S.C. § 1396r-
30 8, dispensing costs, dosing requirements and utilization of other drugs or
31 other medicaid health care services.

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

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

41 Sec. 12. K.S.A. 2011 Supp. 39-7,121d is hereby amended to read as
42 follows: 39-7,121d. (a) The state medicaid plan shall include provisions
43 for a program of differential dispensing fees for pharmacies that provide

1 prescriptions for adult care homes under a unit dose system in accordance
2 with rules and regulations of the state board of pharmacy and that
3 participate in the return of unused medications program under the state
4 medicaid plan.

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

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

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

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

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

28 (b) The system shall:

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

31 (2) ensure transparency, accountability, safety and high quality
32 services;

33 (3) increase expedited eligibility determination;

34 (4) provide timely services;

35 (5) utilize informal services; and

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

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

43 (d) The department on aging, the department of social and

1 rehabilitation services and the ~~Kansas health policy authority~~ *department of*
2 *health and environment* shall design and implement the system, in
3 consultation with stakeholders and advocates related to long-term care
4 services.

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

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

19 (b) As used in this section:

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

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

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

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

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

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

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

1 and annual resident review (PASARR) questions. Prior to the adoption of
2 the client assessment, referral and evaluation (CARE) data entry form by
3 the health care data governing board, the secretary of aging shall approve
4 the form. The client assessment, referral and evaluation (CARE) data entry
5 form shall be used by all persons providing assessment services.

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

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

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

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

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

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

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

43 (2) The secretary of aging shall appoint two representatives of

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

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

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

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

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

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

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

37 (c) The ~~Kansas health policy authority~~*department of health and*
38 *environment* shall pursue reciprocal agreements with other states to extend
39 the asset disregard to Kansas residents who purchased long-term care
40 partnership policies in other states that are compliant with title VI, section
41 6021 of the federal deficit reduction act of 2005, public law 109-171, and
42 any applicable federal regulations or guidelines.

43 (d) As provided under subsection (e), certain assets of an individual

1 who has received benefits from a qualified long-term care partnership
2 policy shall not be considered when determining:

3 (1) The individual's medical assistance eligibility; and

4 (2) any subsequent recovery by the state for a payment for medical
5 services or long-term care services made by the medical assistance
6 program on behalf of the individual.

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

15 (f) If the long-term care partnership program established by this act is
16 discontinued, any individual who purchased a Kansas long-term care
17 partnership program policy before the date the program was discontinued
18 shall be eligible to receive asset disregard if allowed as provided by title
19 VI, section 6021 of the federal deficit reduction act of 2005, public law
20 109-171.

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

28 Sec. 17. K.S.A. 2011 Supp. 40-2136 is hereby amended to read as
29 follows: 40-2136. Each issuer of qualified long-term care partnership
30 program policies in this state shall: (a) Provide regular reports to both the
31 secretary of the United States department of human services in accordance
32 with federal law and regulations and to the ~~Kansas health policy~~
33 ~~authority~~*secretary of health and environment* and the commissioner of
34 insurance as provided in section 6021 of the federal deficit reduction act of
35 2005, public law 109-171.

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

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

43 (d) Obtain verification that producers receive training required by the

1 commissioner of insurance before a producer is permitted to sell, solicit or
2 negotiate the insurer's long-term care insurance products, maintain records
3 of compliance, and make the verification available to the commissioner of
4 insurance upon request.

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

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

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

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

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

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

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

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

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

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

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

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

21 Sec. 19. K.S.A. 2011 Supp. 40-2252 is hereby amended to read as
22 follows: 40-2252. The commissioner and the ~~executive director of the~~
23 ~~Kansas health policy authority~~*secretary of health and environment*, jointly,
24 may adopt rules and regulations necessary to effect the purposes of K.S.A.
25 40-19c09 and 40-2251, and amendments thereto.

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

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

34 (1) The secretary of the department of commerce or the secretary's
35 designee;

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

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

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

40 (5) one member appointed by the speaker of the house of
41 representatives;

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

43 (7) one member appointed by the minority leader of the house of

1 representatives; and

2 (8) three members at large from the private sector appointed by the
3 governor.

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

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

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

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

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

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

26 (f) The health committee shall:

27 (1) Develop, approve and revise subsidy eligibility criteria provided
28 that:

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

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

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

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

1 (C) at least 70% of the small employer's eligible employees without
2 group health insurance coverage from another source are insured through
3 the partnership; and

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

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

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

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

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

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

42 (j) The health committee is hereby authorized to organize, or cause to
43 be organized, one or more advisory committees. No member of any

1 advisory committee established under this subsection shall have previously
2 received or currently receive any payment or other compensation from the
3 health partnership. The membership of each advisory committee
4 established under this subsection shall contain at least one representative
5 who is a small employer and one representative who is an eligible
6 employee as defined in K.S.A. 40-4701, and amendments thereto, and one
7 representative of the insurance industry.

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

- 10 (1) Quality assurance measures;
- 11 (2) disease prevention activities;
- 12 (3) disease management activities; and
- 13 (4) other activities or programs the committee decides to include.

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

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

43 (b) All members of the joint committee on health policy oversight

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

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

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

43 (3) If a vacancy occurs in the office of the chairperson or vice-

1 chairperson, a member of the joint committee on health policy oversight
2 who is a member of the same house of the legislature as the member who
3 vacated the office shall be appointed by the speaker of the house, if the
4 vacating member was a member of the house of representatives, or by the
5 president of the senate, if the vacating member was a member of the
6 senate, to fill such vacancy.

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

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

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

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

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

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

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

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

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

41 Sec. 23. K.S.A. 2011 Supp. 65-435a is hereby amended to read as
42 follows: 65-435a. The contents of the annual report under K.S.A. 65-429,
43 and amendments thereto, and the contents of an inspection form for

1 purposes of inspections under K.S.A. 65-433, and amendments thereto,
2 shall be developed by the licensing agency in consultation with ~~the Kansas~~
3 ~~health policy authority~~ and the Kansas hospital association. The licensing
4 agency may specify the contents of the annual report and the contents of
5 the inspection form by rules and regulations. Nothing in this section shall
6 require the licensing agency to adopt the annual report or the inspection
7 form by rules and regulations.

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

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

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

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

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

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

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

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

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

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

5 (8) personnel of the board for purposes of administration and
6 enforcement of this act or the uniform controlled substances act, K.S.A 65-
7 4101 et seq., and amendments thereto.

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

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

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

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

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

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

1 (e)(b) The ~~Kansas health policy authority~~*department of health and*
2 *environment* shall develop policy regarding the collection of health care
3 data and procedures for ensuring the confidentiality and security of these
4 data.

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

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

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

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

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

28 (3) procedures will be developed to assure the confidentiality of
29 patient records;

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

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

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

42 (e) In addition to such criminal penalty under subsection (d), any
43 individual whose identity is revealed in violation of subsection (d) may

1 bring a civil action against the responsible person or persons for any
2 damages to such individual caused by such violation.

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

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

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

42 Sec. 31. K.S.A. 2011 Supp. 65-6809 is hereby amended to read as
43 follows: 65-6809. (a) There is hereby established in the state treasury the

1 health care database fee fund. The ~~Kansas health policy authority~~*secretary*
2 *of health and environment* shall remit to the state treasurer, in accordance
3 with the provisions of K.S.A. 75-4215, and amendments thereto, all
4 moneys collected or received by the ~~authority~~*secretary* from the following
5 sources:

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

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

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

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

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

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

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

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

1 underserved.

2 (c) The secretary may appoint persons as members of the primary
3 care safety net clinic loan guarantee review committee who are officers or
4 employees of the agencies or organizations they are nominated by or that
5 they are appointed to represent. Not more than three members of the
6 committee shall be affiliated with the same political party. Members shall
7 serve at the pleasure of the secretary.

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

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

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

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

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

42 (c) If the office cannot furnish one of its presiding officers within 60
43 days in response to a requesting agency's request, the director shall

1 designate in writing a full-time employee of an agency other than the
2 requesting agency to serve as presiding officer for the proceeding, but only
3 with the consent of the employing agency. The designee must possess the
4 same qualifications required of presiding officers employed by the office.

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (i) (1) Effective July 1, 2005, any presiding officer in agencies
4 specified in subsection (h)(1) 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 (2) Effective July 1, 2006, any presiding officer in agencies specified
19 in subsection (h)(2) which conduct hearings pursuant to the Kansas
20 administrative procedure act, except those exempted pursuant to K.S.A.
21 77-551, and amendments thereto, and support personnel for such presiding
22 officers, shall be transferred to and shall become employees of the office
23 of administrative hearings. Such personnel shall retain all rights under the
24 state personnel system and retirement benefits under the laws of this state
25 which had accrued to or vested in such personnel prior to the effective date
26 of this section. Such person's services shall be deemed to have been
27 continuous. All transfers of personnel positions in the classified service
28 under the Kansas civil service act shall be in accordance with civil service
29 laws and any rules and regulations adopted thereunder. This section shall
30 not affect any matter pending before an administrative hearing officer at
31 the time of the effective date of the transfer, and such matter shall proceed
32 as though no transfer of employment had occurred.

33 (3) Effective July 1, 2007, any presiding officer in agencies specified
34 in subsection (h)(3) which conduct hearings pursuant to the Kansas
35 administrative procedure act, except those exempted pursuant to K.S.A.
36 77-551, and amendments thereto, and support personnel for such presiding
37 officers, shall be transferred to and shall become employees of the office
38 of administrative hearings. Such personnel shall retain all rights under the
39 state personnel system and retirement benefits under the laws of this state
40 which had accrued to or vested in such personnel prior to the effective date
41 of this section. Such person's services shall be deemed to have been
42 continuous. All transfers of personnel positions in the classified service
43 under the Kansas civil service act shall be in accordance with civil service

1 laws and any rules and regulations adopted thereunder. This section shall
2 not affect any matter pending before an administrative hearing officer at
3 the time of the effective date of the transfer, and such matter shall proceed
4 as though no transfer of employment had occurred.

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

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

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

1 confirmed by the senate. The department of health and environment shall
2 consist of the division of health, *the division of health care finance* and the
3 division of environment. The secretary of health and environment shall
4 receive an annual salary fixed by the governor.

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

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

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

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

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

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

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

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

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

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

1 within the scope of their employment or volunteer activities through a
2 liability insurance contract of such nonprofit program;

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

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

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

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

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

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

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

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

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

43 (2) the secretary of health and environment and who, pursuant to such

1 agreement, gratuitously renders professional services in conducting
2 children's immunization programs administered by the secretary;

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

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

27 (f) "Medically indigent person" means a person who lacks resources
28 to pay for medically necessary health care services and who meets the
29 eligibility criteria for qualification as a medically indigent person
30 established by the secretary of health and environment under K.S.A. 75-
31 6120, and amendments thereto.

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

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

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

43 Sec. 36. K.S.A. 2011 Supp. 75-7403 is hereby amended to read as

1 follows: 75-7403. (a) The ~~Kansas health policy authority~~*secretary of*
2 *health and environment* is hereby authorized to establish policies and to
3 adopt rules and regulations for the implementation and administration of
4 the powers, duties and functions prescribed for or transferred to the
5 ~~authority~~*department* as provided by law.

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

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

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

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

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

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

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

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

37 (e) (d) ~~At the beginning of the regular session of the legislature in~~
38 ~~2007, the Kansas health policy authority~~*The department of health and*
39 *environment* shall submit to the legislature recommendations and an
40 implementation plan for the transfer of additional medicaid-funded
41 programs to the ~~Kansas health policy authority~~*department of health and*
42 *environment* which may include (1) mental health services, (2) home and
43 community-based services (HCBS) waiver programs, (3) nursing facilities,

1 (4) substance abuse prevention and treatment programs, and (5) the
2 institutions, as defined in K.S.A. 76-12a01, and amendments thereto.

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

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

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

23 (A) The Kansas program of medical assistance established in
24 accordance with title XIX of the federal social security act, 42 U.S.C. §
25 1396 et seq., and amendments thereto;

26 (B) the health benefits program for children established under K.S.A.
27 38-2001 et seq., and amendments thereto, and developed and submitted in
28 accordance with federal guidelines established under title XXI of the
29 federal social security act, section 4901 of public law 105-33, 42 U.S.C. §
30 1397aa et seq., and amendments thereto;

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

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

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

38 (2) the restrictive drug formulary, the drug utilization review
39 program, including oversight of the medicaid drug utilization review
40 board, and the electronic claims management system as provided in K.S.A.
41 39-7,116 through 39-7,121 and K.S.A. 2011 Supp. 39-7,121a through 39-
42 7,121e, and amendments thereto; and

43 (3) administering any other health programs delegated to the ~~Kansas~~

1 ~~health policy authority~~ *department of health and environment* by the
2 governor or by a contract with another state agency.

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

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

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

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

15 (4) the addiction and prevention services prescribed under K.S.A. 65-
16 4001 et seq., and amendments thereto; or

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

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

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

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

1 Sec. 42. K.S.A. 2011 Supp. 75-7411 is hereby amended to read as
2 follows: 75-7411. (a) Subject to the limitations of subsection (b), the
3 ~~Kansas health policy authority~~*department of health and environment* may
4 enter into a contract with one or more state agencies or local governmental
5 entities providing for the state agency or local governmental entity to
6 perform services for the division of health policy and finance or delegating
7 to the state agency or local governmental entity the administration of
8 certain functions, services or programs under any of the programs for
9 which the ~~Kansas health policy authority~~*department of health and*
10 *environment* is responsible.

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

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

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

43 (c) The ~~Kansas health policy authority~~*department of health and*

1 *environment* shall establish an adequate system of financial records. The
2 ~~Kansas health policy authority~~*department of health and environment* shall
3 make periodic reports to the governor and shall make any reports required
4 by federal agencies.

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

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

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

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

30 (h) The ~~Kansas health policy authority~~*secretary of health and*
31 *environment* may receive grants, gifts, bequests, money, or aid of any
32 character whatsoever, for purposes consistent with K.S.A. 2011 Supp. 75-
33 7408 through 75-7413, and amendments thereto.

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

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

1 thereto, including the following:

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

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

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

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

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

33 (1) The Kansas program of medical assistance established in
34 accordance with title XIX of the federal social security act, 42 U.S.C. §
35 1396 et seq., and amendments thereto; and

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

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

1 section 4901 of public law 105-33, 42 U.S.C. § 1397aa et seq., and
2 amendments thereto;

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

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

8 (e) the restrictive drug formulary, the drug utilization review
9 program, including oversight of the medicaid drug utilization review
10 board, and the electronic claims management system as provided in K.S.A.
11 39-7,116 through 39-7,121 and K.S.A. 2011 Supp. 39-7,121a through 39-
12 7,121e, and amendments thereto;

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

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

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

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

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

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

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

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

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

38 (f) (e) In collaboration with the United States department of health
39 and human services, the Kansas health policy authority ~~department of~~
40 ~~health and environment~~ shall investigate (1) the development and
41 availability of federal affordable choices initiatives funding, (2) waiver and
42 funding opportunities under the federal deficit reduction act of 2005,
43 *public law 109-171*, and (3) waivers under the federal health insurance

1 flexibility and accountability demonstration initiative to expand health
2 services to low income populations. ~~To the extent feasible, the Kansas~~
3 ~~health policy authority shall include such federal programs in the options~~
4 ~~proposed under subsection (a).~~

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

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

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

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

39 (b) All third parties described in subsection (a), shall provide, with
40 respect to individuals who are eligible for, or are provided, medical
41 assistance under such state plan, upon the request of the ~~authority~~
42 *department*, information to determine during what period individuals or
43 their spouses or their dependents may be (or may have been) covered by a

1 health insurer and the nature of the coverage that is or was provided by the
2 health insurer (including the name, address and identifying number of the
3 plan) in a manner prescribed by the United States secretary of health and
4 human services.

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

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

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

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

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

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

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

41 (5) "Contractor" means any contractor, supplier, vendor or other
42 person who, through a contract or other arrangement, has received, is to
43 receive or is receiving public funds or in-kind contributions from the

1 contracting agency as part of the state medicaid program, the state
2 mediKan program or the state children's health insurance program, and
3 shall include any sub-contractor.

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

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

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

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

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

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

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

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

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

1 program, the state mediKan program or the state children's health
2 insurance program.

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

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

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

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

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

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

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

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

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

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

1 professionals necessary to independently perform the functions of the
2 office.

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

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

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

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

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

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

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

35 (d) The inspector general shall have access to all pertinent
36 information, confidential or otherwise, and to all personnel and facilities of
37 the ~~Kansas health policy authority~~*department of health and environment*,
38 their employees, vendors, contractors and health care providers and any
39 federal, state or local governmental agency that are necessary to perform
40 the duties of the office as directly related to such programs administered
41 by the ~~authority~~*department*. Access to contractor or health care provider
42 files shall be limited to those files necessary to verify the accuracy of the
43 contractor's or health care provider's invoices or their compliance with the

1 contract provisions or program requirements. No health care provider shall
2 be compelled under the provisions of this section to provide individual
3 medical records of patients who are not clients of the state medicaid
4 program, the state mediKan program or the state children's health
5 insurance program. State and local governmental agencies are authorized
6 and directed to provide to the inspector general requested information,
7 assistance or cooperation.

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

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

41 (g) To carry out the duties as described in this section, the inspector
42 general and the inspector general's designees shall have the power to
43 compel by subpoena the attendance and testimony of witnesses and the

1 production of books, electronic records and papers as directly related to
2 such programs administered by the ~~Kansas health policy~~
3 ~~authority~~*department of health and environment*. Access to contractor files
4 shall be limited to those files necessary to verify the accuracy of the
5 contractor's invoices or its compliance with the contract provisions. No
6 health care provider shall be compelled to provide individual medical
7 records of patients who are not clients of the ~~authority~~*department*.

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

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

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

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

1 law or to improve the efficiency of such programs administered by the
2 ~~Kansas health policy authority~~*department of health and environment*. The
3 inspector general shall not be required to obtain permission or approval
4 from any other official or ~~authority~~*department* prior to making any such
5 recommendation.

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

30 (2) No person shall:

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

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

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

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

41 (B) permitting an employee to leave the employee's assigned work
42 areas during normal work hours without following applicable rules and
43 regulations and policies pertaining to leaves, unless the employee is

1 requested by a legislator or legislative committee to appear before a
2 legislative committee or by an auditing agency to appear at a meeting with
3 officials of the auditing agency;

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

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

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

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

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

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

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

1 (o) The ~~Kansas health policy authority~~*department of health and*
2 *environment*, in accordance with K.S.A. 75-4319, and amendments
3 thereto, may recess for a closed, executive meeting under the open
4 meetings act, K.S.A. 75-4317 through 75-4320a, and amendments thereto,
5 to discuss with the inspector general any information, records or other
6 matters that are involved in any investigation or audit under this section.
7 All information and records of the inspector general that are obtained or
8 received under any investigation or audit under this section shall be
9 confidential, except as required or authorized pursuant to this section.

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

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

22 (1) The Kansas program of medical assistance established in
23 accordance with title XIX of the federal social security act, 42 U.S.C. §
24 1396 et seq., and amendments thereto;

25 (2) the health benefits program for children established under K.S.A.
26 38-2001 et seq., and amendments thereto, and developed and submitted in
27 accordance with federal guidelines established under title XXI of the
28 federal social security act, section 4901 of public law 105-33, 42 U.S.C. §
29 1397aa et seq., and amendments thereto; and

30 (3) the state mediKan program.

31 (c) The Kansas state employees health care commission established
32 under K.S.A. 75-6502, and amendments thereto, shall incorporate the use
33 of a medical home delivery system within the state health care benefits
34 program as provided in K.S.A. 75-6501 through 75-6523, and amendments
35 thereto. Except that compliance with a medical home delivery system shall
36 not be required of program participants receiving treatment in accordance
37 with a religious method of healing pursuant to the provisions of K.S.A.
38 2011 Supp. 75-6501, and amendments thereto.

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

43 (e) ~~The provisions of this section shall not take effect until July 1,~~

1 2008.

2 Sec. 51. K.S.A. 2011 Supp. 75-7430 is hereby amended to read as
3 follows: 75-7430. The ~~Kansas health policy authority~~*secretary of health*
4 *and environment* shall, subject to appropriations, establish and implement
5 the following:

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

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

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

13 ~~(d) The provisions of this section shall not take effect until July 1,~~
14 ~~2008.~~

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

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

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

38 (d) On July 1, 2007, the director of accounts and reports shall transfer
39 \$500,000 from the state general fund to the association assistance plan
40 fund.

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

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

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

5 (f) For the purpose of this section:

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

8 (2) "small business" means any business that employs 50 or less
9 employees.

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

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

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

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

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

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

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

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

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

38 (b) (1) Except as otherwise provided in this section and in subsection
39 (f), there is hereby imposed and the ~~authority~~*secretary of health and*
40 *environment* shall assess an annual assessment per licensed bed,
41 hereinafter called a quality care assessment, on each skilled nursing care
42 facility. The assessment on all facilities in the aggregate shall be an
43 amount fixed by rules and regulations of the ~~authority~~*secretary of health*

1 *and environment*, shall not exceed \$1,950 annually per licensed bed, shall
2 be imposed as an amount per licensed bed and shall be imposed uniformly
3 on all skilled nursing care facilities except that the assessment rate for
4 skilled nursing care facilities that are part of a continuing care retirement
5 facility, small skilled nursing care facilities and high medicaid volume
6 skilled nursing care facilities shall not exceed 1/6 of the actual amount
7 assessed all other skilled nursing care facilities. No rules and regulations
8 of the ~~authority~~*secretary of health and environment* shall grant any
9 exception to or exemption from the quality care assessment. The
10 assessment shall be paid quarterly, with one fourth of the annual amount
11 due by the 30th day after the end of the month of each calendar quarter.
12 The ~~authority~~*secretary of health and environment* is authorized to establish
13 delayed payment schedules for skilled nursing care facilities which are
14 unable to make quarterly payments when due under this section due to
15 financial difficulties, as determined by the ~~authority~~*secretary of health and*
16 *environment*. The assessment made for years subsequent to the third year
17 from the date the provisions of this section are implemented shall not
18 exceed 60% of the first assessment made under this section. As used in this
19 subsection (b)(1), the terms "small skilled nursing care facilities" and
20 "high medicaid volume skilled nursing care facilities" shall have the
21 meanings ascribed thereto by the ~~authority~~*secretary of health and*
22 *environment* by rules and regulations, except that the definition of small
23 skilled nursing care facility shall not be lower than 40 beds.

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

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

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

1 on medicaid days.

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

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

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

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

1 (3) Any moneys received by the state of Kansas from the federal
2 government as a result of federal financial participation in the state
3 medicaid program that are derived from the quality care assessment shall
4 be deposited in the quality care fund and used to finance actions to
5 maintain or increase healthcare in skilled nursing care facilities.

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

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

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

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

18 (D) to restore the medicaid rate reductions implemented January 1,
19 2010;

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

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

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

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

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

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

43 (B) the net earnings rate of the pooled money investment portfolio for

1 the preceding month.

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

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

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

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

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

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

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

42 (B) the rates of payments made to skilled nursing care facilities for
43 providing services pursuant to the federal medicaid program are reduced

1 below the rates calculated on December 31, 2009, increased by revenues in
2 the quality care fund and matched by federal financial participation and
3 rebasing as provided for in K.S.A. 2011 Supp. 75-5958, and amendments
4 thereto;

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

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

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

13 (g) On and after July 1, 2010, reimbursement rates for skilled nursing
14 care facilities shall be restored to those in effect during December 2009.
15 No funds generated by the assessments or federal funds generated
16 therefrom shall be utilized for such restoration, but such funds may be
17 used to restore the rate reduction in effect from January 1, 2010, to June
18 30, 2010.

19 (h) Rates of reimbursement shall not be limited by private pay
20 charges.

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

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

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

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

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

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

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

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

24 (3) (2) "Entity" means individual, corporation, partnership, limited
25 liability company, joint venture or other legal entity.

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

41 (5) (4) "Quality based community ~~fee~~ *assessment fund*" means a
42 segregated account within the state treasury for which moneys are
43 collected in accordance with the provisions of this act from developmental

1 disability home and community-based waiver service providers.

2 ~~(6)~~ (5) "Waiver program" means a developmental disability home and
3 community-based services waiver program authorized under the social
4 security act, 42 U.S.C. § 1915, for persons with a developmental disability.

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

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

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

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

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

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

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

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

43 (3) The duration of the waiver provider assessment shall be all or a

1 portion of the first state fiscal year in which the waiver provider
2 assessment is effective and the subsequent four full state fiscal years.

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

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

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

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

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

1 *health and environment* or the ~~authority's~~*secretary's* designee.

2 (2) The quality based community assessment fund shall be a no limit
3 fund and shall consist of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (B) the medicaid payment rates made to waiver providers for

1 providing services pursuant to the developmental disability waiver
2 program are reduced below the rates calculated on the day immediately
3 preceding the effective date of this section, increased by revenues in the
4 quality based community assessment fund and matched by federal
5 financial participation. Nothing in this provision should be construed to
6 preclude additional increases to the medicaid payment rates to waiver
7 providers funded through state general fund appropriation;

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

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

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

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

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

42 (A) A summary of the substance of the proposed rules and
43 regulations;

1 (B) a summary of the economic impact statement indicating the
2 estimated economic impact on governmental agencies or units, persons
3 subject to the proposed rules and regulations and the general public;

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

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

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

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

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

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

1 (4) Prior to adopting any rule and regulation pursuant to subsection
2 (c), the state agency shall give at least 30 days' notice of its intended action
3 in the Kansas register and to the secretary of state and to the joint
4 committee on administrative rules and regulations created pursuant to
5 K.S.A. 77-436, and amendments thereto. All other provisions of
6 subsection (a)(1) shall apply to such rules and regulations, except that the
7 statement required by subsection (a)(1)(E) shall state that the period of
8 notice constitutes a public comment period on such rules and regulations.

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

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

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

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

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

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

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

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

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

41 (3) For the purposes of this provision, a rule and regulation is not the
42 logical outgrowth of the rule and regulation as originally proposed if a
43 person affected by the final rule and regulation was not put on notice that

1 such person's interests were affected in the rulemaking.

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

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

20 *Sec. 56. K.S.A. 2011 Supp. 65-6208 is hereby amended to read as*
21 *follows: 65-6208. (a) Subject to the provisions of K.S.A. 2011 Supp. 65-*
22 *6209, and amendments thereto, an annual assessment on inpatient*
23 *services is imposed on each hospital provider in an amount equal to*
24 *1.83% of each hospital's net inpatient operating revenue for the*
25 *hospital's fiscal year 2001 2010. In the event that a hospital does not*
26 *have a complete twelve-month 2001 2010 fiscal year, the assessment*
27 *under this section shall be \$200,000 until such date that such hospital*
28 *has completed the hospital's first twelve-month fiscal year. Upon*
29 *completing such first twelve-month fiscal year, such hospital's*
30 *assessment under this section shall be the amount equal to 1.83% of*
31 *such hospital's net operating revenue for such first completed twelve-*
32 *month fiscal year.*

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

37 *Sec. 56.57. K.S.A. 22-4612 2-224a, 38-2001, 38-2006, 39-760, 39-*
38 *7,116, 39-7,118, 39-7,119, 39-7,120, 39-7,121, 39-7,121a, 39-7,121d, 39-*
39 *7,121e, 39-7,159, 39-968, 40-2134, 40-2136, 40-2251, 40-2252, 40-4702,*
40 *40-4706, 46-3501, 65-435a, 65-1685, 65-6208, 65-6801, 65-6803, 65-*
41 *6804, 65-6805, 65-6806, 65-6807, 65-6809, 65-7405, 75-37,121, 75-5601,*
42 *75-6102, 75-7403, 75-7404, 75-7405, 75-7408, 75-7409, 75-7410, 75-*
43 *7411, 75-7412, 75-7413, 75-7423, 75-7424, 75-7425, 75-7426, 75-7427,*

1 75-7429, 75-7430, 75-7433, 75-7435, 75-7436 and 77-421 are hereby
2 repealed.

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

5