

HOUSE BILL No. 2416

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

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

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

(b) If the state fair board enters into a contract for the purchase of workers compensation insurance as described in subsection (a), from and after the end of the payroll period in which such workers compensation policy takes effect, the state fair board shall not be subject to the self-insurance assessment prescribed by K.S.A. 44-576, and amendments thereto, and the director of accounts and reports shall cease to transfer any amounts for such self-assessment for the state fair board pursuant to such statute, except that any moneys paid relating to existing claims with the state workers compensation self-insurance fund made by the state fair board shall be assessed to the state fair board until all such claims have been closed and settled.

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

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

Sec. 2. K.S.A. 22-4612 is hereby amended to read as follows: 22-4612.

(a) Except as otherwise provided in this section, a county, a city, a county or city law enforcement agency, a county department of corrections or the Kansas highway patrol shall be liable to pay a health care provider for health care services rendered to persons in the custody of such agencies the lesser of the actual amount billed by such health care provider or the medicaid rate. The provisions of this section shall not apply if a person in the custody of a county or city law enforcement agency, a county department of corrections or the Kansas highway patrol is covered under a current individual or group accident and health insurance policy, medical service plan contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization contract.

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

(c) It shall be the responsibility of the custodial county or city law enforcement agency, county department of corrections or the Kansas highway patrol or such agencies' agents, to determine, under agreement

with the ~~Kansas health policy authority~~*secretary of health and environment*, the amount payable for the services provided and to communicate that determination along with the remittance advice and payment for the services provided.

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

(e) As used in this section:

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

(2) “Health care provider” means a person licensed to practice any branch of the healing arts by the state board of healing arts, a person who holds a temporary permit to practice any branch of the healing arts issued by the state board of healing arts, a person engaged in a postgraduate training program approved by the state board of healing arts, a licensed physician assistant, a person licensed by the behavioral sciences regulatory board, a medical care facility licensed by the department of health and environment, a podiatrist licensed by the state board of healing arts, an optometrist licensed by the board of examiners in optometry, a registered nurse, and advanced nurse practitioner, a licensed professional nurse who is authorized to practice as a registered nurse anesthetist, a licensed practical nurse, a licensed physical therapist, a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are health care providers as defined by this subsection, a Kansas limited liability company organized for the purpose of rendering professional services by its members who are health care providers as defined by this subsection and who are legally authorized to render the professional services for which the limited liability company is organized, a partnership of persons who are health care providers under this subsection, a Kansas not-for-profit corporation organized for the purpose of rendering professional services by persons who are health care providers as defined by this subsection, a dentist certified by the state board of healing arts to administer anesthetics under K.S.A. 65-2899, and amendments thereto, a psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto, a licensed social worker or a mental health center or mental health clinic licensed by the secretary of social and rehabilitation services and any health care provider licensed by the appropriate regulatory body in another state that has a current approved provider agreement with the ~~Kansas health policy authority~~*secretary of health and environment*.

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

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

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

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

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

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

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

(5) shall use the same prior authorization standards and requirements

as used for health care services under medicaid to further the goal of seamlessness of coverage between the two programs;

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

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

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

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

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

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

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

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

(4) shall provide for a simplified enrollment plan;

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

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

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

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

(9) shall include a provision that requires any individual to be a citizen

or an alien lawfully admitted to the United States for purposes of establishing eligibility for benefits under the plan and to present satisfactory documentary evidence of citizenship or lawful admission of the individual. The criteria for determining whether the documentation is satisfactory shall be no more restrictive than the criteria used by the social security administration to determine citizenship. A document issued by a federally-recognized Indian tribe evidencing membership or enrollment in, or affiliation with, such tribe, such as a tribal enrollment card or certificate of degree of Indian blood shall be satisfactory documentary evidence of citizenship or lawful admission.

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

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

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

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

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

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

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

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

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

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

(a) "Restrictive drug formulary" means a list of prescription-only drugs established by the department which excludes in whole or in part

reimbursement by the department for such drugs under a program administered by the department.

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

(c) “Physician” means a person licensed to practice medicine and surgery.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The ~~Kansas health policy authority~~*secretary of health and envi-*

ronment may add two additional members so long as no class of professional representatives exceeds 51% of the membership.

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

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

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

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

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

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

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

(2) one member shall be a licensed pharmacist who is actively performing or who has experience performing medicaid pharmacy services for a licensed adult care home and who is nominated by the state board of pharmacy and appointed by the ~~Kansas health policy authority~~ *secretary of health and environment* from a list of two or more nominees;

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

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

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

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

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

(8) one member shall be a licensed pharmacist who is actively en-

gaged in or who has experience in research pharmacy and who is nominated jointly by the Kansas task force for the pharmaceutical research and manufacturers association and the university of Kansas and appointed by the ~~Kansas health policy authority~~ *secretary of health and environment* from a list of two or more jointly nominated persons; and

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

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

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

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

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

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

Sec. 11. K.S.A. 2011 Supp. 39-7,121a is hereby amended to read as follows: 39-7,121a. (a) The ~~Kansas health policy authority~~ *department of health and environment* may establish an advisory committee pursuant to K.S.A. ~~75-531~~ 75-5616, and amendments thereto, to advise the ~~Kansas health policy authority~~ *department of health and environment* in the development of a preferred formulary listing of covered drugs by the state medicaid program.

(b) The ~~Kansas health policy authority~~ *department of health and environment* shall evaluate drugs and drug classes for inclusion in the state medicaid preferred drug formulary based on safety, effectiveness and clinical outcomes of such treatments. In addition, the ~~Kansas health policy authority~~ *department of health and environment* shall evaluate drugs and drug classes to determine whether inclusion of such drugs or drug classes in a starter dose program would be clinically efficacious and cost effective. If the factors of safety, effectiveness and clinical outcomes among drugs being considered in the same class indicate no therapeutic advantage, then the ~~Kansas health policy authority~~ *department of health and environment* shall consider the cost effectiveness and the net economic impact

of such drugs in making recommendations for inclusion in the state Medicaid preferred drug formulary. Drugs which do not have a significant, clinically meaningful therapeutic advantage in terms of safety, effectiveness or clinical outcomes over other drugs in the same class which have been selected for the preferred drug formulary may be excluded from the preferred drug formulary and may be subject to prior authorization in accordance with state and federal law, except, prior to July 1, 2003, where a prescriber has personally written “dispense as written” or “D.A.W.,” or has signed the prescriber’s name on the “dispense as written” signature line in accordance with K.S.A. 65-1637, and amendments thereto.

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

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

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

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

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

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

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

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

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

(b) The system shall:

- (1) Emphasize a delivery concept of self-direction, individual choice, home and community settings and privacy;
- (2) ensure transparency, accountability, safety and high quality services;
- (3) increase expedited eligibility determination;
- (4) provide timely services;
- (5) utilize informal services; and
- (6) ensure the moneys follow the person into the community.

(c) All persons receiving services pursuant to this section shall be offered the appropriate services which are determined to be in aggregate

the most economical available with regard to state general fund expenditures. For those persons moving from a nursing facility to the home and community based services, the nursing facility reimbursement shall follow the person into the community.

(d) The department on aging, the department of social and rehabilitation services and the ~~Kansas health policy authority~~*department of health and environment* shall design and implement the system, in consultation with stakeholders and advocates related to long-term care services.

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

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

(b) As used in this section:

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

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

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

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

(5) “Secretary” means the secretary of aging.

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

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

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

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

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

(g) The secretary of aging shall assure that each area agency on aging

shall compile comprehensive resource information for use by individuals and agencies related to long-term care resources including all area offices of the department of social and rehabilitation services and local health departments. This information shall include, but not be limited to, resources available to assist persons to choose alternatives to institutional care.

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

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

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

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

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

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

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

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

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

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

(c) The ~~Kansas health policy authority~~ *department of health and environment* shall pursue reciprocal agreements with other states to extend the asset disregard to Kansas residents who purchased long-term care partnership policies in other states that are compliant with title VI, section

6021 of the federal deficit reduction act of 2005, public law 109-171, and any applicable federal regulations or guidelines.

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

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

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

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

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

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

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

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

(d) Obtain verification that producers receive training required by the commissioner of insurance before a producer is permitted to sell, solicit or negotiate the insurer's long-term care insurance products, maintain records of compliance, and make the verification available to the commissioner of insurance upon request.

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

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

policies and on the policy series that the company has certified as partnership qualified;

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) The secretary of the department of commerce or the secretary's designee;
- (2) the secretary of the department of social and rehabilitation services or the secretary's designee;
- (3) the commissioner of insurance or the commissioner's designee;
- (4) one member appointed by the president of the senate;
- (5) one member appointed by the speaker of the house of representatives;
- (6) one member appointed by the minority leader of the senate;
- (7) one member appointed by the minority leader of the house of representatives; and
- (8) three members at large from the private sector appointed by the governor.

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

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

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

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

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

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

(f) The health committee shall:

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

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

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

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

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

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

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

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

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

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

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

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

(j) The health committee is hereby authorized to organize, or cause to be organized, one or more advisory committees. No member of any advisory committee established under this subsection shall have previously received or currently receive any payment or other compensation from the health partnership. The membership of each advisory committee established under this subsection shall contain at least one representative who is a small employer and one representative who is an eligible employee as defined in K.S.A. 40-4701, and amendments thereto, and one representative of the insurance industry.

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

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

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

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

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

(c) (1) The chairperson of the joint committee on health policy oversight shall be appointed for a term of one year which ends on the first day of the next occurring regular session of the legislature. The speaker of the house of representatives shall appoint the first chairperson on July 1, 2005, and shall appoint the chairperson for the term commencing on the first day of the regular session of the legislature commencing in 2006 for a one-year term to end on the first day of the regular session of the legislature commencing in the year 2007. The president of the senate shall appoint the next chairperson on the first day of the regular session of the legislature commencing in the year 2007 for a one-year term which ends on the first day of the next occurring regular session of the legislature. Thereafter the appointment of the chairperson shall continue to alternate between the speaker of the house of representatives and the president of the senate with each subsequent chairperson being appointed for a one-year term ending on the first day of the regular session of the legislature in the next occurring regular session of the legislature after the year of appointment.

(2) The vice-chairperson of the joint committee on health policy oversight shall be appointed for a term of one year which ends on the first day of the next occurring regular session of the legislature. The president of the senate shall appoint the first vice-chairperson on July 1, 2005, and shall appoint the vice-chairperson for the term commencing on the first day of the regular session of the legislature commencing in 2006 for a

one-year term to end on the first day of the regular session of the legislature commencing in the year 2007. The speaker of the house of representatives shall appoint the next vice-chairperson on the first day of the regular session of the legislature commencing in the year 2007 for a one-year term which ends on the first day of the next occurring regular session of the legislature. Thereafter the appointment of the vice-chairperson shall continue to alternate between the speaker of the house of representatives and the president of the senate with each subsequent vice-chairperson being appointed for a one-year term ending on the first day of the regular session of the legislature in the next occurring regular session of the legislature after the year of appointment.

(3) If a vacancy occurs in the office of the chairperson or vice-chairperson, a member of the joint committee on health policy oversight who is a member of the same house of the legislature as the member who vacated the office shall be appointed by the speaker of the house, if the vacating member was a member of the house of representatives, or by the president of the senate, if the vacating member was a member of the senate, to fill such vacancy.

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

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

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

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

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

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

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

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

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

Sec. 23. K.S.A. 2011 Supp. 65-435a is hereby amended to read as follows: 65-435a. The contents of the annual report under K.S.A. 65-429, and amendments thereto, and the contents of an inspection form for purposes of inspections under K.S.A. 65-433, and amendments thereto, shall be developed by the licensing agency in consultation with ~~the Kansas health policy authority~~ *the Kansas hospital association* and the Kansas hospital association. The licensing agency may specify the contents of the annual report and the contents of the inspection form by rules and regulations. Nothing in this section shall require the licensing agency to adopt the annual report or the inspection form by rules and regulations.

Sec. 24. K.S.A. 2011 Supp. 65-1685 is hereby amended to read as follows: 65-1685. (a) The prescription monitoring program database, all information contained therein and any records maintained by the board, or by any entity contracting with the board, submitted to, maintained or stored as a part of the database, shall be privileged and confidential, shall

not be subject to subpoena or discovery in civil proceedings and may only be used for investigatory or evidentiary purposes related to violations of state or federal law and regulatory activities of entities charged with administrative oversight of those persons engaged in the prescribing or dispensing of scheduled substances and drugs of concern, shall not be a public record and shall not be subject to the Kansas open records act, K.S.A. 45-215 *et seq.*, and amendments thereto, except as provided in subsections (c) and (d).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Measures have been taken to provide system security for all data and information acquired under this act;
- (2) data will be collected in the most efficient and cost-effective manner for both the department and providers of data;
- (3) procedures will be developed to assure the confidentiality of patient records;
- (4) users may be charged for data preparation or information that is beyond the routine data disseminated and that the ~~authority~~*secretary of health and environment* shall establish by the adoption of such rules and regulations a system of fees for such data preparation or dissemination; and

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

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

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

Sec. 28. K.S.A. 2011 Supp. 65-6805 is hereby amended to read as follows: 65-6805. Each medical care facility as defined by subsection (h) of K.S.A. 65-425, and amendments thereto; health care provider as defined in K.S.A. 40-3401, and amendments thereto; providers of health care as defined in subsection (f) of K.S.A. 65-5001, and amendments thereto; health care personnel as defined in subsection (e) of K.S.A. 65-5001, and amendments thereto; home health agency as defined by subsection (b) of K.S.A. 65-5101, and amendments thereto; psychiatric hospitals licensed under K.S.A. 75-3307b, and amendments thereto; state institutions for the mentally retarded; community mental retardation facilities as defined under K.S.A. 65-4412, and amendments thereto; community mental health center as defined under K.S.A. 65-4432, and amendments thereto; adult care homes as defined by K.S.A. 39-923, and amendments thereto; laboratories described in K.S.A. 65-1,107, and amendments thereto; pharmacies; board of nursing; Kansas dental board;

board of examiners in optometry; state board of pharmacy; state board of healing arts and third-party payors, including, but not limited to, licensed insurers, medical and hospital service corporations, health maintenance organizations, fiscal intermediaries for government-funded programs and self-funded employee health plans, shall file health care data with the ~~Kansas health policy authority~~ *department of health and environment* as prescribed by the ~~authority~~ *secretary of health and environment*. The provisions of this section shall not apply to any individual, facility or other entity under this section which uses spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination for the treatment or cure of disease.

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

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

Sec. 31. K.S.A. 2011 Supp. 65-6809 is hereby amended to read as follows: 65-6809. (a) There is hereby established in the state treasury the health care database fee fund. The ~~Kansas health policy authority~~ *secretary of health and environment* shall remit to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, all moneys collected or received by the ~~authority~~ *secretary* from the following sources:

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

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

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

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

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

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

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

(b) The members of the primary care safety net clinic loan guarantee review committee shall be appointed by the secretary in accordance with the following: (1) Two members shall be representatives of the department of health and environment selected by the secretary;; (2) one member shall be appointed by the secretary who is nominated by the Kansas development finance authority;; (3) one member shall be appointed by the secretary who is nominated by the ~~Kansas health policy author-~~

ity, *director of health care finance*; and (4) one member shall be appointed by the secretary who is nominated by the Kansas association for the medically underserved.

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

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

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

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

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

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

(c) If the office cannot furnish one of its presiding officers within 60 days in response to a requesting agency's request, the director shall designate in writing a full-time employee of an agency other than the requesting agency to serve as presiding officer for the proceeding, but only with the consent of the employing agency. The designee must possess the same qualifications required of presiding officers employed by the office.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Effective July 1, 2007, any presiding officer in agencies specified in subsection (h)(3) which conduct hearings pursuant to the Kansas administrative procedure act, except those exempted pursuant to K.S.A. 77-551, and amendments thereto, and support personnel for such presiding officers, shall be transferred to and shall become employees of the office of administrative hearings. Such personnel shall retain all rights under the state personnel system and retirement benefits under the laws of this state which had accrued to or vested in such personnel prior to the effective date of this section. Such person's services shall be deemed to have been continuous. All transfers of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder. This section shall not affect any matter pending before an administrative hearing officer at the time of the effective date of the transfer, and such matter shall proceed as though no transfer of employment had occurred.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) a local health department or indigent health care clinic, which renders professional services to medically indigent persons or persons receiving medical assistance from the programs operated by the ~~Kansas health policy authority~~ *department of health and environment* gratuitously or for a fee paid by the local health department or indigent health care clinic to such provider and who is considered an employee of the state of Kansas under K.S.A. 75-6120, and amendments thereto. Professional

services rendered by a provider under this paragraph (3) shall be considered gratuitous notwithstanding fees based on income eligibility guidelines charged by a local health department or indigent health care clinic and notwithstanding any fee paid by the local health department or indigent health care clinic to a provider in accordance with this paragraph (3); or

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

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

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

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

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

Sec. 36. K.S.A. 2011 Supp. 75-7403 is hereby amended to read as follows: 75-7403. (a) ~~The Kansas health policy authority~~ *secretary of health and environment* is hereby authorized to establish policies and to adopt rules and regulations for the implementation and administration of the powers, duties and functions prescribed for or transferred to the ~~authority~~ *department* as provided by law.

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

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

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

Sec. 38. K.S.A. 2011 Supp. 75-7405 is hereby amended to read as

follows: 75-7405. (a) The ~~Kansas health policy authority~~*department of health and environment* is responsible for the development of a statewide health policy agenda including health care and health promotion components. The ~~Kansas health policy authority~~*department of health and environment* shall report to the legislature at the beginning of the regular session of the legislature in 2007 and at the beginning of each regular legislative session thereafter. The report of the ~~Kansas health policy authority~~*department of health and environment* to the legislature shall include recommendations for implementation of the health policy agenda recommended by the ~~authority~~*department*. The ~~Kansas health policy authority~~*department of health and environment* shall develop or adopt health indicators and shall include baseline and trend data on the health costs and indicators in each annual report to the legislature. In accordance with the provisions of this act and the provisions of appropriation acts, the ~~Kansas health policy authority~~*department of health and environment* shall assume powers, duties and functions in accordance with the provisions of this act.

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

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

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

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

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

Sec. 39. K.S.A. 2011 Supp. 75-7408 is hereby amended to read as follows: 75-7408. (a) ~~On and after July 1, 2006, the Kansas health policy authority~~*The department of health and environment* shall coordinate

health care planning, administration, and purchasing and analysis of health data for the state of Kansas with respect to the following health programs administered by the state of Kansas:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 41. K.S.A. 2011 Supp. 75-7410 is hereby amended to read as

follows: 75-7410. ~~On and after July 1, 2006, the Kansas health policy authority~~*The department of health and environment* shall have the power, but is not required, to develop a state plan with regard to medical assistance and services in which the federal government does not participate, within the limits of appropriations therefor.

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

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

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

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

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

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

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

(f) After consulting with any agency that has responsibility under a contract with the ~~Kansas health policy authority~~*department of health and*

environment for administration of any of the programs of the ~~authority-department~~, the ~~Kansas health policy authority~~*secretary of health and environment* shall prepare annually, at the time and in the form directed by the governor, a budget covering the estimated receipts and expenditures of the ~~Kansas health policy authority~~*department of health and environment* for the coming fiscal year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 46. K.S.A. 2011 Supp. 75-7424 is hereby amended to read as follows: 75-7424. ~~(a) On or before November 1, 2007, the Kansas health policy authority shall develop and deliver to the governor, the joint committee on health policy oversight, the speaker of the house of representatives, the majority leader of the house of representatives, the minority leader of the house of representatives, the president of the senate, the majority leader of the senate and the minority leader of the senate, health care finance reform options for enactment by the legislature during the 2008 regular session, including an analysis of a Kansas health care insurance connector, a model for a voluntary health insurance connector, and draft legislation for the proposed health care finance reform options. In developing such options, the Kansas health policy authority shall solicit and consider information and recommendations from advisory committees established under subsection (c) of K.S.A. 75-7403, and amendments thereto, and shall advise and consult with the joint committee on health policy oversight regularly and on a continuing basis. The Kansas health policy authority shall develop and analyze other pertinent initiatives and policies designed to increase access to affordable health insurance and to otherwise promote health in developing the options.~~

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

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

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

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

~~(f)~~(e) In collaboration with the United States department of health and human services, the ~~Kansas health policy authority~~*department of health and environment* shall investigate (1) the development and availability of federal affordable choices initiatives funding, (2) waiver and funding opportunities under the federal deficit reduction act of 2005, *public law 109-171*, and (3) waivers under the federal health insurance flexibility and accountability demonstration initiative to expand health services to low income populations. ~~To the extent feasible, the Kansas health policy authority shall include such federal programs in the options proposed under subsection (a).~~

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

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

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

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

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

(c) All third parties described in subsection (a) shall: (1) Accept the

~~authority's department's~~ right of recovery and the assignment to the ~~au-~~
~~thority department~~ of any right of an individual or other entity to payment
from the party for an item or service for which payment has been made
under the state plan; (2) respond to any inquiry by the ~~authority depart-~~
~~ment~~ or its designee regarding a claim for payment for any health care
item or service that is submitted not later than three years after the date
of the provision of such health care item or service; and (3) agree not to
deny a claim submitted by the ~~authority department~~ solely on the basis of
the date of submission of the claim, the type or format of the claim form
or a failure to present proper documentation at the point-of-sale that is
the basis of the claim, if: (A) The claim is submitted by the ~~authority de-~~
~~partment~~ within the three-year period beginning on the date on which
the item or service was furnished; and (B) any action by the ~~authority~~
~~department~~ to enforce its rights with respect to such claim is commenced
within six years of the ~~authority's department's~~ submission of such claim.

(d) As used in this section, ~~“Kansas health policy authority” or “au-~~
~~thority” “department”~~ means the ~~Kansas health policy authority estab-~~
~~lished by K.S.A. 2011 Supp. 75-7401, and amendments thereto~~
~~department of health and environment.~~

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

(1) “Attorney general” means the attorney general, employees of the
attorney general or authorized representatives of the attorney general.

(2) “Benefit” means the receipt of money, goods, items, facilities,
accommodations or anything of pecuniary value.

(3) “Claim” means an electronic, electronic impulse, facsimile, mag-
netic, oral, telephonic or written communication that is utilized to identify
any goods, service, item, facility or accommodation as reimbursable to
the state medicaid program, or its fiscal agents, the state mediKan pro-
gram or the state children’s health insurance program or which states
income or expense.

(4) “Client” means past or present beneficiaries or recipients of the
state medicaid program, the state mediKan program or the state chil-
dren’s health insurance program.

(5) “Contractor” means any contractor, supplier, vendor or other per-
son who, through a contract or other arrangement, has received, is to
receive or is receiving public funds or in-kind contributions from the
contracting agency as part of the state medicaid program, the state
mediKan program or the state children’s health insurance program, and
shall include any sub-contractor.

(6) “Contractor files” means those records of contractors which relate
to the state medicaid program, the state mediKan program or the state
children’s health insurance program.

(7) “Fiscal agent” means any corporation, firm, individual, organiza-
tion, partnership, professional association or other legal entity which,
through a contractual relationship with the state of Kansas receives, pro-
cesses and pays claims under the state medicaid program, the state
mediKan program or the state children’s health insurance program.

(8) “Health care provider” means a health care provider as defined
under K.S.A. 65-4921, and amendments thereto, who has applied to par-
ticipate in, who currently participates in, or who has previously partici-
pated in the state medicaid program, the state mediKan program or the
state children’s health insurance program.

(9) ~~“Kansas health policy authority” or “authority” “Department”~~
means the ~~Kansas health policy authority established under K.S.A. 2011~~
~~Supp. 75-7401, and amendments thereto~~
~~department of health and envi-~~
~~ronment, or its successor agency.~~

(10) “Managed care program” means a program which provides co-
ordination, direction and provision of health services to an identified
group of individuals by providers, agencies or organizations.

(11) “Medicaid program” means the Kansas program of medical as-
sistance for which federal or state moneys, or any combination thereof,
are expended, or any successor federal or state, or both, health insurance
program or waiver granted thereunder.

(12) “Person” means any agency, association, corporation, firm, lim-
ited liability company, limited liability partnership, natural person, organ-
ization, partnership or other legal entity, the agents, employees, inde-

pendent contractors, and subcontractors, thereof, and the legal successors thereto.

(13) “Provider” means a person who has applied to participate in, who currently participates in, who has previously participated in, who attempts or has attempted to participate in the state medicaid program, the state mediKan program or the state children’s health insurance program, by providing or claiming to have provided goods, services, items, facilities or accommodations.

(14) “Recipient” means an individual, either real or fictitious, in whose behalf any person claimed or received any payment or payments from the state medicaid program, or its fiscal agent, the state mediKan program or the state children’s health insurance program, whether or not any such individual was eligible for benefits under the state medicaid program, the state mediKan program or the state children’s health insurance program.

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

(16) “State children’s health insurance program” means the state children’s health insurance program as provided in K.S.A. 38-2001 *et seq.*, and amendments thereto.

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

(2) (A) The inspector general shall be appointed by the ~~Kansas health policy authority~~ *department of health and environment* with the advice and consent of the senate and subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Except as provided in K.S.A. 46-2601, and amendments thereto, no person appointed to the position of inspector general shall exercise any power, duty or function of the inspector general until confirmed by the senate. The inspector general shall be selected without regard to political affiliation and on the basis of integrity and capacity for effectively carrying out the duties of the office of inspector general. The inspector general shall possess demonstrated knowledge, skills, abilities and experience in conducting audits or investigations and shall be familiar with the programs subject to oversight by the office of inspector general.

(B) No former or current executive or manager of any program or agency subject to oversight by the office of inspector general may be appointed inspector general within two years of that individual’s period of service with such program or agency. The inspector general shall hold

at time of appointment, or shall obtain within one year after appointment, certification as a certified inspector general from a national organization that provides training to inspectors general.

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

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

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

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

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

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

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

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

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

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

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

(d) The inspector general shall have access to all pertinent information, confidential or otherwise, and to all personnel and facilities of the ~~Kansas health policy authority~~ *department of health and environment*, their employees, vendors, contractors and health care providers and any federal, state or local governmental agency that are necessary to perform

the duties of the office as directly related to such programs administered by the ~~authority~~*department*. Access to contractor or health care provider files shall be limited to those files necessary to verify the accuracy of the contractor's or health care provider's invoices or their compliance with the contract provisions or program requirements. No health care provider shall be compelled under the provisions of this section to provide individual medical records of patients who are not clients of the state medicaid program, the state mediKan program or the state children's health insurance program. State and local governmental agencies are authorized and directed to provide to the inspector general requested information, assistance or cooperation.

(e) Except as otherwise provided in this section, the inspector general and all employees and former employees of the office of inspector general shall be subject to the same duty of confidentiality imposed by law on any such person or agency with regard to any such information, and shall be subject to any civil or criminal penalties imposed by law for violations of such duty of confidentiality. The duty of confidentiality imposed on the inspector general and all employees and former employees of the office of inspector general shall be subject to the provisions of subsection (f), and the inspector general may furnish all such information to the attorney general, Kansas bureau of investigation or office of the United States attorney in Kansas pursuant to subsection (f). Upon receipt thereof, the attorney general, Kansas bureau of investigation or office of the United States attorney in Kansas and all assistants and all other employees and former employees of such offices shall be subject to the same duty of confidentiality with the exceptions that any such information may be disclosed in criminal or other proceedings which may be instituted and prosecuted by the attorney general or the United States attorney in Kansas, and any such information furnished to the attorney general, the Kansas bureau of investigation or the United States attorney in Kansas under subsection (f) may be entered into evidence in any such proceedings.

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

(g) To carry out the duties as described in this section, the inspector general and the inspector general's designees shall have the power to compel by subpoena the attendance and testimony of witnesses and the production of books, electronic records and papers as directly related to such programs administered by the ~~Kansas health policy authority~~*department of health and environment*. Access to contractor files shall be limited to those files necessary to verify the accuracy of the contractor's invoices or its compliance with the contract provisions. No health care provider shall be compelled to provide individual medical records of patients who are not clients of the ~~authority~~*department*.

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

(i) The inspector general shall make annual reports, findings and recommendations regarding the office's investigations into reports of fraud, waste, abuse and illegal acts relating to any such programs administered by the ~~Kansas health policy authority~~*director of health care finance* to the executive director of the ~~Kansas health policy authority~~*secretary of health*

and environment, the legislative post auditor, the committee on ways and means of the senate, the committee on appropriations of the house of representatives, the joint committee on health policy oversight and the governor. These reports shall include, but not be limited to, the following information:

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

(j) Based upon the inspector general's findings under subsection (c), the inspector general may make such recommendations to the ~~Kansas health policy authority~~ *department of health and environment* or the legislature for changes in law, rules and regulations, policy or procedures as the inspector general deems appropriate to carry out the provisions of law or to improve the efficiency of such programs administered by the ~~Kansas health policy authority~~ *department of health and environment*. The inspector general shall not be required to obtain permission or approval from any other official or ~~authority~~ *department* prior to making any such recommendation.

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

(2) No person shall:

- (A) Prohibit any agent, employee, contractor or subcontractor from reporting any information under subsection (k)(1); or
- (B) require any such agent, employee, contractor or subcontractor to give notice to the person prior to making any such report.

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

- (A) Prohibiting an employer from requiring that an employee inform the employer as to legislative or auditing agency requests for information or the substance of testimony made, or to be made, by the employee to legislators or the auditing agency, as the case may be, on behalf of the employer;
- (B) permitting an employee to leave the employee's assigned work areas during normal work hours without following applicable rules and regulations and policies pertaining to leaves, unless the employee is requested by a legislator or legislative committee to appear before a legislative committee or by an auditing agency to appear at a meeting with officials of the auditing agency;

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

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

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

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

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

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

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

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

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

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

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

(2) the health benefits program for children established under K.S.A. 38-2001 *et seq.*, and amendments thereto, and developed and submitted in accordance with federal guidelines established under title XXI of the

federal social security act, section 4901 of public law 105-33, 42 U.S.C. § 1397aa *et seq.*, and amendments thereto; and

(3) the state mediKan program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) For the purpose of this section:

(1) “Association” means a small business or an organization of persons having a common interest; and

(2) “small business” means any business that employs 50 or less employees.

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

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

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

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

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

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

(4) ~~“Authority” means the Kansas health policy authority.~~

~~(5)~~ “Agent” means the Kansas department on aging.

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

(b) (1) Except as otherwise provided in this section and in subsection (f), there is hereby imposed and the ~~authority~~*secretary of health and environment* shall assess an annual assessment per licensed bed, hereinafter called a quality care assessment, on each skilled nursing care facility. The assessment on all facilities in the aggregate shall be an amount fixed by rules and regulations of the ~~authority~~*secretary of health and environment*, shall not exceed \$1,950 annually per licensed bed, shall be imposed as an amount per licensed bed and shall be imposed uniformly on all skilled nursing care facilities except that the assessment rate for skilled nursing care facilities that are part of a continuing care retirement facility, small skilled nursing care facilities and high medicaid volume skilled nursing care facilities shall not exceed 1/6 of the actual amount assessed all other skilled nursing care facilities. No rules and regulations of the ~~authority~~*secretary of health and environment* shall grant any exception to or exemption from the quality care assessment. The assessment shall be paid quarterly, with one fourth of the annual amount due by the 30th day after the end of the month of each calendar quarter. The ~~authority~~*secretary of health and environment* is authorized to establish delayed payment schedules for skilled nursing care facilities which are unable to make quarterly payments when due under this section due to financial difficulties, as determined by the ~~authority~~*secretary of health and environment*. The assessment made for years subsequent to the third year from the date the provisions of this section are implemented shall not exceed 60% of the first assessment made under this section. As used in this subsection (b)(1), the terms “small skilled nursing care facilities” and “high medicaid volume skilled nursing care facilities” shall have the meanings ascribed thereto by the ~~authority~~*secretary of health and environment* by rules and regulations, except that the definition of small skilled nursing care facility shall not be lower than 40 beds.

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

(3) If an entity conducts, operates or maintains more than one li-

censed skilled nursing care facility, the entity shall pay the nursing facility assessment for each facility separately. No skilled nursing care facility shall create a separate line-item charge for the purpose of passing through the quality care assessment to residents. No skilled nursing care facility shall be guaranteed, expressly or otherwise, that any additional moneys paid to the facility under this section will equal or exceed the amount of its quality care assessment.

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

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

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

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

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

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

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

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

(B) to increase nursing facility payments to fund covered services to

medicaid beneficiaries within medicare upper payment limits, as may be negotiated;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) The medicaid plan amendment, which increases the rates of payments made to skilled nursing care facilities for providing services pur-

suant to the federal medicaid program and which is proposed for approval for purposes of subsections (a) through (h) is not approved by the federal centers for medicare and medicaid services;

(B) the rates of payments made to skilled nursing care facilities for providing services pursuant to the federal medicaid program are reduced below the rates calculated on December 31, 2009, increased by revenues in the quality care fund and matched by federal financial participation and rebasing as provided for in K.S.A. 2011 Supp. 75-5958, and amendments thereto;

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

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

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

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

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

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

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

(k) For purposes of administering and selecting the reimbursements of moneys in the quality care assessment fund, the quality care improvement panel is hereby established. The panel shall consist of the following members: Two persons appointed by Kansas homes and services for the aging; two persons appointed by the Kansas health care association; one person appointed by Kansas advocates for better care; one person appointed by the Kansas hospital association; one person appointed by the governor who is a member of the Kansas adult care executives association; one person appointed by the governor who is a skilled nursing care facility resident or the family member of such a resident; one person appointed by the Kansas foundation for medical care; one person appointed by the governor from the department on aging; and one person appointed by the governor from the ~~Kansas health policy authority~~ *department of health and environment*. The person appointed by the governor from the department on aging and the person appointed by the governor from the ~~Kansas health policy authority~~ *department of health and environment* shall be nonvoting members of the panel. The panel shall meet as soon as possible subsequent to the effective date of this act and shall elect a chairperson from among the members appointed by the trade organizations specified in this subsection. The members of the quality care improvement panel shall serve without compensation or expenses. The quality care improvement panel shall report annually on or before January 10 to the joint committee on health policy oversight and the legislature concerning the activities of the panel during the preceding calendar year and any recommendations which the panel may have concerning the administration of and expenditures from the quality care assessment fund.

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

Sec. 54. K.S.A. 2011 Supp. 75-7436 is hereby amended to read as

follows: 75-7436. (a) As used in this section, unless the context requires otherwise:

~~(1)~~ “~~Authority~~” means the Kansas health policy authority.

~~(2)~~ “Developmental disability” is as defined in K.S.A. 39-1803, and amendments thereto, under the Kansas developmental disabilities reform act.

~~(3)~~(2) “Entity” means individual, corporation, partnership, limited liability company, joint venture or other legal entity.

~~(4)~~(3) “Gross revenues” means the revenues received by waiver providers for furnishing services to individuals with developmental disabilities who qualify for the waiver program with eligibility criteria and scope of services not less than those in effect as of January 1, 2011; the revenues received by waiver providers from or on behalf of individuals with developmental disabilities who qualify for the waiver program but for whom the services defined under the waiver program are not reimbursed through such waiver; and, the revenues received by waiver providers from or on behalf of individuals with developmental disabilities who do not qualify for the waiver program but for whom receive the same services offered under such waiver. Gross revenues does not include revenues received for services to individuals with developmental disabilities funded exclusively by state or local governments, or any revenues received for furnishing services to individuals who are not developmentally disabled, or charitable donations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) No moneys credited to the fund shall be transferred to or otherwise revert to the state general fund at any time. Notwithstanding the provisions of any other law to the contrary, if any moneys credited to the

quality based community assessment fund are transferred or otherwise revert to the state general fund, 30 days following the transfer or reversion, the waiver provider assessment shall terminate and the ~~authority~~ *secretary of health and environment* shall discontinue the imposition, assessment and collection of the assessment. Upon termination of the assessment, any collected assessment revenues, including any moneys transferred or otherwise reverting to the state general fund which resulted in the termination of the assessment, less any administrative expenses incurred by the ~~authority~~ *department of health and environment* under paragraph (2), shall be returned on a *pro rata* basis to waiver providers who paid the assessment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Prior to adopting any rule and regulation which establishes any permanent prior authorization on a prescription-only drug pursuant to

K.S.A. 39-7,120, and amendments thereto, or which concerns coverage or reimbursement for pharmaceuticals under the pharmacy program of the state medicaid plan, and after such rule and regulation has been approved by the secretary of administration and the attorney general, the ~~Kansas health policy authority~~ *secretary of health and environment* shall give at least 30 days' notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations created pursuant to K.S.A. 77-436, and amendments thereto. All other provisions of subsection (a)(1) shall apply to such rules and regulations, except that the statement required by subsection (a)(1)(E) shall state that the period of 30 days' notice constitutes a public comment period on such rules and regulations.

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

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

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

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

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

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

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

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

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

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

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

(d) When, pursuant to this or any other statute, a state agency holds a hearing on the adoption of a proposed rule and regulation, the agency shall cause written minutes or other records, including a record maintained on sound recording tape or on any electronically accessed media or any combination of written or electronically accessed media records of the hearing to be made. If the proposed rule and regulation is adopted and becomes effective, the state agency shall maintain, for not less than three years after its effective date, such minutes or other records, together with any recording, transcript or other record made of the hearing and a list of all persons who appeared at the hearing and who they represented,

any written testimony presented at the hearing and any written comments submitted during the public comment period.

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

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

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

Sec. 57. K.S.A. 22-4612 and K.S.A. 2011 Supp. 2-224a, 38-2001, 38-2006, 39-760, 39-7,116, 39-7,118, 39-7,119, 39-7,120, 39-7,121, 39-7,121a, 39-7,121d, 39-7,121e, 39-7,159, 39-968, 40-2134, 40-2136, 40-2251, 40-2252, 40-4702, 40-4706, 46-3501, 65-435a, 65-1685, 65-6208, 65-6801, 65-6803, 65-6804, 65-6805, 65-6806, 65-6807, 65-6809, 65-7405, 75-37,121, 75-5601, 75-6102, 75-7401, 75-7402, 75-7403, 75-7404, 75-7405, 75-7408, 75-7409, 75-7410, 75-7411, 75-7412, 75-7413, 75-7414, 75-7415, 75-7416, 75-7417, 75-7418, 75-7419, 75-7420, 75-7421, 75-7422, 75-7423, 75-7424, 75-7425, 75-7426, 75-7427, 75-7428, 75-7429, 75-7430, 75-7433, 75-7435, 75-7436 and 77-421 are hereby repealed.

Sec. 58. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE concurred in
SENATE amendments _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.