

Executive Reorganization Order No. 38

By Governor Sam Brownback

1-27

1 Section 1. (a) There is hereby established, within the department of
2 health and environment, the division of health care finance. The head of
3 the division shall be director of health care finance, who shall be
4 appointed by and serve at the pleasure of the secretary of health and
5 environment. The director shall be in the unclassified service under the
6 Kansas civil service act and shall receive an annual salary fixed by the
7 secretary of health and environment and approved by the governor.

8 (b)(1) The secretary of health and environment shall appoint, in
9 accordance with the provisions of the Kansas civil service act, such
10 employees as may be needed, in the judgment of the secretary and
11 director, to carry out the powers and duties of the division of health care
12 finance.

13 (2) All officers and employees of the division of health care finance
14 shall act for and exercise the powers of the director of health care finance
15 to the extent that authority to do so is delegated by the secretary and
16 director. Subject to the provisions of this order, the secretary and director
17 may organize the division of health care finance in the manner deemed
18 most efficient.

19 Sec. 2. (a) The Kansas health policy authority created by K.S.A.
20 2010 Supp. 75-7401, and amendments thereto, is hereby abolished.

21 (b) Except as otherwise provided by this order, all powers, duties,
22 and functions of the Kansas health policy authority under K.S.A. 2010
23 Supp. 75-7401 *et seq.*, and amendments thereto, or any other statute, are
24 hereby transferred to and imposed upon the department of health and
25 environment and its division of health care finance and the secretary and
26 the director of health care finance.

27 (c) Except as otherwise provided by this order, all powers, duties,
28 and functions of any state agency, department, board, commission or
29 council, providing services and creating systems in order to comply with
30 the provisions of the patient protection and affordable care act, Public
31 Law 111-148, 124 Stat. 119 (2010), and the health care and education
32 reconciliation act of 2010, Public Law 111-152, 124 Stat. 1029 (2010),
33 are hereby transferred to and imposed upon the department of health and
34 environment and its division of health care finance and the secretary and
35 the director of health care finance or their designees.

36 Sec. 3. (a) The department of health and environment and its

1 division of health care finance shall be the successor in every way to the
2 powers, duties and functions of the Kansas health policy authority in
3 which the same were vested prior to the effective date of this order and
4 that are transferred pursuant to section 2 of this order. Every act
5 performed in the exercise of such transferred powers, duties and functions
6 by or under the authority of the department of health and environment
7 and its division of health care finance or the secretary or the director of
8 health care finance shall be deemed to have the same force and effect as if
9 performed by the Kansas health policy authority in which such powers,
10 duties, and functions were vested prior to the effective date of this order.

11 (b) The department of health and environment and its division of
12 health care finance or designees appointed by the secretary or the director
13 of health care finance shall be the successor in every way to the powers,
14 duties, and functions of any state agency, department, board, commission
15 or council, providing services and creating systems in order to comply
16 with the provisions of the patient protection and affordable care act,
17 Public Law 111-148, and the health care and education reconciliation act
18 of 2010, Public Law 111-152, and that are transferred pursuant to section
19 2 of this order. Every act performed in the exercise of such transferred
20 powers, duties, and functions by or under the authority of the department
21 of health and environment and its division of health care finance shall be
22 deemed to have the same force and effect as if performed by any state
23 agency, department, board, commission or council in which such powers,
24 duties, and functions were vested prior to the effective date of this order.

25 (c) Whenever the Kansas health policy authority or words of like
26 effect are referred to or designated by a statute, contract, memorandum of
27 agreement or other document and such reference is in regard to any of the
28 powers, duties or functions transferred to the department of health and
29 environment and its division of health care finance, such reference or
30 designation shall be deemed to apply to the department of health and
31 environment and its division of health care finance.

32 (d) All rules and regulations, orders and directives of the Kansas
33 health policy authority which relate to the functions transferred by this
34 order, and which are in effect on the effective date of this order, shall
35 continue to be effective and shall be deemed to be rules and regulations,
36 orders and directives of the secretary of health and environment until
37 revised, amended, revoked or nullified pursuant to law.

38 Sec. 4. (a) The balances of all funds or accounts thereof
39 appropriated or reappropriated for the Kansas health policy authority or
40 any state agency, department, board, commission or council, relating to
41 the powers, duties and functions transferred by this order are hereby
42 transferred within the state treasury to the department of health and
43 environment for the division of health care finance and shall be used only

1 for the purpose for which the appropriation was originally made.

2 (b) Liability for all accrued compensation or salaries of officers and
3 employees who are transferred to the department of health and
4 environment and its division of health care finance under this order shall
5 be assumed and paid by the division of health care finance of the
6 department of health and environment.

7 Sec. 5. (a) When any conflict arises as to the disposition of any
8 property, power, duty or function or the unexpended balance of any
9 appropriation as a result of any abolition or transfer made by or under the
10 authority of this order, such conflict shall be resolved by the governor,
11 whose decision shall be final.

12 (b) The division of health care finance in the department of health
13 and environment shall succeed to all property, property rights and records
14 which were used for or pertain to the performance of powers, duties and
15 functions transferred to the division of health care finance in the
16 department of health and environment. Any conflict as to the proper
17 disposition of property, personnel or records arising under this order shall
18 be determined by the governor, whose decision shall be final.

19 Sec. 6. (a) No suit, action, or other proceeding, judicial or
20 administrative, lawfully commenced, or which could have been
21 commenced, by or against any state agency or program mentioned in this
22 order, or by or against any officer of the state in such officer's official
23 duties, shall abate by reason of the governmental reorganization effected
24 under the provisions of this order. The court may allow any such suit,
25 action or other proceeding to be maintained by or against the successor of
26 any such state agency or any officer affected.

27 (b) No criminal action commenced or which could have been
28 commenced by the state shall abate by the taking effect of this order.

29 Sec. 7. (a) All officers and employees of the Kansas health policy
30 authority who, immediately prior to the effective date of this order, are
31 engaged in the exercise and performance of the powers, duties and
32 functions transferred by this order, as well as all officers and employees
33 of the Kansas health policy authority who are determined by the director
34 of health care finance of the department of health and environment to be
35 engaged in providing administrative, technical or other support services
36 that are essential to the exercise and performance of the powers, duties
37 and functions transferred by this order, are hereby transferred to the
38 division of health care finance of the department of health and
39 environment. All classified officers and employees so transferred shall
40 retain their status as classified employees.

41 (b) Officers and employees of the Kansas health policy authority
42 transferred by this order shall retain all retirement benefits and leave
43 balances and rights which had accrued or vested prior to the date of

1 transfer. The service of each such officer or employee so transferred shall
2 be deemed to have been continuous. Any subsequent transfers, layoffs or
3 abolition of classified service positions under the Kansas civil service act
4 shall be made in accordance with the civil service laws and any rules and
5 regulations adopted thereunder. Nothing in this order shall affect the
6 classified status of any transferred person employed by the Kansas health
7 policy authority prior to the date of transfer.

8 (c) Notwithstanding the effective date of this order, the provisions of
9 this order prescribing the transfer of officers and employees from the
10 Kansas health policy authority abolished by this order to the division of
11 health care finance of the department of health and environment
12 established by this order, the date of transfer of each such officer or
13 employee shall commence at the start of a payroll period.

14 Sec. 8. Except as otherwise provided by this order, all of the
15 provisions of this order shall take effect and have the force of general law
16 on July 1, 2011, unless disapproved by either house of the Kansas
17 legislature as provided by subsection (c) of section 6 of article 1 of the
18 constitution of Kansas, and unless so disapproved, this order is to be
19 published as and with the acts of the legislature and the statutes of this
20 state.

21
22 DONE AT The Capitol in Topeka
23 Under the Great Seal of the
24 State of Kansas this 4th day
25 of February, 2011.
26

27 BY THE GOVERNOR
28 SAM BROWNBACK

29
30 Kris W. Kobach
31 *Secretary of State*

32
33 Kathy M. Sachs
34 *Assistant Secretary of State*