

## HOUSE BILL No. 2711

By Committee on Health and Human Services

2-14

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1 AN ACT concerning health and healthcare; relating to health insurance  
2 coverage; expanding medical assistance eligibility; implementing a  
3 health insurance plan reinsurance program; directing the department of  
4 health and environment to study certain medicaid expansion topics;  
5 adding meeting days to the Robert G. (Bob) Bethell joint committee on  
6 home and community based services and KanCare oversight to monitor  
7 implementation; making and concerning appropriations for the fiscal  
8 years ending June 30, 2020, June 30, 2021, and June 30, 2022;  
9 amending K.S.A. 65-6207, 65-6208, 65-6209, 65-6210, 65-6211, 65-  
10 6212, 65-6217 and 65-6218 and K.S.A. 2019 Supp. 39-7,160 and 40-  
11 3213 and repealing the existing sections.  
12

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

14 New Section 1. (a) Sections 1 through 13 and 16 through 19, and  
15 amendments thereto, shall be known and may be cited as the Kansas  
16 innovative solutions for affordable healthcare act.

17 (b) The legislature expressly consents to expand eligibility for receipt  
18 of benefits under the Kansas program of medical assistance, as required by  
19 K.S.A. 39-709(e)(2), and amendments thereto, by the passage and  
20 enactment of the act, subject to all requirements and limitations established  
21 in the act.

22 (c) The secretary of health and environment shall adopt rules and  
23 regulations as necessary to implement and administer the act.

24 (d) As used in sections 1 through 13 and 16 through 19, and  
25 amendments thereto, unless otherwise specified:

26 (1) "138% of the federal poverty level," or words of like effect,  
27 includes a 5% income disregard permitted under the federal patient  
28 protection and affordable care act.

29 (2) "Act" means the Kansas innovative solutions for affordable  
30 healthcare act.

31 New Sec. 2. (a) The secretary of health and environment and the  
32 insurance commissioner shall submit to the United States centers for  
33 medicare and medicaid services and the United States department of the  
34 treasury any state plan amendment, waiver request or other approval  
35 request necessary to implement the act. At least 10 calendar days prior to  
36 submission of any such approval request to the United States centers for

1 medicare and medicaid services or the United States department of the  
2 treasury, the secretary of health and environment or the insurance  
3 commissioner, as applicable, shall submit such approval request  
4 application to the state finance council.

5 (b) For purposes of eligibility determinations under the Kansas  
6 program of medical assistance on and after January 1, 2021, medical  
7 assistance shall be granted to any adult under 65 years of age who is not  
8 pregnant and whose income meets the limitation established in subsection  
9 (c), as permitted under the provisions of 42 U.S.C. § 1396a, as it exists on  
10 the effective date of the act, and subject to a 90% federal medical  
11 assistance percentage and all requirements and limitations established in  
12 the act.

13 (c) (1) The secretary of health and environment shall submit to the  
14 United States centers for medicare and medicaid services any approval  
15 request necessary to provide medical assistance eligibility to individuals  
16 described in subsection (b) whose modified adjusted gross income does  
17 not exceed 138% of the federal poverty level.

18 (2) (A) Following submission to and approval by the state finance  
19 council in accordance with sections 20 and 22, the insurance commissioner  
20 shall submit to the United States department of the treasury and the United  
21 States centers for medicare and medicaid services a waiver request under  
22 section 1332 of the federal patient protection and affordable care act, 42  
23 U.S.C. § 18052, as it exists on the effective date of the act, for a  
24 reinsurance program for health insurance plans sold in the Kansas  
25 individual market that are qualified health plans, as defined in 42 U.S.C. §  
26 18021(a). The insurance commissioner shall design the reinsurance  
27 program in coordination with the secretary of health and environment to  
28 offset any cost of the section 1115 waiver described in this paragraph to  
29 the United States government in order to meet federal budget neutrality  
30 requirements for medicaid waivers. The insurance commissioner shall  
31 implement the reinsurance program to begin on January 1, 2022.

32 (B) The secretary of health and environment shall submit to the  
33 United States centers for medicare and medicaid services a waiver request  
34 under section 1115 of the federal social security act, 42 U.S.C. § 1315, as  
35 it exists on the effective date of the act, to provide medical assistance  
36 eligibility to individuals described in subsection (b) whose modified  
37 adjusted gross income does not exceed 100% of the federal poverty level  
38 and to transition those individuals described in subsection (b) whose  
39 modified adjusted gross income is greater than 100% but does not exceed  
40 138% of the federal poverty level to health insurance plans on the health  
41 benefit exchange in Kansas established under the federal patient protection  
42 and affordable care act. The secretary of health and environment shall  
43 implement medical assistance eligibility under this subparagraph to begin

1 on January 1, 2022, in conjunction with the implementation of the  
2 reinsurance program under subparagraph (A).

3 (C) If the waiver request submission under subparagraph (A) is not  
4 approved by the state finance council in accordance with sections 20 and  
5 22, or if both waiver requests under subparagraphs (A) and (B) are not  
6 approved by the United States centers for medicare and medicaid services  
7 and the United States department of the treasury, as applicable, then  
8 medical assistance eligibility under the act shall continue to be determined  
9 in accordance with paragraph (1).

10 (d) The insurance commissioner shall identify and procure a  
11 contractor for services to prepare the section 1332 waiver for a reinsurance  
12 program described in this section. Such contractor shall have experience in  
13 developing and submitting section 1332 waivers for reinsurance programs.

14 New Sec. 3. (a) The secretary of health and environment shall refer  
15 each non-disabled adult applying for or receiving coverage under the act  
16 who is unemployed or working less than 20 hours per week to the  
17 Kansasworks program administered by the department of commerce. The  
18 secretary of commerce shall coordinate with the secretary of health and  
19 environment to certify to the secretary of health and environment each  
20 covered individual's compliance with this section. The secretary of  
21 commerce shall maintain a unique identifier for Kansasworks participants  
22 who are covered individuals under the act to track employment outcomes  
23 and progress toward employment.

24 (b) The secretary of health and environment shall evaluate each new  
25 applicant for coverage under the act for education status, employment  
26 status and any factors impacting the applicant's employment status, if less  
27 than full-time employment, and shall require each applicant to  
28 acknowledge the referral required under subsection (a). Such evaluation  
29 shall be a prerequisite for coverage under the act.

30 (c) A full-time student enrolled in a postsecondary educational  
31 institution or technical college, as defined by K.S.A. 74-3201b, and  
32 amendments thereto, shall be exempt from the referral required under  
33 subsection (a) for each year the student is enrolled in such educational  
34 setting.

35 (d) The secretary of health and environment shall report annually to  
36 the legislature, in coordination with the secretary of commerce, on or  
37 before the first day of each regular session of the legislature regarding the  
38 employment outcomes of covered individuals under the act.

39 New Sec. 4. (a) (1) Except to the extent prohibited by 42 U.S.C.  
40 1396o-1(a)(2) and (b)(3), as such provisions exist on the effective date of  
41 this act, the department of health and environment shall charge to each  
42 covered individual described in section 2(b), and amendments thereto, a  
43 monthly fee not to exceed \$25 per individual, but not to exceed a

1 maximum of \$100 per month per family household, as a condition of  
2 participation in the program. The department may grant a hardship  
3 exemption from payment of the monthly fee, as determined by the  
4 secretary of health and environment.

5 (2) The department of health and environment shall remit all moneys  
6 collected or received for monthly fees charged under this subsection,  
7 except for the federal share of such fees required to be remitted to the  
8 United States centers for medicare and medicaid services, to the state  
9 treasurer in accordance with K.S.A. 75-4215, and amendments thereto.  
10 Upon receipt of each such remittance, the state treasurer shall deposit the  
11 entire amount remitted into the state treasury to the credit of the state  
12 general fund.

13 (b) The department of health and environment shall utilize the debt  
14 collection procedures authorized by K.S.A. 75-6201 et seq., and  
15 amendments thereto, for a covered individual under the act who is  
16 delinquent by 60 days or more in making a monthly fee payment.

17 (c) The secretary of health and environment may require each  
18 managed care organization providing services under the act to collect the  
19 monthly fee charged under subsection (a) in lieu of the department.

20 (d) In January of each year, the secretary of health and environment  
21 shall submit to the house of representatives standing committee on health  
22 and human services and the senate standing committee on public health  
23 and welfare an accounts receivable report for monthly fees collected under  
24 this section during the preceding calendar year.

25 New Sec. 5. (a) The secretary of health and environment may  
26 establish a health insurance coverage premium assistance program for  
27 individuals who meet the following requirements:

28 (1) The individual has an annual income that is 100% or greater than,  
29 but does not exceed 138% of, the federal poverty level, based on the  
30 modified adjusted gross income provisions set forth in section 2001(a)(1)  
31 of the federal patient protection and affordable care act; and

32 (2) the individual is eligible for health insurance coverage through an  
33 employer but cannot afford the health insurance coverage premiums, as  
34 determined by the secretary of health and environment.

35 (b) A program established under this section shall:

36 (1) Contain eligibility requirements that are the same as in sections 2  
37 and 3, and amendments thereto; and

38 (2) provide that an individual's payment for a health insurance  
39 coverage premium may not exceed 2% of the individual's modified  
40 adjusted gross income, not to exceed 2% of the household's modified  
41 adjusted gross income in the aggregate with any premium charged to any  
42 other household member participating in the premium assistance program.

43 New Sec. 6. (a) Except to the extent prohibited by 42 U.S.C. §

1 1396u-2(a)(2), as it exists on the effective date of this act, the secretary of  
2 health and environment shall administer medical assistance benefits using  
3 a managed care delivery system using organizations subject to assessment  
4 of the privilege fee under K.S.A. 40-3213, and amendments thereto. If the  
5 United States centers for medicare and medicaid services determines that  
6 the assessment of a privilege fee provided in K.S.A. 40-3213, and  
7 amendments thereto, is unlawful or otherwise invalid, then the secretary of  
8 health and environment shall administer state medicaid services using a  
9 managed care delivery system.

10 (b) In awarding a contract for an entity to administer state medicaid  
11 services using a managed care delivery system, the secretary of health and  
12 environment shall:

13 (1) Not provide favorable or unfavorable treatment in awarding a  
14 contract based on an entity's for-profit or not-for-profit tax status;

15 (2) give preference in awarding a contract to an entity that provides  
16 health insurance coverage plans on the health benefit exchange in Kansas  
17 established under the federal patient protection and affordable care act; and

18 (3) require that any entity administering state medicaid services  
19 provide tiered benefit plans with enhanced benefits for covered individuals  
20 who demonstrate healthy behaviors, as determined by the secretary of  
21 health and environment, to be implemented on or before July 1, 2022.

22 New Sec. 7. If the federal medical assistance percentage for coverage  
23 of medical assistance participants described in section 1902(a)(10)(A)(i)  
24 (VIII) of the federal social security act, 42 U.S.C. § 1396a, as it exists on  
25 the effective date of this section, becomes lower than 90%, then the  
26 secretary of health and environment shall terminate coverage under the act  
27 over a 12-month period, beginning on the first day that the federal medical  
28 assistance percentage becomes lower than 90%. No individual shall be  
29 newly enrolled for coverage under the act after such date.

30 New Sec. 8. (a) Section 7, and amendments thereto, shall be  
31 nonseverable from the remainder of the act. If the provisions of section 7,  
32 and amendments thereto, are not approved by the United States centers for  
33 medicare and medicaid services, then the act shall be null and void and  
34 shall have no force and effect.

35 (b) A denial of federal approval or federal financial participation that  
36 applies to any provision of the act not enumerated in subsection (a) shall  
37 not prohibit the secretary of health and environment from implementing  
38 any other provision of the act.

39 New Sec. 9. (a) All moneys collected or received by the secretary of  
40 health and environment for privilege fees collected pursuant to K.S.A. 40-  
41 3213, and amendments thereto, connected to covered individuals under the  
42 act shall be remitted to the state treasurer in accordance with the  
43 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of

1 each such remittance, the state treasurer shall deposit the entire amount in  
2 the state treasury to the credit of the medicaid expansion privilege fee  
3 fund.

4 (b) There is hereby created in the state treasury the medicaid  
5 expansion privilege fee fund as a reappropriating fund. Moneys in the fund  
6 shall be expended for the purpose of medicaid medical assistance  
7 payments for covered individuals under the act. All expenditures from the  
8 fund shall be made in accordance with appropriation acts upon warrants of  
9 the director of accounts and reports issued pursuant to vouchers approved  
10 by the secretary of health and environment or the secretary's designee.

11 (c) The medicaid expansion privilege fee fund shall be used for the  
12 purposes set forth in the act and for no other governmental purposes. It is  
13 the intent of the legislature that the fund and the moneys deposited into the  
14 fund shall remain intact and inviolate for the purposes set forth in the act,  
15 and moneys in the fund shall not be subject to the provisions of K.S.A. 75-  
16 3722, 75-3725a and 75-3726a, and amendments thereto.

17 (d) On or before the 10<sup>th</sup> day of each month, the director of accounts  
18 and reports shall transfer from the state general fund to the medicaid  
19 expansion privilege fee fund interest earnings based on:

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

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

24 (e) On or before January 10, 2022, and on or before the first day of  
25 the regular session of the legislature each year thereafter, the secretary of  
26 health and environment shall prepare and deliver a report to the legislature  
27 that summarizes all expenditures from the medicaid expansion privilege  
28 fee fund, fund revenues and recommendations regarding the adequacy of  
29 the fund to support necessary program expenditures.

30 New Sec. 10. (a) On or before January 10, 2022, and on or before the  
31 first day of the regular session of the legislature each year thereafter, the  
32 secretary of health and environment shall prepare and deliver a report to  
33 the legislature that summarizes the cost savings achieved by the state from  
34 the movement of covered individuals from the KanCare program to  
35 coverage under the act, including, but not limited to, the MediKan  
36 program, the medically needy spend-down program and the breast and  
37 cervical cancer program.

38 (b) State cost savings shall be determined by calculating the cost of  
39 providing services to covered individuals in the KanCare program less the  
40 cost of services provided to covered individuals under the act.

41 New Sec. 11. (a) The secretary of corrections shall coordinate with  
42 county sheriffs who request assistance to assist in facilitating medicaid  
43 coverage for any state or county inmate incarcerated in a Kansas prison or

1 jail during any time period that the inmate is eligible for coverage.

2 (b) On or before January 10, 2022, and on or before the first day of  
3 the regular session of the legislature each year thereafter, the secretary of  
4 corrections shall prepare and deliver a report to the legislature that  
5 identifies cost savings to the state from the use of the act to provide  
6 medicaid reimbursement for inmate inpatient hospitalization.

7 New Sec. 12. On or before February 15 of each year, the secretary of  
8 health and environment shall present a report to the house of  
9 representatives standing committee on appropriations and the senate  
10 standing committee on ways and means that summarizes the costs of the  
11 act and the cost savings and additional revenues generated during the  
12 preceding fiscal year.

13 New Sec. 13. The legislative post audit committee shall direct the  
14 legislative division of post audit to conduct an audit of the direct economic  
15 impact of the implementation of the act on the state general fund during  
16 the first two fiscal years following implementation of the act. Such audit  
17 shall be submitted to the legislature on or before the first day of the regular  
18 legislative session immediately following the end of the audited time  
19 period.

20 New Sec. 14. (a) The department of health and environment shall  
21 remit all moneys received by the department of health and environment  
22 from drug rebates associated with medical assistance enrollees to the state  
23 treasurer in accordance with the provisions of K.S.A. 75-4215, and  
24 amendments thereto. Upon receipt of each such remittance, the state  
25 treasurer shall deposit the entire amount into the state treasury to the credit  
26 of the state general fund.

27 (b) The department of health and environment shall certify the  
28 amount of moneys received by such agency from drug rebates associated  
29 with medical assistance enrollees on a monthly basis and shall transmit  
30 each such certification to the director of legislative research and the  
31 director of the budget.

32 (c) Upon receipt of each such certification, the director of legislative  
33 research and the director of the budget shall include such certified amount  
34 on any monthly report prepared by the legislative research department or  
35 the division of the budget that details state general fund receipts as a  
36 separate item entitled "drug rebates" under a category of other revenue  
37 sources.

38 (d) This section shall take effect and be in force on and after July 1,  
39 2021.

40 New Sec. 15. (a) There is hereby established in the state treasury the  
41 federal medical assistance percentage stabilization fund to be administered  
42 by the secretary of health and environment. All expenditures from the  
43 federal medical assistance percentage stabilization fund shall be made in

1 accordance with appropriation acts upon warrants of the director of  
2 accounts and reports issued pursuant to vouchers approved by the  
3 secretary of health and environment or the secretary's designee.

4 (b) Notwithstanding the provisions of any other statute, the attorney  
5 general is hereby authorized and directed to remit to the state treasurer, in  
6 accordance with the provisions of K.S.A. 75-4215, and amendments  
7 thereto, any moneys that are recovered by the attorney general on behalf of  
8 the state in the civil action Texas v. United States, no. 7:15-cv-00151-O  
9 (N.D. Tex.). Upon receipt of each such remittance, the state treasurer shall  
10 deposit the entire amount into the state treasury to the credit of the federal  
11 medical assistance percentage stabilization fund.

12 (c) Beginning in fiscal year 2021, all transfers from the federal  
13 medical assistance percentage stabilization fund shall be used during any  
14 fiscal year to fund any additional title XIX costs incurred due to any  
15 decrease to the federal medical assistance percentage for the state of  
16 Kansas.

17 (d) Each fiscal year, on December 1 and June 30, beginning in fiscal  
18 year 2021, the secretary shall determine and certify the estimated amount  
19 of any reduced or increased title XIX costs incurred due to any increase or  
20 decrease to the federal medical assistance percentage for the state of  
21 Kansas in the current fiscal year. The secretary shall certify each such  
22 amount to the director of accounts and reports and shall transmit a copy of  
23 each such certification to the director of the budget and the director of  
24 legislative research. Upon receipt of any such certification indicating  
25 reduced costs, the director of accounts and reports shall transfer such  
26 certified amount of moneys from the state general fund to the federal  
27 medical assistance percentage stabilization fund. Upon receipt of any such  
28 certification indicating increased costs, the director of accounts and reports  
29 shall transfer such certified amount of moneys from the federal medical  
30 assistance percentage stabilization fund to the state general fund.

31 (e) The federal medical assistance percentage stabilization fund and  
32 any other moneys transferred pursuant to this section shall be used for the  
33 purposes set forth in this section and for no other governmental purposes.  
34 It is the intent of the legislature that the funds and the moneys deposited  
35 into this fund shall remain intact and inviolate for the purposes set forth in  
36 this section.

37 (f) As used in this section, "moneys that are recovered" includes  
38 damages, penalties, attorney fees, costs, disbursements, refunds, rebates or  
39 any other monetary payment made or paid by any defendant by reason of  
40 any judgment, consent decree or settlement, after payment of any costs or  
41 fees allocated by court order.

42 (g) On or before September 1 of each year, the secretary of health and  
43 environment shall submit an annual report to the legislature and the



1 legislative budget committee. The report shall include details of actual  
2 expenditures related to adjustments of the federal medical assistance  
3 percentage for the state of Kansas and all certified amounts transferred in  
4 and out of the federal medical assistance percentage stabilization fund.

5 New Sec. 16. (a) As used in this section:

6 (1) "Contractor" means a professional firm with experience in  
7 conducting rural hospital transformation projects and experience working  
8 in the state of Kansas.

9 (2) "Department" means the department of health and environment.

10 (3) "Implementation support" means support in implementing a  
11 transformation plan by one or more contractors in close collaboration with  
12 a target hospital.

13 (4) "Rural hospital" means a hospital located outside of a major urban  
14 or suburban area, but may be located within a metropolitan statistical area,  
15 as defined by the department.

16 (5) "Rural hospital transformation program" means a program  
17 administered by the department to support rural hospitals in assessing  
18 viability and identifying new delivery models, strategic partnerships and  
19 implementing financial reform, delivery system reform or operational  
20 changes that enable continued provision of healthcare services in and  
21 improving the health of rural communities.

22 (6) "Rural primary health center pilot initiative" means a program to  
23 support rural communities by preserving access to healthcare services and  
24 improving the health of the population through statutory and regulatory  
25 changes.

26 (7) "Target hospital" means a rural hospital determined to be eligible  
27 by the department for the rural hospital transformation program.

28 (8) "Transformation plan" means a strategic plan developed by one or  
29 more contractors in close collaboration with a target hospital and local  
30 community stakeholders to provide recommendations and actionable steps  
31 to preserve healthcare services in the target hospital's community.

32 (b) The department shall establish an advisory committee comprised  
33 of one or more representatives from each of the following: The department  
34 of health and environment; the department of labor; the state board of  
35 regents; the Kansas hospital association; the Kansas medical society; the  
36 community care network of Kansas; the association of community mental  
37 health centers of Kansas; the state board of healing arts; the Kansas farm  
38 bureau; the emergency medical services board; and other public and  
39 private stakeholders as deemed appropriate by the department.

40 (c) The department, in coordination with the advisory committee,  
41 shall establish and manage the rural hospital transformation program and  
42 shall identify one or more contractors to provide consultation to each  
43 approved target hospital for the creation of a transformation plan,

1 including:

2 (1) Assessing community health needs by analyzing patient access  
3 and utilization patterns and social determinants of health, including  
4 transportation, housing and food security, that impact health outcomes;

5 (2) understanding the landscape of rural healthcare, including  
6 hospital-based and outpatient services;

7 (3) developing hospital-specific strategic and operational  
8 transformation plans tailored to the target hospital and community to  
9 improve viability;

10 (4) providing support for the target hospital to implement the  
11 transformation plan; and

12 (5) engaging with local healthcare and other community leaders and  
13 residents to develop a holistic understanding of promising practices,  
14 opportunities and barriers to care.

15 (d) A target hospital may submit an application to the department for  
16 review and approval to receive consultation from identified contractors for  
17 the development of a transformation plan. Such application shall be made  
18 on a form and in a manner determined by the department, in coordination  
19 with the advisory committee.

20 (e) Each transformation plan shall be developed through coordination  
21 between the contractor, target hospital, target hospital community  
22 stakeholders and other appropriate stakeholders. The transformation plan  
23 shall include a timeline for implementation and shall be submitted to the  
24 department. The department shall receive periodic progress updates on the  
25 implementation of the transformation plan, as determined by the  
26 department, and monitor the progress of target hospitals.

27 (f) The department, in coordination with the advisory committee,  
28 shall identify state statutes and rules and regulations that may need to be  
29 amended or otherwise altered to permit eligible hospitals to participate in  
30 the rural primary health center pilot initiative.

31 (g) The department shall coordinate with the Kansas hospital  
32 association to submit an application to the United States centers for  
33 medicare and medicaid services to permit the establishment of the rural  
34 primary health center pilot initiative.

35 (h) The department shall provide periodic updates on the rural health  
36 transformation program and the rural primary health center pilot initiative  
37 to the house of representatives standing committee on health and human  
38 services and the senate standing committee on public health and welfare  
39 upon the request of each such committee.

40 New Sec. 17. (a) The insurance department shall analyze and prepare  
41 a report detailing any cost shifting from hospitals to commercial health  
42 insurance plans as a result of implementation of the Kansas innovative  
43 solutions for affordable healthcare act.

1 (b) The insurance department shall compile such report using data  
2 from the Kansas health insurance informations system, data calls and other  
3 data sources available to the department. Using such data, the insurance  
4 department shall determine a base rate paid to hospitals in Kansas for  
5 healthcare services from commercial insurance companies as a percentage  
6 of the current published medicare allowable rates established by the  
7 United States centers for medicare and medicaid services, categorized by  
8 the seven geographic rating areas in Kansas established by the United  
9 States centers for medicare and medicaid services.

10 (c) Such report shall include such data for the current calendar year  
11 and historical data for the 10 years prior to such year, except that such  
12 historical data shall not include data prior to calendar year 2018.

13 (d) Such report shall be submitted to the house of representatives  
14 standing committee on health and human services and the senate standing  
15 committee on public health and welfare on or before January 10, 2022, and  
16 on or before the first day of the regular session of the legislature each year  
17 thereafter.

18 New Sec. 18. (a) The insurance department shall study and prepare a  
19 report on any risks and benefits associated with converting the health  
20 benefit exchange operated in Kansas under the federal patient protection  
21 and affordable care act from a federally facilitated health benefit exchange  
22 to a state-based health benefit exchange. To assist with the completion of  
23 such study and report, the insurance department shall identify and procure  
24 a contractor with experience in developing a state-based health benefit  
25 exchange under the federal patient protection and affordable care act.

26 (b) Such study and report shall include, but not be limited to, any  
27 financial impacts to commercial health insurance premium rates from such  
28 conversion and any additional flexibility allowed to the state in plan  
29 design, benefits and income levels on a state-based health benefit  
30 exchange.

31 (c) Such study and report shall be submitted to the house of  
32 representatives standing committee on health and human services and the  
33 senate standing committee on public health and welfare on or before  
34 January 11, 2021.

35 New Sec. 19. (a) The secretary of health and environment, in  
36 coordination with the Kansas hospital association, Kansas medical society,  
37 community care network of Kansas and other private and public  
38 stakeholders as deemed appropriate by the secretary, shall establish a task  
39 force to develop a plan to measure and report uncompensated care  
40 provided by Kansas healthcare providers and hospitals when  
41 reimbursement for care provided to a patient is not collected.

42 (b) The task force shall define "uncompensated care" to include, but  
43 not be limited to:

1 (1) "Charity care," defined as expenses for care for which the hospital  
2 never expects to be reimbursed;

3 (2) "bad debt," defined as expenses incurred when a hospital cannot  
4 obtain reimbursement for services because the patient is unable or  
5 unwilling to pay for such services; and

6 (3) "uncompensated care," defined as the sum of bad debt and charity  
7 care expenses.

8 (c) The task force shall identify and research data elements that are  
9 already available, in order to minimize administrative burdens on  
10 healthcare providers and hospitals.

11 (d) Such report shall include such data for the current calendar year  
12 and historical data for the 10 years prior to such year, except that such  
13 historical data shall not include data prior to calendar year 2018.

14 (e) Such report shall be submitted to the house of representatives  
15 standing committee on health and human services and the senate standing  
16 committee on public health and welfare on or before January 10, 2022, and  
17 on or before the first day of the regular session of the legislature each year  
18 thereafter.

19 New Sec. 20.

#### 20 INSURANCE DEPARTMENT

21 (a) Notwithstanding the provisions of K.S.A. 39-709(e)(2) or 40-112,  
22 and amendments thereto, or any other statute to the contrary, during the  
23 fiscal years ending June 30, 2020, and June 30, 2021, in addition to the  
24 other purposes for which expenditures may be made by the above agency  
25 from moneys appropriated from the insurance department service  
26 regulation fund for fiscal years 2020 and 2021 by section 47(a) of chapter  
27 68 of the 2019 Session Laws of Kansas, this or any other appropriation act  
28 of the 2020 regular session of the legislature, expenditures shall be made  
29 by the above agency from such moneys to:

30 (1) (A) Study any risks and benefits associated with converting the  
31 health benefit exchange operated in Kansas under the federal patient  
32 protection and affordable care act from a federally facilitated health benefit  
33 exchange to a state-based health benefit exchange;

34 (B) procure the services of a contractor with experience in developing  
35 a state-based health benefit exchange in order to facilitate such study; and

36 (C) submit a report based on such study to the legislature on or before  
37 January 11, 2021; and

38 (2) (A) prepare a waiver request under section 1332 of the federal  
39 patient protection and affordable care act, 42 U.S.C. § 18052, as it exists  
40 on the effective date of the act, including any required actuarial analysis,  
41 for submission to the United States centers for medicare and medicaid  
42 services to implement a reinsurance program for health insurance plans on  
43 the health benefit exchange in Kansas established under the federal patient

1 protection and affordable care act, except that such request shall not be  
2 submitted without authorization by the state finance council in accordance  
3 with section 22;

4 (B) procure the services of a contractor with experience in developing  
5 section 1332 waivers for reinsurance programs to prepare such waiver  
6 request;

7 (C) develop such waiver request in coordination with the secretary of  
8 health and environment to offset costs associated with any potential  
9 expansion of medical assistance benefits, including scenarios for  
10 expansion for individuals with a modified adjusted gross income not  
11 exceeding 100% and 138% of the federal poverty level;

12 (D) determine the extent to which a \$35 million annual appropriation  
13 for a health insurance plan reinsurance program would decrease health  
14 insurance premiums on the health benefit exchange in Kansas; and

15 (E) not later than 150 days after the effective date of this act, submit  
16 such prepared waiver request and actuarial analysis to the state finance  
17 council for approval prior to submission to the United States centers for  
18 medicare and medicaid services.

19 New Sec. 21.

20 DEPARTMENT OF HEALTH AND ENVIRONMENT –  
21 DIVISION OF HEALTH CARE FINANCE

22 (a) During the fiscal years ending June 30, 2020, and June 30, 2021,  
23 in addition to the other purposes for which expenditures may be made by  
24 the above agency from moneys appropriated from the state general fund or  
25 from any special revenue fund or funds for fiscal years 2020 and 2021 by  
26 section 81 of chapter 68 of the 2019 Session Laws of Kansas, this or any  
27 other appropriation act of the 2020 regular session of the legislature,  
28 expenditures shall be made by the above agency from such moneys to  
29 submit to the United States centers for medicare and medicaid services,  
30 prior to January 1, 2021, a waiver request to allow for medicaid  
31 reimbursement for inpatient psychiatric acute care.

32 (b) On the effective date of this act, the provisions of section 81(l) of  
33 chapter 68 of the 2019 Session Laws of Kansas shall be null and void and  
34 shall have no force and effect.

35 New Sec. 22.

36 STATE FINANCE COUNCIL

37 (a) There is appropriated for the above agency from the state general  
38 fund for the fiscal year ending June 30, 2022, the following:

39 Health insurance plan reinsurance..... \$35,000,000

40 *Provided*, That all moneys in the health insurance plan reinsurance account  
41 shall be used for the insurance department to implement the health  
42 insurance plan reinsurance program established by the Kansas innovative  
43 solutions for affordable healthcare act and section 21: *Provided further*,

1 That the state finance council is hereby authorized to approve the  
2 implementation of the health benefit reinsurance program to commence on  
3 January 1, 2022: *And provided further*, That the state finance council acting  
4 on this matter is hereby characterized as a matter of legislative delegation  
5 and subject to the guidelines prescribed in K.S.A. 75-3711c(c), and  
6 amendments thereto, except that the state finance council may act upon  
7 such matter while the legislature is in session.

8 New Sec. 23. (a) A health insurer that offers a health benefit plan  
9 issued or issued for delivery in this state that provides medical, surgical or  
10 hospital expense coverage shall:

11 (1) If the health benefit plan offers coverage for a policyholder's  
12 dependents, offer such dependent coverage, at the option of the  
13 policyholder, until the policyholder's dependent child attains the age of 26  
14 years;

15 (2) accept every individual who applies for coverage, regardless of  
16 the existence of a preexisting condition;

17 (3) establish no lifetime limits on the dollar value of benefits for any  
18 participant or beneficiary; and

19 (4) provide coverage for the following essential health benefits:

20 (A) Ambulatory patient services;

21 (B) emergency services;

22 (C) hospitalization;

23 (D) pregnancy, maternity and newborn care;

24 (E) mental health and substance use disorder services, including  
25 behavioral health treatment;

26 (F) prescription drugs;

27 (G) rehabilitative and habilitative services and devices;

28 (H) laboratory services; and

29 (I) pediatric services, including oral and vision care.

30 (b) As used in this section:

31 (1) "Health benefit plan" means the same as set forth in K.S.A. 40-  
32 4602, and amendments thereto. "Health benefit plan" also includes the  
33 state employees healthcare benefits plan.

34 (2) "Health insurer" means the same as set forth in K.S.A. 40-4602, and  
35 amendments thereto.

36 (c) Nothing in this section shall be construed to prohibit a health  
37 insurer from:

38 (1) Providing healthcare benefits in excess of the benefits described  
39 in this section; or

40 (2) implementing a preexisting condition waiting period, not to  
41 exceed 90 days, whether the condition is mental or physical, regardless of  
42 the cause of the condition for which medical advice, diagnosis, care or  
43 treatment was recommended or received in the 90 days prior to the

1 effective date of enrollment. Any such waiting period shall run  
2 concurrently with any waiting period for benefits.

3 (d) The commissioner of insurance may adopt all rules and  
4 regulations necessary to administer and oversee the provisions of this  
5 section. All such rules and regulations shall be adopted by January 1, 2021.

6 Sec. 24. K.S.A. 2019 Supp. 39-7,160 is hereby amended to read as  
7 follows: 39-7,160. (a) There is hereby established the Robert G. (Bob)  
8 Bethell joint committee on home and community based services and  
9 KanCare oversight. The joint committee shall review the number of  
10 individuals who are transferred from state or private institutions and long-  
11 term care facilities to the home and community based services and the  
12 associated cost savings and other outcomes of the money-follows-the-  
13 person program. The joint committee shall review the funding targets  
14 recommended by the interim report submitted for the 2007 legislature by  
15 the joint committee on legislative budget and use them as guidelines for  
16 future funding planning and policy making. The joint committee shall have  
17 oversight of savings resulting from the transfer of individuals from state or  
18 private institutions to home and community based services. As used in  
19 K.S.A. 2019 Supp. 39-7,159 through 39-7,162, and amendments thereto,  
20 "savings" means the difference between the average cost of providing  
21 services for individuals in an institutional setting and the cost of providing  
22 services in a home and community based setting. The joint committee shall  
23 study and determine the effectiveness of the program and cost-analysis of  
24 the state institutions or long-term care facilities based on the success of the  
25 transfer of individuals to home and community based services. The joint  
26 committee shall consider the issues of whether sufficient funding is  
27 provided for enhancement of wages and benefits of direct individual care  
28 workers and their staff training and whether adequate progress is being  
29 made to transfer individuals from the institutions and to move them from  
30 the waiver waiting lists to receive home and community based services.  
31 The joint committee shall review and ensure that any proceeds resulting  
32 from the successful transfer be applied to the system of provision of  
33 services for long-term care and home and community based services. The  
34 joint committee shall monitor and study the implementation and operations  
35 of the home and community based service programs, the children's health  
36 insurance program, the program for the all-inclusive care of the elderly  
37 and the state medicaid programs including, but not limited to, access to  
38 and quality of services provided and any financial information and  
39 budgetary issues. Any state agency shall provide data and information on  
40 KanCare programs, including, but not limited to, pay for performance  
41 measures, quality measures and enrollment and disenrollment in specific  
42 plans, KanCare provider network data and appeals and grievances made to  
43 the KanCare ombudsman, to the joint committee, as requested.

1 (b) The joint committee shall consist of 11 members of the legislature  
2 appointed as follows: (1) Two members of the house committee on health  
3 and human services appointed by the speaker of the house of  
4 representatives; (2) one member of the house committee on health and  
5 human services appointed by the minority leader of the house of  
6 representatives; (3) two members of the senate committee on public health  
7 and welfare appointed by the president of the senate; (4) one member of  
8 the senate committee on public health and welfare appointed by the  
9 minority leader of the senate; (5) two members of the house of  
10 representatives appointed by the speaker of the house of representatives,  
11 one of whom shall be a member of the house committee on appropriations;  
12 (6) one member of the house of representatives appointed by the minority  
13 leader of the house of representatives; and (7) two members of the senate  
14 appointed by the president of the senate, one of whom shall be a member  
15 of the senate committee on ways and means.

16 (c) Members shall be appointed for terms coinciding with the  
17 legislative terms for which such members are elected or appointed. All  
18 members appointed to fill vacancies in the membership of the joint  
19 committee and all members appointed to succeed members appointed to  
20 membership on the joint committee shall be appointed in the manner  
21 provided for the original appointment of the member succeeded.

22 (d) (1) The members originally appointed as members of the joint  
23 committee shall meet upon the call of the member appointed by the  
24 speaker of the house of representatives, who shall be the first chairperson,  
25 within 30 days of the effective date of this act. The vice-chairperson of the  
26 joint committee shall be appointed by the president of the senate.  
27 Chairperson and vice-chairperson shall alternate annually between the  
28 members appointed by the speaker of the house of representatives and the  
29 president of the senate. The ranking minority member shall be from the  
30 same chamber as the chairperson. ~~On and after the effective date of this~~  
31 ~~act~~, *Except as provided in paragraph (2)*, the joint committee shall meet at  
32 least once in January and once in April when the legislature is in regular  
33 session and at least once for two consecutive days during each of the third  
34 and fourth calendar quarters, on the call of the chairperson, but not to  
35 exceed six meetings in a calendar year, except additional meetings may be  
36 held on call of the chairperson when urgent circumstances exist which  
37 require such meetings. Six members of the joint committee shall constitute  
38 a quorum.

39 (2) *During calendar year 2021 and calendar year 2022, the joint*  
40 *committee shall meet for one additional day per meeting in order to*  
41 *monitor the implementation of the Kansas innovative solutions for*  
42 *affordable healthcare act and to review the following topics relating to*  
43 *such implementation: Payment integrity and eligibility audits; baseline*



1 *and trend data detailing the amounts that hospitals are paid from*  
2 *commercial insurance plans as a percentage of medicare allowable rates*  
3 *established by the United States centers for medicare and medicaid*  
4 *services; outcomes related to section 3, and amendments thereto; health*  
5 *outcomes for individuals covered under the act; budget projections and*  
6 *actual expenditures related to implementation of the act; and expenses*  
7 *incurred by hospitals arising from charity care and services provided to*  
8 *patients who are unwilling or unable to pay for such services.*

9 (e) (1) At the beginning of each regular session of the legislature, the  
10 committee shall submit to the president of the senate, the speaker of the  
11 house of representatives, the house committee on health and human  
12 services and the senate committee on public health and welfare a written  
13 report on numbers of individuals transferred from the state or private  
14 institutions to the home and community based services including the  
15 average daily census in the state institutions and long-term care facilities,  
16 savings resulting from the transfer certified by the secretary for aging and  
17 disability services in a quarterly report filed in accordance with K.S.A.  
18 2019 Supp. 39-7,162, and amendments thereto, and the current balance in  
19 the home and community based services savings fund of the Kansas  
20 department for aging and disability services.

21 (2) Such report submitted under this subsection shall also include, but  
22 not be limited to, the following information on the KanCare program:

23 (A) Quality of care and health outcomes of individuals receiving state  
24 medicaid services under the KanCare program, as compared to the  
25 provision of state medicaid services prior to January 1, 2013;

26 (B) integration and coordination of health care procedures for  
27 individuals receiving state medicaid services under the KanCare program;

28 (C) availability of information to the public about the provision of  
29 state medicaid services under the KanCare program, including, but not  
30 limited to, accessibility to health services, expenditures for health services,  
31 extent of consumer satisfaction with health services provided and  
32 grievance procedures, including quantitative case data and summaries of  
33 case resolution by the KanCare ombudsman;

34 (D) provisions for community outreach and efforts to promote the  
35 public understanding of the KanCare program;

36 (E) comparison of the actual medicaid costs expended in providing  
37 state medicaid services under the KanCare program after January 1, 2013,  
38 to the actual costs expended under the provision of state medicaid services  
39 prior to January 1, 2013, including the manner in which such cost  
40 expenditures are calculated;

41 (F) comparison of the estimated costs expended in a managed care  
42 system of providing state medicaid services under the KanCare program  
43 after January 1, 2013, to the actual costs expended under the KanCare

1 program of providing state medicaid services after January 1, 2013;

2 (G) comparison of caseload information for individuals receiving  
3 state medicaid services prior to January 1, 2013, to the caseload  
4 information for individuals receiving state medicaid services under the  
5 KanCare program after January 1, 2013; and

6 (H) all written testimony provided to the joint committee regarding  
7 the impact of the provision of state medicaid services under the KanCare  
8 program upon residents of adult care homes.

9 (3) The joint committee shall consider the external quality review  
10 reports and quality assessment and performance improvement program  
11 plans of each managed care organization providing state medicaid services  
12 under the KanCare program in the development of the report submitted  
13 under this subsection.

14 (4) The report submitted under this subsection shall be published on  
15 the official website of the legislative research department.

16 (f) Members of the committee shall have access to any medical  
17 assistance report and caseload data generated by the Kansas department of  
18 health and environment division of health care finance. Members of the  
19 committee shall have access to any report submitted by the Kansas  
20 department of health and environment division of health care finance to  
21 the centers for medicare and medicaid services of the United States  
22 department of health and human services.

23 (g) Members of the committee shall be paid compensation, travel  
24 expenses and subsistence expenses or allowance as provided in K.S.A. 75-  
25 3212, and amendments thereto, for attendance at any meeting of the joint  
26 committee or any subcommittee meeting authorized by the committee.

27 (h) In accordance with K.S.A. 46-1204, and amendments thereto, the  
28 legislative coordinating council may provide for such professional services  
29 as may be requested by the joint committee.

30 (i) The joint committee may make recommendations and introduce  
31 legislation as it deems necessary in performing its functions.

32 Sec. 25. K.S.A. 2019 Supp. 40-3213 is hereby amended to read as  
33 follows: 40-3213. (a) Every health maintenance organization and medicare  
34 provider organization subject to this act shall pay to the commissioner the  
35 following fees:

36 (1) For filing an application for a certificate of authority, \$150;

37 (2) for filing each annual report, \$50;

38 (3) for filing an amendment to the certificate of authority, \$10.

39 (b) Every health maintenance organization subject to this act shall  
40 pay annually to the commissioner at the time such organization files its  
41 annual report, a privilege fee in an amount equal to ~~the following~~  
42 ~~percentages~~ 5.77% of the total of all premiums, subscription charges or  
43 any other term that may be used to describe the charges made by such

1 organization to enrollees: ~~3.31% during the reporting period beginning~~  
2 ~~January 1, 2015, and ending December 31, 2017; and 5.77% on and after~~  
3 ~~January 1, 2018.~~ In such computations all such organizations shall be  
4 entitled to deduct therefrom any premiums or subscription charges  
5 returned on account of cancellations and dividends returned to enrollees. If  
6 the commissioner shall determine at any time that the application of the  
7 privilege fee, or a change in the rate of the privilege fee, would cause a  
8 denial of, reduction in or elimination of federal financial assistance to the  
9 state or to any health maintenance organization subject to this act, the  
10 commissioner is hereby authorized to terminate the operation of such  
11 privilege fee or the change in such privilege fee.

12 (c) For the purpose of insuring the collection of the privilege fee  
13 provided for by subsection (b), every health maintenance organization  
14 subject to this act and required by subsection (b) to pay such privilege fee  
15 shall at the time it files its annual report, as required by K.S.A. 40-3220,  
16 and amendments thereto, make a return, generated by or at the direction of  
17 its chief officer or principal managing director, under penalty of K.S.A.  
18 2019 Supp. 21-5824, and amendments thereto, to the commissioner,  
19 stating the amount of all premiums, assessments and charges received by  
20 the health maintenance organization, whether in cash or notes, during the  
21 year ending on the last day of the preceding calendar year. Upon the  
22 receipt of such returns the commissioner of insurance shall verify such  
23 returns and reconcile the fees pursuant to subsection (f) upon such  
24 organization on the basis and at the rate provided in this section.

25 (d) Premiums or other charges received by an insurance company  
26 from the operation of a health maintenance organization subject to this act  
27 shall not be subject to any fee or tax imposed under the provisions of  
28 K.S.A. 40-252, and amendments thereto.

29 (e) Fees charged under this section shall be remitted to the state  
30 treasurer in accordance with the provisions of K.S.A. 75-4215, and  
31 amendments thereto. Upon receipt of each such remittance, *except as*  
32 *provided in section 9, and amendments thereto,* the state treasurer shall  
33 deposit the entire amount in the state treasury to the credit of the medical  
34 assistance fee fund created by K.S.A. 2019 Supp. 40-3236, and  
35 amendments thereto.

36 (f) (1) ~~On and after January 1, 2018,~~ In addition to any other filing  
37 or return required by this section, each health maintenance organization  
38 shall submit a report to the commissioner on or before March 31 and  
39 September 30 of each year containing an estimate of the total amount of all  
40 premiums, subscription charges or any other term that may be used to  
41 describe the charges made by such organization to enrollees that the  
42 organization expects to collect during the current calendar year. Upon  
43 filing each March 31 report, the organization shall submit payment equal

1 to ½ of the privilege fee that would be assessed by the commissioner for  
2 the current calendar year based upon the organization's reported estimate.  
3 Upon filing each September 30 report, the organization shall submit  
4 payment equal to the balance of the privilege fee that would be assessed by  
5 the commissioner for the current calendar year based upon the  
6 organization's reported estimates.

7 (2) Any amount of privilege fees actually owed by a health  
8 maintenance organization during any calendar year in excess of estimated  
9 privilege fees paid shall be assessed by the commissioner and shall be due  
10 and payable upon issuance of such assessment.

11 (3) Any amount of estimated privilege fees paid by a health  
12 maintenance organization during any calendar year in excess of privilege  
13 fees actually owed shall be reconciled when the commissioner assesses  
14 privilege fees in the ensuing calendar year. The commissioner shall credit  
15 such excess amount against future privilege fee assessments. Any such  
16 excess amount paid by a health maintenance organization that is no longer  
17 doing business in Kansas and that no longer has a duty to pay the privilege  
18 fee shall be refunded by the commissioner from funds appropriated by the  
19 legislature for such purpose.

20 Sec. 26. K.S.A. 65-6207 is hereby amended to read as follows: 65-  
21 6207. As used in K.S.A. 65-6207 ~~to~~ through 65-6220, ~~inclusive~~, and  
22 amendments thereto, ~~the following have the meaning respectively ascribed~~  
23 ~~thereto~~, unless the context requires otherwise:

24 (a) *"Annual hospital medicaid expansion support surcharge" means*  
25 *the product of the number of unduplicated medicaid expansion enrollees*  
26 *multiplied by \$233.*

27 (b) *"Assessment revenues" means the revenues generated directly by*  
28 *the assessment and surcharge imposed by K.S.A. 65-6208 and 65-6213,*  
29 *and amendments thereto, any penalty assessments and all interest credited*  
30 *to the fund under this act and any federal matching funds obtained*  
31 *through the use of such assessments, surcharges, penalties and interest*  
32 *amounts.*

33 (c) "Department" means the Kansas department for aging and  
34 disability services or the ~~Kansas~~ department of health and environment, or  
35 both.

36 ~~(b)~~(d) "Fund" means the health care access improvement fund.

37 ~~(e)~~(e) "Health maintenance organization" ~~has the meaning~~ means the  
38 same as provided in K.S.A. 40-3202, and amendments thereto.

39 ~~(d)~~(f) "Hospital" ~~has the meaning~~ means the same as provided in  
40 K.S.A. 65-425, and amendments thereto.

41 ~~(e)~~(g) "Hospital provider" means a person licensed by the department  
42 of health and environment to operate, conduct or maintain a hospital,  
43 regardless of whether the person is a federal medicaid provider.

1       (f)(h) "Pharmacy provider" means an area, premises or other site  
2 where drugs are offered for sale, where there are pharmacists, as defined in  
3 K.S.A. 65-1626, and amendments thereto, and where prescriptions, as  
4 defined in K.S.A. 65-1626, and amendments thereto, are compounded and  
5 dispensed.

6       ~~(g) "Assessment revenues" means the revenues generated directly by~~  
7 ~~the assessments imposed by K.S.A. 65-6208 and 65-6213, and~~  
8 ~~amendments thereto, any penalty assessments and all interest credited to~~  
9 ~~the fund under this act, and any federal matching funds obtained through~~  
10 ~~the use of such assessments, penalties and interest amounts.~~

11       (i) *"Unduplicated medicaid expansion enrollee" means each*  
12 *individual who becomes eligible for and enrolls in the Kansas program of*  
13 *medical assistance under K.S.A. 39-709(e)(2), and amendments thereto,*  
14 *and is eligible for a 90% federal medical assistance percentage pursuant*  
15 *to 42 U.S.C. § 1396d(y)(1).*

16       Sec. 27. K.S.A. 65-6208 is hereby amended to read as follows: 65-  
17 6208. (a) Subject to the provisions of K.S.A. 65-6209, and amendments  
18 thereto, an annual assessment on inpatient services is imposed on each  
19 hospital provider in an amount equal to 1.83% of each hospital's net  
20 inpatient operating revenue for the hospital's fiscal year 2010. In the event  
21 that a hospital does not have a complete twelve-month 2010 fiscal year, the  
22 assessment under this section shall be \$200,000 until such date that such  
23 hospital has completed the hospital's first twelve-month fiscal year. Upon  
24 completing such first twelve-month fiscal year, such hospital's assessment  
25 under this section shall be the amount equal to 1.83% of such hospital's net  
26 operating revenue for such first completed twelve-month fiscal year.

27       (b) *An annual hospital medicaid expansion support surcharge shall*  
28 *be imposed on each hospital provider in an amount equal to its*  
29 *proportionate share as determined by the healthcare access improvement*  
30 *panel in accordance with K.S.A. 65-6218(d), and amendments thereto,*  
31 *except that such surcharge shall not exceed \$35 million for any calendar*  
32 *year and no surcharge shall be imposed for any period after the federal*  
33 *medical assistance percentage described in 42 U.S.C. § 1396d(y)(1)*  
34 *becomes lower than 90%. Upon final approval, notice of the amount of*  
35 *such surcharge shall be transmitted by the healthcare access improvement*  
36 *panel to the department. Upon receipt of such notice, the department shall*  
37 *promptly provide notice to each hospital provider in accordance with*  
38 *K.S.A. 65-6211(b), and amendments thereto.*

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

43       Sec. 28. K.S.A. 65-6209 is hereby amended to read as follows: 65-

1 6209. (a) A hospital provider that is a state agency, the authority, as defined  
 2 in K.S.A. 76-3304, and amendments thereto, a state educational institution,  
 3 as defined in K.S.A. 76-711, and amendments thereto, or a critical access  
 4 hospital, as defined in K.S.A. 65-468, and amendments thereto, is exempt  
 5 from the assessment imposed by K.S.A. 65-6208(a), and amendments  
 6 thereto, *but not the surcharge imposed by K.S.A. 65-6208(b), and*  
 7 *amendments thereto.*

8 (b) A hospital operated by the department in the course of performing  
 9 its mental health or developmental disabilities functions is exempt from  
 10 the assessment imposed by K.S.A. 65-6208(a), and amendments thereto,  
 11 *but not the surcharge imposed by K.S.A. 65-6208(b), and amendments*  
 12 *thereto.*

13 Sec. 29. K.S.A. 65-6210 is hereby amended to read as follows: 65-  
 14 6210. (a) (1) The assessment *and surcharge* imposed by K.S.A. 65-6208,  
 15 and amendments thereto, for any state fiscal year to which this statute  
 16 applies shall be due and payable:

17 (A) *For an assessment imposed under K.S.A. 65-6208(a), and*  
 18 *amendments thereto,* in equal installments on or before June 30 and  
 19 December 31, commencing with whichever date first occurs after the  
 20 hospital has received payments for 150 days after the effective date of the  
 21 payment methodology approved by the *United States* centers for medicare  
 22 and medicaid services; *or*

23 (B) *for a surcharge imposed under K.S.A. 65-6208(b), and*  
 24 *amendments thereto, in equal installments on or before September 15 and*  
 25 *March 15.*

26 (2) No installment payment of an assessment under ~~this act~~ K.S.A.  
 27 65-6208(a), and amendments thereto, shall be due and payable, ~~however,~~  
 28 until after:

29 ~~(A)~~ (A) The hospital provider receives written notice from the  
 30 department that the payment methodologies to hospitals required under  
 31 this act have been approved by the *United States* centers for medicare and  
 32 medicaid services ~~of the United States department of health and human~~  
 33 ~~services~~ under 42 C.F.R. § 433.68 for the assessment imposed by K.S.A.  
 34 65-6208(a), and amendments thereto, ~~has been granted by the centers for~~  
 35 ~~medicare and medicaid services of the United States department of health~~  
 36 ~~and human services;~~ and

37 ~~(2)(B)~~ (B) in the case of a hospital provider, the hospital has received  
 38 payments for 150 days after the effective date of the payment methodology  
 39 approved by the *United States* centers for medicare and medicaid services.

40 (b) The department is authorized to establish delayed payment  
 41 schedules for hospital providers that are unable to make installment  
 42 payments when due under this section due to financial difficulties, as  
 43 determined by the department.

1 (c) (1) If a hospital provider fails to pay the full amount of an  
2 installment when due, including any extensions granted under this section,  
3 there shall be added to the assessment *or surcharge* imposed by K.S.A. 65-  
4 6208, and amendments thereto, unless waived by the department for  
5 reasonable cause, a penalty assessment equal to the lesser of:

6 ~~(+)~~(A) An amount equal to 5% of the installment amount not paid on  
7 or before the due date, plus 5% of the portion thereof remaining unpaid on  
8 the last day of each month thereafter; or

9 ~~(-)~~(B) an amount equal to 100% of the installment amount not paid  
10 on or before the due date.

11 (2) For purposes of *this* subsection~~(e)~~, payments will be credited first  
12 to unpaid installment amounts, rather than to penalty or interest amounts,  
13 beginning with the most delinquent installment.

14 (d) The effective date for the payment methodology applicable to  
15 hospital providers approved by the *United States* centers for medicare and  
16 medicaid services shall be ~~the date of~~ July 1 or January 1, whichever date  
17 is designated in the state plan submitted by the department of health and  
18 environment for approval by the *United States* centers for medicare and  
19 medicaid services.

20 Sec. 30. K.S.A. 65-6211 is hereby amended to read as follows: 65-  
21 6211. (a) After December 31 of each year, except as otherwise provided in  
22 this subsection, and on or before March 31 of the succeeding year, the  
23 department shall send a notice of assessment *imposed under K.S.A. 65-*  
24 *6208(a), and amendments thereto*, to every hospital provider subject to  
25 assessment under this act. ~~(b)~~—The hospital provider notice of assessment  
26 shall notify the hospital provider of its assessment for the state fiscal year  
27 commencing on the next July 1.

28 (b) *On or before August 15 and February 15 of each year, the*  
29 *department shall send a notice of surcharge imposed under K.S.A. 65-*  
30 *6208(b), and amendments thereto, to each hospital provider subject to the*  
31 *surcharge. The department shall send the first such notice on or before*  
32 *August 15, 2021.*

33 (c) If a hospital provider operates, conducts or maintains more than  
34 one licensed hospital in the state, the hospital provider shall pay~~the any~~  
35 *assessment or surcharge imposed under K.S.A. 65-6208(a) or (b), and*  
36 *amendments thereto*, for each hospital separately.

37 (d) Notwithstanding any other provision in this act, in the case of a  
38 person who ceases to operate, conduct or maintain a hospital~~in respect of~~  
39 *for which the person is subject to assessment in K.S.A. 65-6208(a), and*  
40 *amendments thereto*, as a hospital provider, the assessment for the state  
41 fiscal year in which the cessation occurs shall be adjusted by multiplying  
42 the assessment computed under K.S.A. 65-6208(a), and amendments  
43 thereto, by a fraction, the numerator of which is the number of the days

1 during the year during which the provider operates, conducts or maintains  
2 a hospital and the denominator of which is 365. Immediately upon ceasing  
3 to operate, conduct or maintain a hospital, the person shall pay the  
4 adjusted assessment for that state fiscal year, to the extent not previously  
5 paid.

6 (e) *Notwithstanding any other provision in this act, in the case of a*  
7 *person who ceases to operate, conduct or maintain a hospital for which*  
8 *the person is subject to surcharge in K.S.A. 65-6208(b), and amendments*  
9 *thereto, as a hospital provider, the surcharge for the six-month period in*  
10 *which the cessation occurs shall be adjusted by multiplying the surcharge*  
11 *computed under K.S.A. 65-6208(b), and amendments thereto, by a*  
12 *fraction, the numerator of which is the number of the days during the six*  
13 *months during which the provider operates, conducts or maintains a*  
14 *hospital and the denominator of which is the days in the same six-month*  
15 *period. Immediately upon ceasing to operate, conduct or maintain a*  
16 *hospital, the person shall pay the adjusted assessment for that six-month*  
17 *period, to the extent not previously paid.*

18 (f) Notwithstanding any other provision in this act, a person who  
19 commences operating, conducting or maintaining a hospital shall pay the  
20 assessment computed under ~~subsection (a)~~ of K.S.A. 65-6208(a), and  
21 amendments thereto, in installments on the due dates stated in the notice  
22 and on the regular installment due dates for the state fiscal year occurring  
23 after the due dates of the initial notice.

24 Sec. 31. K.S.A. 65-6212 is hereby amended to read as follows: 65-  
25 6212. (a) The assessment imposed by K.S.A. 65-6208(a), and amendments  
26 thereto, shall not take effect or shall cease to be imposed and any moneys  
27 remaining in the fund attributable to assessments imposed under K.S.A.  
28 65-6208(a), and amendments thereto, shall be refunded to hospital  
29 providers in proportion to the amounts paid by them if the payments to  
30 hospitals required under ~~subsection (a)~~ of K.S.A. 65-6218(a), and  
31 amendments thereto, are changed or are not eligible for federal matching  
32 funds under title XIX or XXI of the federal social security act.

33 (b) The assessment *and surcharge* imposed by K.S.A. 65-6208, and  
34 amendments thereto, shall not take effect or shall cease to be imposed if  
35 the assessment is determined to be an impermissible tax under title XIX of  
36 the federal social security act. Moneys in the health care access  
37 improvement fund *or the hospital medicaid expansion support surcharge*  
38 *fund* derived from assessments *or surcharges* imposed prior thereto shall  
39 be disbursed in accordance with ~~subsection (a)~~ of K.S.A. 65-6218, and  
40 amendments thereto, to the extent that federal matching is not reduced due  
41 to the impermissibility of the assessments *or surcharges*, and any  
42 remaining moneys shall be refunded to hospital providers in proportion to  
43 the amounts paid by them.



1       Sec. 32. K.S.A. 65-6217 is hereby amended to read as follows: 65-  
 2 6217. (a) There is hereby created in the state treasury the health care  
 3 access improvement fund, ~~which shall~~ to be administered by the secretary  
 4 of health and environment. All moneys received for the assessments  
 5 imposed by K.S.A. 65-6208(a) and 65-6213, and amendments thereto,  
 6 including any penalty assessments imposed thereon, shall be remitted to  
 7 the state treasurer in accordance with K.S.A. 75-4215, and amendments  
 8 thereto. Upon receipt of each such remittance, the state treasurer shall  
 9 deposit the entire amount in the state treasury to the credit of the health  
 10 care access improvement fund. All expenditures from the health care  
 11 access improvement fund shall be made in accordance with appropriation  
 12 acts upon warrants of the director of accounts and reports issued pursuant  
 13 to vouchers approved by the secretary of health and environment or the  
 14 secretary's designee.

15       (b) *There is hereby created in the state treasury the hospital medicaid*  
 16 *expansion support surcharge fund to be administered by the secretary of*  
 17 *health and environment. All moneys received for the surcharge imposed by*  
 18 *K.S.A. 65-6208(b), and amendments thereto, including any penalty*  
 19 *assessments imposed thereon, shall be remitted to the state treasurer in*  
 20 *accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt of*  
 21 *each such remittance, the state treasurer shall deposit the entire amount*  
 22 *into the state treasury to the credit of the hospital medicaid expansion*  
 23 *support surcharge fund. All expenditures from the hospital medicaid*  
 24 *expansion support surcharge fund shall be made in accordance with*  
 25 *appropriation acts upon warrants of the director of accounts and reports*  
 26 *issued pursuant to vouchers approved by the secretary of health and*  
 27 *environment or the secretary's designee.*

28       (c) ~~The fund funds~~ shall not be used to replace any moneys  
 29 appropriated by the legislature for the department's medicaid program.

30       ~~(e)(d)~~ ~~The fund is funds~~ are created for the purpose of receiving  
 31 moneys in accordance with this act and disbursing moneys only for the  
 32 purpose of improving health care delivery and related health activities,  
 33 notwithstanding any other provision of law.

34       ~~(d)(e)~~ (e) On or before the 10<sup>th</sup> day of each month, the director of  
 35 accounts and reports shall transfer from the state general fund to the health  
 36 care access improvement fund *and the hospital medicaid expansion*  
 37 *support surcharge fund* interest earnings based on:

38       (1) The average daily balance of moneys in ~~the health care access~~  
 39 ~~improvement~~ *each such* fund for the preceding month; and

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

42       ~~(e)(f)~~ (f) ~~The fund funds~~ shall consist of the following:

43       (1) All moneys collected or received by the department from the

1 hospital provider assessment *and surcharge* and the health maintenance  
2 organization assessment imposed by this act;

3 (2) any interest or penalty levied in conjunction with the  
4 administration of this act; and

5 (3) all other moneys received for the ~~fund~~ *funds* from any other  
6 source.

7 ~~(f)~~(g) (1) On July 1 of each fiscal year, the director of accounts and  
8 reports shall record a debit to the state treasurer's receivables for the health  
9 care access improvement fund and shall record a corresponding credit to  
10 the health care access improvement fund in an amount certified by the  
11 director of the budget ~~which~~ *that* shall be equal to the sum of 80% of the  
12 moneys estimated by the director of the budget to be received from the  
13 assessment imposed on hospital providers pursuant to K.S.A. 65-6208(a),  
14 and amendments thereto, and credited to the health care access  
15 improvement fund during such fiscal year, plus 53% of the moneys  
16 estimated by the director of the budget to be received from the assessment  
17 imposed on health maintenance organizations pursuant to K.S.A. 65-6213,  
18 and amendments thereto, and credited to the health care access  
19 improvement fund during such fiscal year, except that such amount shall  
20 be proportionally adjusted during such fiscal year with respect to any  
21 change in the moneys estimated by the director of the budget to be  
22 received for such assessments *under K.S.A. 65-6208(a) and 65-6213, and*  
23 *amendments thereto*, deposited in the state treasury and credited to the  
24 health care access improvement fund during such fiscal year. Among other  
25 appropriate factors, the director of the budget shall take into consideration  
26 the estimated and actual receipts from such assessments for the current  
27 fiscal year and the preceding fiscal year in determining the amount to be  
28 certified under this ~~subsection (f)~~ *paragraph*. All moneys received for the  
29 assessments imposed pursuant to K.S.A. 65-6208(a) and 65-6213, and  
30 amendments thereto, deposited in the state treasury and credited to the  
31 health care access improvement fund during a fiscal year shall reduce the  
32 amount debited and credited to the health care access improvement fund  
33 under this ~~subsection (f)~~ *paragraph* for such fiscal year.

34 (2) *On July 1 of each fiscal year, the director of accounts and reports*  
35 *shall record a debit to the state treasurer's receivables for the hospital*  
36 *medicaid expansion support surcharge fund and shall record a*  
37 *corresponding credit to the hospital medicaid expansion support*  
38 *surcharge fund in an amount certified by the director of the budget that*  
39 *shall be equal to 100% of the moneys estimated by the director of the*  
40 *budget to be received from any surcharge imposed on hospital providers in*  
41 *accordance with K.S.A. 65-6208(b), and amendments thereto, and credited*  
42 *to the hospital medicaid expansion support surcharge fund during such*  
43 *fiscal year, except that such amount shall be proportionally adjusted*

1 *during such fiscal year with respect to any change in the moneys estimated*  
2 *by the director of the budget to be received for such surcharge in*  
3 *accordance with K.S.A. 65-6208(b), and amendments thereto, deposited in*  
4 *the state treasury and credited to the hospital medicaid expansion support*  
5 *surcharge fund during such fiscal year. Among other appropriate factors,*  
6 *the director of the budget shall take into consideration the estimated and*  
7 *actual receipts from such surcharge for the current fiscal year and the*  
8 *preceding fiscal year in determining the amount to be certified under this*  
9 *paragraph. All moneys received for the surcharge imposed under K.S.A.*  
10 *65-6208(b), and amendments thereto, deposited in the state treasury and*  
11 *credited to the hospital medicaid expansion support surcharge fund during*  
12 *a fiscal year shall reduce the amount debited and credited to the hospital*  
13 *medicaid expansion support surcharge fund under this paragraph for such*  
14 *fiscal year.*

15 (3) On June 30 of each fiscal year, the director of accounts and  
16 reports shall adjust the amounts debited and credited to the state treasurer's  
17 receivables and to the health care access improvement fund *and the*  
18 *hospital medicaid expansion support surcharge fund* pursuant to this  
19 subsection-~~(f)~~, to reflect all moneys actually received for the assessments  
20 *and surcharge* imposed pursuant to K.S.A. 65-6208 and 65-6213, and  
21 amendments thereto, deposited in the state treasury and credited to the  
22 health care access improvement fund *and the hospital medicaid expansion*  
23 *support surcharge fund* during the current fiscal year.

24 ~~(3)(4)~~ The director of accounts and reports shall notify the state  
25 treasurer of all amounts debited and credited to the health care access  
26 improvement fund *and the hospital medicaid expansion support surcharge*  
27 *fund* pursuant to this subsection-~~(f)~~ and all reductions and adjustments  
28 thereto made pursuant to this subsection-~~(f)~~. The state treasurer shall enter  
29 all such amounts debited and credited and shall make reductions and  
30 adjustments thereto on the books and records kept and maintained for the  
31 health care access improvement fund by the state treasurer in accordance  
32 with the notice thereof.

33 Sec. 33. K.S.A. 65-6218 is hereby amended to read as follows: 65-  
34 6218. (a) Assessment revenues generated from the hospital provider  
35 assessments *under K.S.A. 65-6208(a), and amendments thereto*, shall be  
36 disbursed as follows:

37 (1) Not less than 80% of assessment revenues shall be disbursed to  
38 hospital providers through a combination of medicaid access improvement  
39 payments and increased medicaid rates on designated diagnostic related  
40 groupings, procedures or codes;

41 (2) not more than 20% of assessment revenues shall be disbursed to  
42 providers who are persons licensed to practice medicine and surgery or  
43 dentistry through increased medicaid rates on designated procedures and

1 codes; and

2 (3) not more than 3.2% of hospital provider assessment revenues  
3 shall be used to fund health care access improvement programs in  
4 undergraduate, graduate or continuing medical education, including the  
5 medical student loan act.

6 (b) Assessment revenues generated from the health maintenance  
7 organization assessment shall be disbursed as follows:

8 (1) Not less than 53% of health maintenance organization assessment  
9 revenues shall be disbursed to health maintenance organizations that have  
10 a contract with the department through increased medicaid capitation  
11 payments;

12 (2) not more than 30% of health maintenance organization  
13 assessment revenues shall be disbursed to fund activities to increase access  
14 to dental care, primary care safety net clinics, increased medicaid rates on  
15 designated procedures and codes for providers who are persons licensed to  
16 practice dentistry, and home and community-based services;

17 (3) not more than 17% of health maintenance organization  
18 assessment revenues shall be disbursed to pharmacy providers through  
19 increased medicaid rates.

20 (c) *Surcharge revenues generated from the hospital medicaid*  
21 *expansion support surcharge under K.S.A. 65-6208(b), and amendments*  
22 *thereto, shall be disbursed to offset the costs to the state related to*  
23 *medicaid expansion beneficiaries as calculated in K.S.A. 65-6207(a), and*  
24 *amendments thereto.*

25 (e)(d) For the purposes of administering and selecting the  
26 disbursements described in subsections (a) and (b) ~~of this section and~~  
27 ~~oversight of the calculation of the annual hospital medicaid expansion~~  
28 ~~support payment and any surcharge under K.S.A. 65-6208(b), and~~  
29 ~~amendments thereto,~~ the health care access improvement panel is hereby  
30 established. The panel shall consist of the following: Three members  
31 appointed by the Kansas hospital association, two members who are  
32 persons licensed to practice medicine and surgery appointed by the Kansas  
33 medical society, one member appointed by each health maintenance  
34 organization that has a medicaid managed care contract with the ~~Kansas~~  
35 ~~department for aging and disability services of health and environment,~~  
36 ~~one member appointed by the Kansas association for the medically~~  
37 ~~underserved, community care network of Kansas~~ and one representative of  
38 the department of health and environment appointed by the governor. The  
39 panel shall meet as soon as possible subsequent to the effective date of this  
40 act and shall elect a chairperson from among the members appointed by  
41 the Kansas hospital association.

42 (e) *The panel shall use the following procedure to approve collection*  
43 *of surcharge revenues under K.S.A. 65-6208(b) for each calendar year*

1 beginning with calendar year 2021 based upon the total number of  
2 unduplicated medicaid expansion enrollees for such year:

3 (1) By July 15, the department shall certify to the panel the total  
4 number of unduplicated medicaid expansion enrollees for the period  
5 beginning on January 1 and ending on June 30.

6 (2) The panel shall review the number certified by the department,  
7 consult with the department regarding any proposed deletions and certify  
8 the final number of unduplicated medicaid expansion enrollees for such  
9 period by August 1.

10 (3) Each hospital's share of the annual hospital medicaid expansion  
11 support surcharge shall be determined by the panel based upon such  
12 hospital's proportion of total hospital revenues, and the amount shall be  
13 certified to the department by August 15. The surcharge for any hospital  
14 that has not yet filed a medicare cost report shall pay the lowest surcharge  
15 payable by its hospital licensure category as defined by K.S.A. 65-425,  
16 and amendments thereto.

17 (4) For the period beginning on July 1 and ending on December 31,  
18 any additional unduplicated medicaid expansion enrollees who were not  
19 counted in the first half of the calendar year shall be certified to the panel  
20 by the department by January 15. The panel shall follow the same process  
21 as described in paragraphs (2) and (3). No enrollee shall be certified more  
22 than once in any calendar year.

23 (5) For purposes of this subsection, the total surcharge revenues to  
24 be certified for any calendar year shall not exceed \$35 million, and any  
25 annual hospital medicaid expansion support surcharge in excess of \$35  
26 million shall be disregarded.

27 (6) As used in this subsection:

28 (A) "Total hospital revenues" means the sum of inpatient and  
29 outpatient revenues for all hospital providers as reflected in the applicable  
30 medicare cost report.

31 (B) "Applicable medicare cost report" means, for calendar year  
32 2021, such report filed by each hospital for calendar year 2016 or, if the  
33 hospital did not file a medicare cost report for calendar year 2016, the  
34 first year that the hospital filed a medicare cost report. For each calendar  
35 year after 2021, the applicable medicare cost report shall advance by one  
36 year.

37 (f) A representative of the panel shall be required to make an annual  
38 report to the legislature regarding the collection and distribution of all  
39 funds received and distributed under this act.

40 Sec. 34. K.S.A. 65-6207, 65-6208, 65-6209, 65-6210, 65-6211, 65-  
41 6212, 65-6217 and 65-6218 and K.S.A. 2019 Supp. 39-7,160 and 40-3213  
42 are hereby repealed.

43 Sec. 35. This act shall take effect and be in force from and after its

- 1 publication in the Kansas register.