

**HOUSE BILL No. 2006**

By Representatives Ward, Amyx, Bishop, Carlin, Carmichael, Clayton, Curtis, Finney, Frownfelter, Highberger, Kuether, Ohaebosim, Ousley, Parker, Pittman, Probst, S. Ruiz, Sawyer, Stogsdill, Victors, Warfield, Wolfe Moore, Xu and Yeager

6-3

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, as amended by section 9 of 2019  
10 House Bill No. 2246, 65-6209, 65-6210, 65-6211, 65-6212, 65-6217  
11 and 65-6218, as amended by section 2 of 2019 House Bill No. 2168,  
12 and K.S.A. 2019 Supp. 39-7,160 and 40-3213 and repealing the  
13 existing sections.  
14

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

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

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

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

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

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

31 (2) "Act" means the Kansas innovative solutions for affordable  
32 healthcare act.

33 New Sec. 2. (a) The secretary of health and environment and the  
34 insurance commissioner shall submit to the United States centers for

1 medicare and medicaid services and the United States department of the  
2 treasury any state plan amendment, waiver request or other approval  
3 request necessary to implement the act. At least 10 calendar days prior to  
4 submission of any such approval request to the United States centers for  
5 medicare and medicaid services or the United States department of the  
6 treasury, the secretary of health and environment or the insurance  
7 commissioner, as applicable, shall submit such approval request  
8 application to the state finance council.

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

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

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

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

1 138% of the federal poverty level to health insurance plans on the health  
2 benefit exchange in Kansas established under the federal patient protection  
3 and affordable care act. The secretary of health and environment shall  
4 implement medical assistance eligibility under this subparagraph to begin  
5 on January 1, 2022, in conjunction with the implementation of the  
6 reinsurance program under subparagraph (A).

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

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

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

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

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

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

43 New Sec. 4. (a) (1) Except to the extent prohibited by 42 U.S.C.

1 1396o-1(a)(2) and (b)(3), as such provisions exist on the effective date of  
2 this act, the department of health and environment shall charge to each  
3 covered individual described in section 2(b), and amendments thereto, a  
4 monthly fee not to exceed \$25 per individual, but not to exceed a  
5 maximum of \$100 per month per family household, as a condition of  
6 participation in the program. The department may grant a hardship  
7 exemption from payment of the monthly fee, as determined by the  
8 secretary of health and environment.

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

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

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

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

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

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

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

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

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

42 (2) provide that an individual's payment for a health insurance  
43 coverage premium may not exceed 2% of the individual's modified

1 adjusted gross income, not to exceed 2% of the household's modified  
2 adjusted gross income in the aggregate with any premium charged to any  
3 other household member participating in the premium assistance program.

4 New Sec. 6. (a) Except to the extent prohibited by 42 U.S.C. §  
5 1396u-2(a)(2), as it exists on the effective date of this act, the secretary of  
6 health and environment shall administer medical assistance benefits using  
7 a managed care delivery system using organizations subject to assessment  
8 of the privilege fee under K.S.A. 40-3213, and amendments thereto. If the  
9 United States centers for medicare and medicaid services determines that  
10 the assessment of a privilege fee provided in K.S.A. 40-3213, and  
11 amendments thereto, is unlawful or otherwise invalid, then the secretary of  
12 health and environment shall administer state medicaid services using a  
13 managed care delivery system.

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

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

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

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

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

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

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

43 New Sec. 9. (a) All moneys collected or received by the secretary of

1 health and environment for privilege fees collected pursuant to K.S.A. 40-  
2 3213, and amendments thereto, connected to covered individuals under the  
3 act shall be remitted to the state treasurer in accordance with the  
4 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of  
5 each such remittance, the state treasurer shall deposit the entire amount in  
6 the state treasury to the credit of the medicaid expansion privilege fee  
7 fund.

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

15 (c) The medicaid expansion privilege fee fund shall be used for the  
16 purposes set forth in the act and for no other governmental purposes. It is  
17 the intent of the legislature that the fund and the moneys deposited into the  
18 fund shall remain intact and inviolate for the purposes set forth in the act,  
19 and moneys in the fund shall not be subject to the provisions of K.S.A. 75-  
20 3722, 75-3725a and 75-3726a, and amendments thereto.

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

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

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

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

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

42 (b) State cost savings shall be determined by calculating the cost of  
43 providing services to covered individuals in the KanCare program less the

1 cost of services provided to covered individuals under the act.

2 New Sec. 11. (a) The secretary of corrections shall coordinate with  
3 county sheriffs who request assistance to assist in facilitating medicaid  
4 coverage for any state or county inmate incarcerated in a Kansas prison or  
5 jail during any time period that the inmate is eligible for coverage.

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

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

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

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

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

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

42 (d) This section shall take effect and be in force on and after July 1,  
43 2021.

1 New Sec. 15. (a) There is hereby established in the state treasury the  
2 federal medical assistance percentage stabilization fund to be administered  
3 by the secretary of health and environment. All expenditures from the  
4 federal medical assistance percentage stabilization fund shall be made in  
5 accordance with appropriation acts upon warrants of the director of  
6 accounts and reports issued pursuant to vouchers approved by the  
7 secretary of health and environment or the secretary's designee.

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

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

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

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

41 (f) As used in this section, "moneys that are recovered" includes  
42 damages, penalties, attorney fees, costs, disbursements, refunds, rebates or  
43 any other monetary payment made or paid by any defendant by reason of



1 any judgment, consent decree or settlement, after payment of any costs or  
2 fees allocated by court order.

3 (g) On or before September 1 of each year, the secretary of health and  
4 environment shall submit an annual report to the legislature and the  
5 legislative budget committee. The report shall include details of actual  
6 expenditures related to adjustments of the federal medical assistance  
7 percentage for the state of Kansas and all certified amounts transferred in  
8 and out of the federal medical assistance percentage stabilization fund.

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

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

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

14 (3) "Implementation support" means support in implementing a  
15 transformation plan by one or more contractors in close collaboration with  
16 a target hospital.

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

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

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

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

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

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

1 (c) The department, in coordination with the advisory committee,  
2 shall establish and manage the rural hospital transformation program and  
3 shall identify one or more contractors to provide consultation to each  
4 approved target hospital for the creation of a transformation plan,  
5 including:

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

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

11 (3) developing hospital-specific strategic and operational  
12 transformation plans tailored to the target hospital and community to  
13 improve viability;

14 (4) providing support for the target hospital to implement the  
15 transformation plan; and

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

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

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

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

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

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

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

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

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

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

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

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

35 (c) Such study and report shall be submitted to the house of  
36 representatives standing committee on health and human services and the  
37 senate standing committee on public health and welfare on or before  
38 January 11, 2021.

39 New Sec. 19. (a) The secretary of health and environment, in  
40 coordination with the Kansas hospital association, Kansas medical society,  
41 community care network of Kansas and other private and public  
42 stakeholders as deemed appropriate by the secretary, shall establish a task  
43 force to develop a plan to measure and report uncompensated care

1 provided by Kansas healthcare providers and hospitals when  
2 reimbursement for care provided to a patient is not collected.

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

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

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

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

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

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

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

23 New Sec. 20.

#### 24 INSURANCE DEPARTMENT

25 (a) Notwithstanding the provisions of K.S.A. 39-709(e)(2) or 40-112,  
26 and amendments thereto, or any other statute to the contrary, during the  
27 fiscal years ending June 30, 2020, and June 30, 2021, in addition to the  
28 other purposes for which expenditures may be made by the above agency  
29 from moneys appropriated from the insurance department service  
30 regulation fund for fiscal years 2020 and 2021 by section 47(a) of chapter  
31 68 of the 2019 Session Laws of Kansas, this or any other appropriation act  
32 of the 2020 regular session of the legislature, expenditures shall be made  
33 by the above agency from such moneys to:

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

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

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

42 (2) (A) prepare a waiver request under section 1332 of the federal  
43 patient protection and affordable care act, 42 U.S.C. § 18052, as it exists

1 on the effective date of the act, including any required actuarial analysis,  
2 for submission to the United States centers for medicare and medicaid  
3 services to implement a reinsurance program for health insurance plans on  
4 the health benefit exchange in Kansas established under the federal patient  
5 protection and affordable care act, except that such request shall not be  
6 submitted without authorization by the state finance council in accordance  
7 with section 22;

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

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

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

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

23 New Sec. 21.

24 DEPARTMENT OF HEALTH AND ENVIRONMENT –  
25 DIVISION OF HEALTH CARE FINANCE

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

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

39 New Sec. 22.

40 STATE FINANCE COUNCIL

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

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

1 *Provided*, That all moneys in the health insurance plan reinsurance account  
2 shall be used for the insurance department to implement the health  
3 insurance plan reinsurance program established by the Kansas innovative  
4 solutions for affordable healthcare act and section 21: *Provided further*,  
5 That the state finance council is hereby authorized to approve the  
6 implementation of the health benefit reinsurance program to commence on  
7 January 1, 2022: *And provided further*, That the state finance council acting  
8 on this matter is hereby characterized as a matter of legislative delegation  
9 and subject to the guidelines prescribed in K.S.A. 75-3711c(c), and  
10 amendments thereto, except that the state finance council may act upon  
11 such matter while the legislature is in session.

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

1 and quality of services provided and any financial information and  
2 budgetary issues. Any state agency shall provide data and information on  
3 KanCare programs, including, but not limited to, pay for performance  
4 measures, quality measures and enrollment and disenrollment in specific  
5 plans, KanCare provider network data and appeals and grievances made to  
6 the KanCare ombudsman, to the joint committee, as requested.

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

22 (c) Members shall be appointed for terms coinciding with the  
23 legislative terms for which such members are elected or appointed. All  
24 members appointed to fill vacancies in the membership of the joint  
25 committee and all members appointed to succeed members appointed to  
26 membership on the joint committee shall be appointed in the manner  
27 provided for the original appointment of the member succeeded.

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

1 a quorum.

2 (2) *During calendar year 2021 and calendar year 2022, the joint*  
3 *committee shall meet for one additional day per meeting in order to*  
4 *monitor the implementation of the Kansas innovative solutions for*  
5 *affordable healthcare act and to review the following topics relating to*  
6 *such implementation: Payment integrity and eligibility audits; baseline*  
7 *and trend data detailing the amounts that hospitals are paid from*  
8 *commercial insurance plans as a percentage of medicare allowable rates*  
9 *established by the United States centers for medicare and medicaid*  
10 *services; outcomes related to section 3, and amendments thereto; health*  
11 *outcomes for individuals covered under the act; budget projections and*  
12 *actual expenditures related to implementation of the act; and expenses*  
13 *incurred by hospitals arising from charity care and services provided to*  
14 *patients who are unwilling or unable to pay for such services.*

15 (e) (1) At the beginning of each regular session of the legislature, the  
16 committee shall submit to the president of the senate, the speaker of the  
17 house of representatives, the house committee on health and human  
18 services and the senate committee on public health and welfare a written  
19 report on numbers of individuals transferred from the state or private  
20 institutions to the home and community based services including the  
21 average daily census in the state institutions and long-term care facilities,  
22 savings resulting from the transfer certified by the secretary for aging and  
23 disability services in a quarterly report filed in accordance with K.S.A.  
24 2019 Supp. 39-7,162, and amendments thereto, and the current balance in  
25 the home and community based services savings fund of the Kansas  
26 department for aging and disability services.

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

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

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

34 (C) availability of information to the public about the provision of  
35 state medicaid services under the KanCare program, including, but not  
36 limited to, accessibility to health services, expenditures for health services,  
37 extent of consumer satisfaction with health services provided and  
38 grievance procedures, including quantitative case data and summaries of  
39 case resolution by the KanCare ombudsman;

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

42 (E) comparison of the actual medicaid costs expended in providing  
43 state medicaid services under the KanCare program after January 1, 2013,



1 to the actual costs expended under the provision of state medicaid services  
2 prior to January 1, 2013, including the manner in which such cost  
3 expenditures are calculated;

4 (F) comparison of the estimated costs expended in a managed care  
5 system of providing state medicaid services under the KanCare program  
6 after January 1, 2013, to the actual costs expended under the KanCare  
7 program of providing state medicaid services after January 1, 2013;

8 (G) comparison of caseload information for individuals receiving  
9 state medicaid services prior to January 1, 2013, to the caseload  
10 information for individuals receiving state medicaid services under the  
11 KanCare program after January 1, 2013; and

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

15 (3) The joint committee shall consider the external quality review  
16 reports and quality assessment and performance improvement program  
17 plans of each managed care organization providing state medicaid services  
18 under the KanCare program in the development of the report submitted  
19 under this subsection.

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

22 (f) Members of the committee shall have access to any medical  
23 assistance report and caseload data generated by the Kansas department of  
24 health and environment division of health care finance. Members of the  
25 committee shall have access to any report submitted by the Kansas  
26 department of health and environment division of health care finance to  
27 the centers for medicare and medicaid services of the United States  
28 department of health and human services.

29 (g) Members of the committee shall be paid compensation, travel  
30 expenses and subsistence expenses or allowance as provided in K.S.A. 75-  
31 3212, and amendments thereto, for attendance at any meeting of the joint  
32 committee or any subcommittee meeting authorized by the committee.

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

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

38 Sec. 24. K.S.A. 2019 Supp. 40-3213 is hereby amended to read as  
39 follows: 40-3213. (a) Every health maintenance organization and medicare  
40 provider organization subject to this act shall pay to the commissioner the  
41 following fees:

- 42 (1) For filing an application for a certificate of authority, \$150;
- 43 (2) for filing each annual report, \$50;

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

2 (b) Every health maintenance organization subject to this act shall  
3 pay annually to the commissioner at the time such organization files its  
4 annual report, a privilege fee in an amount equal to ~~the following~~  
5 ~~percentages~~ 5.77% of the total of all premiums, subscription charges or  
6 any other term that may be used to describe the charges made by such  
7 organization to enrollees: ~~3.31% during the reporting period beginning~~  
8 ~~January 1, 2015, and ending December 31, 2017; and 5.77% on and after~~  
9 ~~January 1, 2018.~~ In such computations all such organizations shall be  
10 entitled to deduct therefrom any premiums or subscription charges  
11 returned on account of cancellations and dividends returned to enrollees. If  
12 the commissioner shall determine at any time that the application of the  
13 privilege fee, or a change in the rate of the privilege fee, would cause a  
14 denial of, reduction in or elimination of federal financial assistance to the  
15 state or to any health maintenance organization subject to this act, the  
16 commissioner is hereby authorized to terminate the operation of such  
17 privilege fee or the change in such privilege fee.

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

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

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

42 (f) (1) ~~On and after January 1, 2018,~~ In addition to any other filing  
43 or return required by this section, each health maintenance organization

1 shall submit a report to the commissioner on or before March 31 and  
2 September 30 of each year containing an estimate of the total amount of all  
3 premiums, subscription charges or any other term that may be used to  
4 describe the charges made by such organization to enrollees that the  
5 organization expects to collect during the current calendar year. Upon  
6 filing each March 31 report, the organization shall submit payment equal  
7 to ½ of the privilege fee that would be assessed by the commissioner for  
8 the current calendar year based upon the organization's reported estimate.  
9 Upon filing each September 30 report, the organization shall submit  
10 payment equal to the balance of the privilege fee that would be assessed by  
11 the commissioner for the current calendar year based upon the  
12 organization's reported estimates.

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

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

26 Sec. 25. K.S.A. 65-6207 is hereby amended to read as follows: 65-  
27 6207. As used in K.S.A. 65-6207 ~~to through 65-6220, inclusive,~~ and  
28 amendments thereto, ~~the following have the meaning respectively ascribed~~  
29 ~~thereto,~~ unless the context requires otherwise:

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

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

39 (c) *"Department"* means the Kansas department for aging and  
40 disability services or the ~~Kansas~~ department of health and environment, or  
41 both.

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

43 ~~(e)~~(e) *"Health maintenance organization"* ~~has the meaning~~ *means the*

1 *same as* provided in K.S.A. 40-3202, and amendments thereto.

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

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

7 ~~(f)(h)~~ "Pharmacy provider" means an area, premises or other site  
8 where drugs are offered for sale, where there are pharmacists, as defined in  
9 K.S.A. 65-1626, and amendments thereto, and where prescriptions, as  
10 defined in K.S.A. 65-1626, and amendments thereto, are compounded and  
11 dispensed.

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

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

22 Sec. 26. K.S.A. 65-6208, as amended by section 9 of 2019 House Bill  
23 No. 2246, is hereby amended to read as follows: 65-6208. (a) Subject to  
24 the provisions of K.S.A. 65-6209, and amendments thereto, an annual  
25 assessment on services is imposed on each hospital provider in an amount  
26 not less than 1.83% of each hospital's net inpatient operating revenue and  
27 not greater than 3% of each hospital's net inpatient and outpatient  
28 operating revenue, as determined by the healthcare access improvement  
29 panel in consultation with the department of health and environment, for  
30 the hospital's fiscal year three years prior to the assessment year. In the  
31 event that a hospital does not have a complete 12-month fiscal year in such  
32 third prior fiscal year, the assessment under this section shall be \$200,000  
33 until such date that such hospital has completed the hospital's first 12-  
34 month fiscal year. Upon completing such first 12-month fiscal year, such  
35 hospital's assessment under this section shall be the amount not less than  
36 1.83% of each hospital's net inpatient operating revenue and not greater  
37 than 3% of such hospital's net inpatient and outpatient operating revenue,  
38 as determined by the healthcare access improvement panel in consultation  
39 with the department of health and environment, for such first completed  
40 12-month fiscal year.

41 *(b) An annual hospital medicaid expansion support surcharge shall*  
42 *be imposed on each hospital provider in an amount equal to its*  
43 *proportionate share as determined by the healthcare access improvement*

1 *panel in accordance with K.S.A. 65-6218(d), and amendments thereto,*  
2 *except that such surcharge shall not exceed \$35,000,000 for any calendar*  
3 *year and no surcharge shall be imposed for any period after the federal*  
4 *medical assistance percentage described in 42 U.S.C. § 1396d(y)(1)*  
5 *becomes lower than 90%. Upon final approval, notice of the amount of*  
6 *such surcharge shall be transmitted by the healthcare access improvement*  
7 *panel to the department. Upon receipt of such notice, the department shall*  
8 *promptly provide such notice of surcharge to each hospital provider in*  
9 *accordance with K.S.A. 65-6211(b), and amendments thereto.*

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

14 ~~(e)(d)~~ (1) The department of health and environment shall submit to  
15 the United States centers for medicare and medicaid services any approval  
16 request necessary to implement the amendments made to subsection (a) by  
17 section 1 of 2019 House Bill No. 2168 and ~~this act~~ *section 9 of 2019*  
18 *House Bill No. 2246.* If the department has submitted such a request  
19 pursuant to section 80(l) of chapter 68 of the 2019 Session Laws of Kansas  
20 ~~or~~, section 1 of 2019 House Bill No. 2168, then the department may  
21 continue such request, or modify such request to conform to the  
22 amendments made to subsection (a) by section 1 of 2019 House Bill No.  
23 2168 and ~~this act~~ *section 9 of 2019 House Bill No. 2246,* to fulfill the  
24 requirements of this paragraph.

25 (2) The secretary of health and environment shall certify to the  
26 secretary of state the receipt of such approval and cause notice of such  
27 approval to be published in the Kansas register.

28 (3) The amendments made to subsection (a) by section 1 of 2019  
29 House Bill No. 2168 and ~~this act~~ *section 9 of 2019 House Bill No. 2246*  
30 shall take effect on and after January 1 or July 1 immediately following  
31 such publication of such approval.

32 Sec. 27. K.S.A. 65-6209 is hereby amended to read as follows: 65-  
33 6209. (a) A hospital provider that is a state agency, the authority, as defined  
34 in K.S.A. 76-3304, and amendments thereto, a state educational institution,  
35 as defined in K.S.A. 76-711, and amendments thereto, or a critical access  
36 hospital, as defined in K.S.A. 65-468, and amendments thereto, is exempt  
37 from the assessment imposed by K.S.A. 65-6208(a), and amendments  
38 thereto, *but not the surcharge imposed by K.S.A. 65-6208(b), and*  
39 *amendments thereto.*

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

1 *thereto.*

2 Sec. 28. K.S.A. 65-6210 is hereby amended to read as follows: 65-  
3 6210. (a) (1) The assessment *and surcharge* imposed by K.S.A. 65-6208,  
4 and amendments thereto, for any state fiscal year to which this statute  
5 applies shall be due and payable:

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

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

15 (2) No installment payment of an assessment under ~~this act~~ K.S.A.  
16 65-6208(a), and amendments thereto, shall be due and payable, ~~however,~~  
17 until after:

18 (A) The hospital provider receives written notice from the  
19 department that the payment methodologies to hospitals required under  
20 this act have been approved by the *United States* centers for medicare and  
21 medicaid services ~~of the United States department of health and human~~  
22 ~~services~~ under 42 C.F.R. § 433.68 for the assessment imposed by K.S.A.  
23 65-6208(a), and amendments thereto, ~~has been granted by the centers for~~  
24 ~~medicare and medicaid services of the United States department of health~~  
25 ~~and human services; and~~

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

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

33 (c) (1) If a hospital provider fails to pay the full amount of an  
34 installment when due, including any extensions granted under this section,  
35 there shall be added to the assessment *or surcharge* imposed by K.S.A. 65-  
36 6208, and amendments thereto, unless waived by the department for  
37 reasonable cause, a penalty assessment equal to the lesser of:

38 (A) An amount equal to 5% of the installment amount not paid on  
39 or before the due date, plus 5% of the portion thereof remaining unpaid on  
40 the last day of each month thereafter; *or*

41 (B) an amount equal to 100% of the installment amount not paid  
42 on or before the due date.

43 (2) For purposes of *this* subsection (e), payments will be credited first

1 to unpaid installment amounts, rather than to penalty or interest amounts,  
2 beginning with the most delinquent installment.

3 (d) The effective date for the payment methodology applicable to  
4 hospital providers approved by the *United States* centers for medicare and  
5 medicaid services shall be ~~the date of~~ July 1 or January 1, whichever date  
6 is designated in the state plan submitted by the department of health and  
7 environment for approval by the *United States* centers for medicare and  
8 medicaid services.

9 Sec. 29. K.S.A. 65-6211 is hereby amended to read as follows: 65-  
10 6211. (a) After December 31 of each year, except as otherwise provided in  
11 this subsection, and on or before March 31 of the succeeding year, the  
12 department shall send a notice of assessment *imposed under K.S.A. 65-*  
13 *6208(a), and amendments thereto*, to every hospital provider subject to  
14 assessment under this act. ~~(b)~~—The hospital provider notice of assessment  
15 shall notify the hospital provider of its assessment for the state fiscal year  
16 commencing on the next July 1.

17 (b) *On or before August 15 and February 15 of each year, the*  
18 *department shall send a notice of surcharge imposed under K.S.A. 65-*  
19 *6208(b), and amendments thereto, to each hospital provider subject to the*  
20 *surcharge. The department shall send the first such notice on or before*  
21 *August 15, 2021.*

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

26 (d) Notwithstanding any other provision in this act, in the case of a  
27 person who ceases to operate, conduct or maintain a hospital ~~in respect of~~  
28 *for which the person is subject to assessment in K.S.A. 65-6208(a), and*  
29 *amendments thereto*, as a hospital provider, the assessment for the state  
30 fiscal year in which the cessation occurs shall be adjusted by multiplying  
31 the assessment computed under K.S.A. 65-6208(a), and amendments  
32 thereto, by a fraction, the numerator of which is the number of the days  
33 during the year during which the provider operates, conducts or maintains  
34 a hospital and the denominator of which is 365. Immediately upon ceasing  
35 to operate, conduct or maintain a hospital, the person shall pay the  
36 adjusted assessment for that state fiscal year, to the extent not previously  
37 paid.

38 (e) *Notwithstanding any other provision in this act, in the case of a*  
39 *person who ceases to operate, conduct or maintain a hospital for which*  
40 *the person is subject to surcharge in K.S.A. 65-6208(b), and amendments*  
41 *thereto, as a hospital provider, the surcharge for the six-month period in*  
42 *which the cessation occurs shall be adjusted by multiplying the surcharge*  
43 *computed under K.S.A. 65-6208(b), and amendments thereto, by a*

1 *fraction, the numerator of which is the number of the days during the six*  
2 *months during which the provider operates, conducts or maintains a*  
3 *hospital and the denominator of which is the days in the same six-month*  
4 *period. Immediately upon ceasing to operate, conduct or maintain a*  
5 *hospital, the person shall pay the adjusted assessment for that six-month*  
6 *period, to the extent not previously paid.*

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

13 Sec. 30. K.S.A. 65-6212 is hereby amended to read as follows: 65-  
14 6212. (a) The assessment imposed by K.S.A. 65-6208(a), and amendments  
15 thereto, shall not take effect or shall cease to be imposed and any moneys  
16 remaining in the fund attributable to assessments imposed under K.S.A.  
17 65-6208(a), and amendments thereto, shall be refunded to hospital  
18 providers in proportion to the amounts paid by them if the payments to  
19 hospitals required under ~~subsection (a) of K.S.A. 65-6218(a)~~, and  
20 amendments thereto, are changed or are not eligible for federal matching  
21 funds under title XIX or XXI of the federal social security act.

22 (b) The assessment *and surcharge* imposed by K.S.A. 65-6208, and  
23 amendments thereto, shall not take effect or shall cease to be imposed if  
24 the assessment is determined to be an impermissible tax under title XIX of  
25 the federal social security act. Moneys in the health care access  
26 improvement fund *or the hospital medicaid expansion support surcharge*  
27 *fund* derived from assessments *or surcharges* imposed prior thereto shall  
28 be disbursed in accordance with ~~subsection (a) of K.S.A. 65-6218~~, and  
29 amendments thereto, to the extent that federal matching is not reduced due  
30 to the impermissibility of the assessments *or surcharges*, and any  
31 remaining moneys shall be refunded to hospital providers in proportion to  
32 the amounts paid by them.

33 Sec. 31. K.S.A. 65-6217 is hereby amended to read as follows: 65-  
34 6217. (a) There is hereby created in the state treasury the health care  
35 access improvement fund, ~~which shall~~ *to* be administered by the secretary  
36 of health and environment. All moneys received for the assessments  
37 imposed by K.S.A. 65-6208(a) and 65-6213, and amendments thereto,  
38 including any penalty assessments imposed thereon, shall be remitted to  
39 the state treasurer in accordance with K.S.A. 75-4215, and amendments  
40 thereto. Upon receipt of each such remittance, the state treasurer shall  
41 deposit the entire amount in the state treasury to the credit of the health  
42 care access improvement fund. All expenditures from the health care  
43 access improvement fund shall be made in accordance with appropriation



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

4 (b) *There is hereby created in the state treasury the hospital medicaid*  
 5 *expansion support surcharge fund to be administered by the secretary of*  
 6 *health and environment. All moneys received for the surcharge imposed by*  
 7 *K.S.A. 65-6208(b), and amendments thereto, including any penalty*  
 8 *assessments imposed thereon, shall be remitted to the state treasurer in*  
 9 *accordance with K.S.A. 75-4215, and amendments thereto. Upon receipt of*  
 10 *each such remittance, the state treasurer shall deposit the entire amount*  
 11 *into the state treasury to the credit of the hospital medicaid expansion*  
 12 *support surcharge fund. All expenditures from the hospital medicaid*  
 13 *expansion support surcharge fund shall be made in accordance with*  
 14 *appropriation acts upon warrants of the director of accounts and reports*  
 15 *issued pursuant to vouchers approved by the secretary of health and*  
 16 *environment or the secretary's designee.*

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

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

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

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

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

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

32 (1) All moneys collected or received by the department from the  
 33 hospital provider assessment *and surcharge* and the health maintenance  
 34 organization assessment imposed by this act;

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

37 (3) all other moneys received for ~~the fund~~ funds from any other  
 38 source.

39 ~~(f)~~(g) (1) On July 1 of each fiscal year, the director of accounts and  
 40 reports shall record a debit to the state treasurer's receivables for the health  
 41 care access improvement fund and shall record a corresponding credit to  
 42 the health care access improvement fund in an amount certified by the  
 43 director of the budget ~~which~~ *that* shall be equal to the sum of 80% of the

1 moneys estimated by the director of the budget to be received from the  
2 assessment imposed on hospital providers pursuant to K.S.A. 65-6208(a),  
3 and amendments thereto, and credited to the health care access  
4 improvement fund during such fiscal year, plus 53% of the moneys  
5 estimated by the director of the budget to be received from the assessment  
6 imposed on health maintenance organizations pursuant to K.S.A. 65-6213,  
7 and amendments thereto, and credited to the health care access  
8 improvement fund during such fiscal year, except that such amount shall  
9 be proportionally adjusted during such fiscal year with respect to any  
10 change in the moneys estimated by the director of the budget to be  
11 received for such assessments *under K.S.A. 65-6208(a) and 65-6213, and*  
12 *amendments thereto*, deposited in the state treasury and credited to the  
13 health care access improvement fund during such fiscal year. Among other  
14 appropriate factors, the director of the budget shall take into consideration  
15 the estimated and actual receipts from such assessments for the current  
16 fiscal year and the preceding fiscal year in determining the amount to be  
17 certified under this ~~subsection (f)~~ *paragraph*. All moneys received for the  
18 assessments imposed pursuant to K.S.A. 65-6208(a) and 65-6213, and  
19 amendments thereto, deposited in the state treasury and credited to the  
20 health care access improvement fund during a fiscal year shall reduce the  
21 amount debited and credited to the health care access improvement fund  
22 under this ~~subsection (f)~~ *paragraph* for such fiscal year.

23 (2) *On July 1 of each fiscal year, the director of accounts and reports*  
24 *shall record a debit to the state treasurer's receivables for the hospital*  
25 *medicaid expansion support surcharge fund and shall record a*  
26 *corresponding credit to the hospital medicaid expansion support*  
27 *surcharge fund in an amount certified by the director of the budget that*  
28 *shall be equal to 100% of the moneys estimated by the director of the*  
29 *budget to be received from any surcharge imposed on hospital providers in*  
30 *accordance with K.S.A. 65-6208(b), and amendments thereto, and credited*  
31 *to the hospital medicaid expansion support surcharge fund during such*  
32 *fiscal year, except that such amount shall be proportionally adjusted*  
33 *during such fiscal year with respect to any change in the moneys estimated*  
34 *by the director of the budget to be received for such surcharge in*  
35 *accordance with K.S.A. 65-6208(b), and amendments thereto, deposited in*  
36 *the state treasury and credited to the hospital medicaid expansion support*  
37 *surcharge fund during such fiscal year. Among other appropriate factors,*  
38 *the director of the budget shall take into consideration the estimated and*  
39 *actual receipts from such surcharge for the current fiscal year and the*  
40 *preceding fiscal year in determining the amount to be certified under this*  
41 *paragraph. All moneys received for the surcharge imposed under K.S.A.*  
42 *65-6208(b), and amendments thereto, deposited in the state treasury and*  
43 *credited to the hospital medicaid expansion support surcharge fund during*

1 *a fiscal year shall reduce the amount debited and credited to the hospital*  
2 *medicaid expansion support surcharge fund under this paragraph for such*  
3 *fiscal year.*

4 (3) On June 30 of each fiscal year, the director of accounts and  
5 reports shall adjust the amounts debited and credited to the state treasurer's  
6 receivables and to the health care access improvement fund *and the*  
7 *hospital medicaid expansion support surcharge fund* pursuant to this  
8 subsection~~(f)~~, to reflect all moneys actually received for the assessments  
9 *and surcharge* imposed pursuant to K.S.A. 65-6208 and 65-6213, and  
10 amendments thereto, deposited in the state treasury and credited to the  
11 health care access improvement fund *and the hospital medicaid expansion*  
12 *support surcharge fund* during the current fiscal year.

13 ~~(3)~~(4) The director of accounts and reports shall notify the state  
14 treasurer of all amounts debited and credited to the health care access  
15 improvement fund *and the hospital medicaid expansion support surcharge*  
16 *fund* pursuant to this subsection~~(f)~~ and all reductions and adjustments  
17 thereto made pursuant to this subsection~~(f)~~. The state treasurer shall enter  
18 all such amounts debited and credited and shall make reductions and  
19 adjustments thereto on the books and records kept and maintained for the  
20 health care access improvement fund by the state treasurer in accordance  
21 with the notice thereof.

22 Sec. 32. K.S.A. 65-6218, as amended by section 2 of 2019 House Bill  
23 No. 2168, is hereby amended to read as follows: 65-6218. (a) (1)  
24 Assessment revenues generated from the hospital provider assessments  
25 *under K.S.A. 65-6208(a), and amendments thereto*, shall be disbursed as  
26 follows:

27 (A) Not less than 80% of assessment revenues shall be disbursed to  
28 hospital providers through a combination of medicaid access improvement  
29 payments and increased medicaid rates on designated diagnostic related  
30 groupings, procedures or codes;

31 (B) not more than 20% of assessment revenues shall be disbursed to  
32 providers who are persons licensed to practice medicine and surgery or  
33 dentistry through increased medicaid rates on designated procedures and  
34 codes; and

35 (C) not more than 3.2% of hospital provider assessment revenues  
36 shall be used to fund healthcare access improvement programs in  
37 undergraduate, graduate or continuing medical education, including the  
38 medical student loan act.

39 (2) On July 1 of each year, the department of health and environment,  
40 with approval of the healthcare access improvement panel, shall make  
41 adjustments to the disbursement of moneys in accordance with this  
42 subsection to cause such disbursements to be paid solely from moneys  
43 appropriated from the healthcare access improvement fund. The healthcare

1 access improvement fund shall not be supplemented by appropriations  
2 from the state general fund for the purpose of making disbursements under  
3 this subsection.

4 (b) *Surcharge revenues generated from the hospital medicaid*  
5 *expansion support surcharge under K.S.A. 65-6208(b), and amendments*  
6 *thereto, shall be disbursed to offset the costs to the state related to*  
7 *medicaid expansion beneficiaries as calculated in K.S.A. 65-6207(a), and*  
8 *amendments thereto.*

9 (c) For the purposes of administering and selecting the disbursements  
10 described in subsections (a) and (b) *and the oversight of the calculation of*  
11 *the annual hospital medicaid expansion support payment and any*  
12 *surcharge under K.S.A. 65-6208(b), and amendments thereto,* the  
13 healthcare access improvement panel is hereby established. The panel shall  
14 consist of the following: Three members appointed by the Kansas hospital  
15 association, two members appointed by the Kansas medical society, one  
16 member appointed by each health maintenance organization that has a  
17 medicaid managed care contract with the department of health and  
18 environment, one member appointed by the community care network of  
19 Kansas, one member appointed by the president of the senate, one member  
20 appointed by the speaker of the house of representatives, one member  
21 from the office of the medicaid inspector general appointed by the attorney  
22 general and one representative of the department of health and  
23 environment appointed by the governor. The panel shall elect a  
24 chairperson from among the members appointed by the Kansas hospital  
25 association. A representative of the panel shall be required to make an  
26 annual report to the legislature regarding the collection and distribution of  
27 all funds received and distributed under this act, and such report shall  
28 include analysis demonstrating that disbursements made in accordance  
29 with subsection (a) are budget neutral to the state general fund.

30 (c) (1) The department of health and environment shall submit to the  
31 United States centers for medicare and medicaid services any approval  
32 request necessary to implement the amendments made to this section by  
33 ~~this act section 2 of 2019 House Bill No. 2168~~. If the department has  
34 submitted such a request pursuant to section 80(1) of chapter 68 of the  
35 2019 Session Laws of Kansas, then the department may continue such  
36 request, or modify such request to conform to the amendments made to  
37 subsections (a) and (b) by ~~this act section 2 of 2019 House Bill No. 2168~~,  
38 to fulfill the requirements of this paragraph.

39 (2) The secretary of health and environment shall certify to the  
40 secretary of state the receipt of such approval and cause notice of such  
41 approval to be published in the Kansas register.

42 (3) The amendments made to subsections (a) and (b) by ~~this act~~  
43 *section 2 of 2019 House Bill No. 2168* shall take effect on and after

1 January 1 or July 1 immediately following such publication of such  
2 approval.

3 *(d) The panel shall use the following procedure to approve collection*  
4 *of surcharge revenues under K.S.A. 65-6208(b), and amendments thereto,*  
5 *for each calendar year beginning with calendar year 2021 based upon the*  
6 *total number of unduplicated medicaid expansion enrollees for such year:*

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

10 *(2) The panel shall review the number certified by the department,*  
11 *consult with the department regarding any proposed deletions and certify*  
12 *the final number of unduplicated medicaid expansion enrollees for such*  
13 *period by August 1.*

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

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

27 *(5) For purposes of this subsection, the total surcharge revenues to*  
28 *be certified for any calendar year shall not exceed \$35,000,000, and any*  
29 *annual hospital medicaid expansion support surcharge in excess of*  
30 *\$35,000,000 shall be disregarded.*

31 *(6) As used in this subsection:*

32 *(A) "Total hospital revenues" means the sum of inpatient and*  
33 *outpatient revenues for all hospital providers as reflected in the applicable*  
34 *medicare cost report.*

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

41 Sec. 33. K.S.A. 65-6207, 65-6208, as amended by section 9 of 2019  
42 House Bill No. 2246, 65-6209, 65-6210, 65-6211, 65-6212, 65-6217 and  
43 65-6218, as amended by section 2 of 2019 House Bill No. 2168 and

- 1 K.S.A. 2019 Supp. 39-7,160 and 40-3213 are hereby repealed.
- 2     Sec. 34. This act shall take effect and be in force from and after its
- 3 publication in the Kansas register.