

SENATE BILL No. 252

By Senators Denning, Hensley, Baumgardner, Berger, Bollier, Bowers, Doll, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Holland, Longbine, Miller, Pettey, Skubal, Sykes, Taylor and Ware

1-9

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

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

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

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

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

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

1 and affordable care act. The secretary of health and environment shall
2 implement medical assistance eligibility under this subparagraph to begin
3 on January 1, 2022, in conjunction with the implementation of the
4 reinsurance program under subparagraph (A).

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

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

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

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

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

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

41 New Sec. 4. (a) (1) Except to the extent prohibited by 42 U.S.C.
42 1396o-1(a)(2) and (b)(3), as such provisions exist on the effective date of
43 this act, the department of health and environment shall charge to each

1 covered individual described in section 2(b), and amendments thereto, a
2 monthly fee not to exceed \$25 per individual, but not to exceed a
3 maximum of \$100 per month per family household, as a condition of
4 participation in the program. The department may grant a hardship
5 exemption from payment of the monthly fee, as determined by the
6 secretary of health and environment.

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

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

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

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

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

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

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

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

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

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

1 other household member participating in the premium assistance program.

2 New Sec. 6. (a) Except to the extent prohibited by 42 U.S.C. §
3 1396u-2(a)(2), as it exists on the effective date of this act, the secretary of
4 health and environment shall administer medical assistance benefits using
5 a managed care delivery system using organizations subject to assessment
6 of the privilege fee under K.S.A. 40-3213, and amendments thereto. If the
7 United States centers for medicare and medicaid services determines that
8 the assessment of a privilege fee provided in K.S.A. 40-3213, and
9 amendments thereto, is unlawful or otherwise invalid, then the secretary of
10 health and environment shall administer state medicaid services using a
11 managed care delivery system.

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

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

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

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

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

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

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

41 New Sec. 9. (a) All moneys collected or received by the secretary of
42 health and environment for privilege fees collected pursuant to K.S.A. 40-
43 3213, and amendments thereto, connected to covered individuals under the

1 act shall be remitted to the state treasurer in accordance with the
2 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
3 each such remittance, the state treasurer shall deposit the entire amount in
4 the state treasury to the credit of the medicaid expansion privilege fee
5 fund.

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

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

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

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

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

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

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

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

43 New Sec. 11. (a) The secretary of corrections shall coordinate with

1 county sheriffs who request assistance to assist in facilitating medicaid
2 coverage for any state or county inmate incarcerated in a Kansas prison or
3 jail during any time period that the inmate is eligible for coverage.

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

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

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

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

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

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

40 (d) This section shall take effect and be in force on and after July 1,
41 2021.

42 New Sec. 15. (a) There is hereby established in the state treasury the
43 federal medical assistance percentage stabilization fund to be administered

1 by the secretary of health and environment. All expenditures from the
2 federal medical assistance percentage stabilization fund shall be made in
3 accordance with appropriation acts upon warrants of the director of
4 accounts and reports issued pursuant to vouchers approved by the
5 secretary of health and environment or the secretary's designee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (c) The department, in coordination with the advisory committee,
43 shall establish and manage the rural hospital transformation program and

1 shall identify one or more contractors to provide consultation to each
2 approved target hospital for the creation of a transformation plan,
3 including:

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

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

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

12 (4) providing support for the target hospital to implement the
13 transformation plan; and

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

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

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

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

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

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

42 New Sec. 17. (a) The insurance department shall analyze and prepare
43 a report detailing any cost shifting from hospitals to commercial health

1 insurance plans as a result of implementation of the Kansas innovative
2 solutions for affordable healthcare act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 Sec. 20.

22 INSURANCE DEPARTMENT

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

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

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

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

40 (2) (A) prepare a waiver request under section 1332 of the federal
41 patient protection and affordable care act, 42 U.S.C. § 18052, as it exists
42 on the effective date of the act, including any required actuarial analysis,
43 for submission to the United States centers for medicare and medicaid

1 services to implement a reinsurance program for health insurance plans on
2 the health benefit exchange in Kansas established under the federal patient
3 protection and affordable care act, except that such request shall not be
4 submitted without authorization by the state finance council in accordance
5 with section 22;

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

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

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

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

21 Sec. 21.

22 DEPARTMENT OF HEALTH AND ENVIRONMENT –
23 DIVISION OF HEALTH CARE FINANCE

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

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

37 Sec. 22.

38 STATE FINANCE COUNCIL

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

41 Health insurance plan reinsurance..... \$35,000,000
42 *Provided*, That all moneys in the health insurance plan reinsurance account
43 shall be used for the insurance department to implement the health

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

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

1 KanCare programs, including, but not limited to, pay for performance
2 measures, quality measures and enrollment and disenrollment in specific
3 plans, KanCare provider network data and appeals and grievances made to
4 the KanCare ombudsman, to the joint committee, as requested.

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

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

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

43 (2) *During calendar year 2021 and calendar year 2022, the joint*

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

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

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

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

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

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

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

40 (E) comparison of the actual medicaid costs expended in providing
41 state medicaid services under the KanCare program after January 1, 2013,
42 to the actual costs expended under the provision of state medicaid services
43 prior to January 1, 2013, including the manner in which such cost

1 expenditures are calculated;

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (b) Every health maintenance organization subject to this act shall

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

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

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

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

40 (f) (1) ~~On and after January 1, 2018,~~ In addition to any other filing
41 or return required by this section, each health maintenance organization
42 shall submit a report to the commissioner on or before March 31 and
43 September 30 of each year containing an estimate of the total amount of all

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

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

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

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

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

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

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

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

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

43 ~~(d)(f)~~ (f) "Hospital" ~~has the meaning~~ means the same as provided in

1 K.S.A. 65-425, and amendments thereto.

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

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

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

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

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

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

43 (c) Nothing in this act shall be construed to authorize any home rule

1 unit or other unit of local government to license for revenue or impose a
 2 tax or assessment upon hospital providers or a tax or assessment measured
 3 by the income or earnings of a hospital provider.

4 Sec. 27. K.S.A. 65-6209 is hereby amended to read as follows: 65-
 5 6209. (a) A hospital provider that is a state agency, the authority, as defined
 6 in K.S.A. 76-3304, and amendments thereto, a state educational institution,
 7 as defined in K.S.A. 76-711, and amendments thereto, or a critical access
 8 hospital, as defined in K.S.A. 65-468, and amendments thereto, is exempt
 9 from the assessment imposed by K.S.A. 65-6208(a), and amendments
 10 thereto, *but not the surcharge imposed by K.S.A. 65-6208(b), and*
 11 *amendments thereto.*

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

17 Sec. 28. K.S.A. 65-6210 is hereby amended to read as follows: 65-
 18 6210. (a) (1) The assessment *and surcharge* imposed by K.S.A. 65-6208,
 19 and amendments thereto, for any state fiscal year to which this statute
 20 applies shall be due and payable:

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

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

30 (2) No installment payment of an assessment under ~~this act~~ K.S.A.
 31 65-6208(a), and amendments thereto, shall be due and payable, ~~however,~~
 32 until after:

33 ~~(A)~~(A) The hospital provider receives written notice from the
 34 department that the payment methodologies to hospitals required under
 35 this act have been approved by the *United States* centers for medicare and
 36 medicaid services ~~of the United States department of health and human~~
 37 ~~services~~ under 42 C.F.R. § 433.68 for the assessment imposed by K.S.A.
 38 65-6208(a), and amendments thereto, ~~has been granted by the centers for~~
 39 ~~medicare and medicaid services of the United States department of health~~
 40 ~~and human services; and~~

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

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

5 (c) (1) If a hospital provider fails to pay the full amount of an
 6 installment when due, including any extensions granted under this section,
 7 there shall be added to the assessment *or surcharge* imposed by K.S.A. 65-
 8 6208, and amendments thereto, unless waived by the department for
 9 reasonable cause, a penalty assessment equal to the lesser of:

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

13 ~~(2)(B)~~ (B) an amount equal to 100% of the installment amount not paid
 14 on or before the due date.

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

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

24 Sec. 29. K.S.A. 65-6211 is hereby amended to read as follows: 65-
 25 6211. (a) After December 31 of each year, except as otherwise provided in
 26 this subsection, and on or before March 31 of the succeeding year, the
 27 department shall send a notice of assessment *imposed under K.S.A. 65-*
 28 *6208(a), and amendments thereto*, to every hospital provider subject to
 29 assessment under this act. ~~(b)~~—The hospital provider notice of assessment
 30 shall notify the hospital provider of its assessment for the state fiscal year
 31 commencing on the next July 1.

32 (b) *On or before August 15 and February 15 of each year, the*
 33 *department shall send a notice of surcharge imposed under K.S.A. 65-*
 34 *6208(b), and amendments thereto, to each hospital provider subject to the*
 35 *surcharge. The department shall send the first such notice on or before*
 36 *August 15, 2021.*

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

41 (d) Notwithstanding any other provision in this act, in the case of a
 42 person who ceases to operate, conduct or maintain a hospital~~in respect of~~
 43 *for which the person is subject to assessment in K.S.A. 65-6208(a), and*

1 amendments thereto, as a hospital provider, the assessment for the state
2 fiscal year in which the cessation occurs shall be adjusted by multiplying
3 the assessment computed under K.S.A. 65-6208(a), and amendments
4 thereto, by a fraction, the numerator of which is the number of the days
5 during the year during which the provider operates, conducts or maintains
6 a hospital and the denominator of which is 365. Immediately upon ceasing
7 to operate, conduct or maintain a hospital, the person shall pay the
8 adjusted assessment for that state fiscal year, to the extent not previously
9 paid.

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

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

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

37 (b) The assessment *and surcharge* imposed by K.S.A. 65-6208, and
38 amendments thereto, shall not take effect or shall cease to be imposed if
39 the assessment is determined to be an impermissible tax under title XIX of
40 the federal social security act. Moneys in the health care access
41 improvement fund *or the hospital medicaid expansion support surcharge*
42 *fund* derived from assessments *or surcharges* imposed prior thereto shall
43 be disbursed in accordance with ~~subsection (a)~~ of K.S.A. 65-6218, and

1 amendments thereto, to the extent that federal matching is not reduced due
 2 to the impermissibility of the assessments *or surcharges*, and any
 3 remaining moneys shall be refunded to hospital providers in proportion to
 4 the amounts paid by them.

5 Sec. 31. K.S.A. 65-6217 is hereby amended to read as follows: 65-
 6 6217. (a) There is hereby created in the state treasury the health care
 7 access improvement fund, ~~which shall~~ *to* be administered by the secretary
 8 of health and environment. All moneys received for the assessments
 9 imposed by K.S.A. 65-6208(a) and 65-6213, and amendments thereto,
 10 including any penalty assessments imposed thereon, shall be remitted to
 11 the state treasurer in accordance with K.S.A. 75-4215, and amendments
 12 thereto. Upon receipt of each such remittance, the state treasurer shall
 13 deposit the entire amount in the state treasury to the credit of the health
 14 care access improvement fund. All expenditures from the health care
 15 access improvement fund shall be made in accordance with appropriation
 16 acts upon warrants of the director of accounts and reports issued pursuant
 17 to vouchers approved by the secretary of health and environment or the
 18 secretary's designee.

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

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

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

38 ~~(d)(e)~~ On or before the 10th day of each month, the director of
 39 accounts and reports shall transfer from the state general fund to the health
 40 care access improvement fund *and the hospital medicaid expansion*
 41 *support surcharge fund* interest earnings based on:

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

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

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

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

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

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

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

38 (2) *On July 1 of each fiscal year, the director of accounts and reports*
39 *shall record a debit to the state treasurer's receivables for the hospital*
40 *medicaid expansion support surcharge fund and shall record a*
41 *corresponding credit to the hospital medicaid expansion support*
42 *surcharge fund in an amount certified by the director of the budget that*
43 *shall be equal to 100% of the moneys estimated by the director of the*

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

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

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

37 Sec. 32. K.S.A. 65-6218 is hereby amended to read as follows: 65-
38 6218. (a) Assessment revenues generated from the hospital provider
39 assessments *under K.S.A. 65-6208(a), and amendments thereto*, shall be
40 disbursed as follows:

41 (1) Not less than 80% of assessment revenues shall be disbursed to
42 hospital providers through a combination of medicaid access improvement
43 payments and increased medicaid rates on designated diagnostic related

1 groupings, procedures or codes;

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

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

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

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

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

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

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

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

1 act and shall elect a chairperson from among the members appointed by
2 the Kansas hospital association.

3 *(e) The panel shall use the following procedure to approve collection*
4 *of surcharge revenues under K.S.A. 65-6208(b) for each calendar year*
5 *beginning with calendar year 2021 based upon the total number of*
6 *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 million, and any*
29 *annual hospital medicaid expansion support surcharge in excess of \$35*
30 *million 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 *(f) A representative of the panel shall be required to make an annual*
42 *report to the legislature regarding the collection and distribution of all*
43 *funds received and distributed under this act.*

1 Sec. 33. K.S.A. 65-6207, 65-6208, 65-6209, 65-6210, 65-6211, 65-
2 6212, 65-6217 and 65-6218 and K.S.A. 2019 Supp. 39-7,160 and 40-3213
3 are hereby repealed.

4 Sec. 34. This act shall take effect and be in force from and after its
5 publication in the Kansas register.