

HOUSE BILL No. 2531

By Committee on Appropriations

3-23

9 AN ACT establishing the Kansas health policy authority; prescribing
10 powers, duties and functions therefor; establishing a division of health
11 policy and finance and a director of health policy and finance within
12 the department of administration and transferring certain powers, du-
13 ties and functions thereto; amending K.S.A. 39-7,116, 39-7,121, 65-
14 6801, 65-6804, 65-6805, 65-6806, 65-6807 and 65-6809 and K.S.A.
15 2004 Supp. 39-7,118, 39-7,119, 39-7,120, 39-7,121a, 39-7,121d, 39-
16 7,121e and 65-6803 and repealing the existing sections; also amending
17 sections 9 through 21 of this act and repealing the existing sections;
18 also repealing K.S.A. 65-6808 and sections 7 and 8 of this act.
19

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

21 New Section 1. (a) On July 1, 2005, the Kansas health policy au-
22 thority is hereby established as a state agency within the executive branch
23 of state government.

24 (b) The Kansas health policy authority shall be composed of seven
25 voting members and seven nonvoting, ex officio members. The seven
26 voting members shall be appointed as follows:

27 (1) Four members shall be appointed by the governor;

28 (2) two members shall be appointed by the speaker of the house of
29 representatives; and

30 (3) one member shall be appointed by the president of the senate.

31 (c) The seven nonvoting, ex officio members of the Kansas health
32 policy authority are the director of health of the department of health
33 and environment, secretary of health and environment, secretary of social
34 and rehabilitation services, commissioner of insurance, secretary of ad-
35 ministration, secretary of aging, and the executive director of the authority
36 appointed pursuant to section 2, and amendments thereto.

37 (d) The appointment of each voting member of the Kansas health
38 policy authority shall be subject to confirmation by the senate as provided
39 in K.S.A. 75-4315b, and amendments thereto. Except as provided by
40 K.S.A. 46-2601, and amendments thereto, no person appointed as a vot-
41 ing member of the Kansas health policy authority shall exercise any
42 power, duty or function as a member of the authority until confirmed by
43 the senate. Each member shall hold office for a term of four years, except

1 as provided in subsection (d) for the first members appointed to the
2 Kansas health policy authority, and until a successor is appointed and
3 confirmed. Terms of voting members of the Kansas health policy au-
4 thority shall expire on March 15.

5 (e) Voting members of the Kansas health policy authority shall be
6 members of the general public who have knowledge and demonstrated
7 leadership in fields including, but not limited to, health care delivery,
8 health promotion, public health improvement, evidence-based medicine,
9 insurance, information systems, data analysis, health care finance, eco-
10 nomics, government, and business. A majority of the voting members of
11 the Kansas health policy authority shall be Kansas residents. No member
12 of the legislature shall be appointed as a voting member of the Kansas
13 health policy authority.

14 (f) The first voting members of the Kansas health policy authority
15 established by this section shall be appointed on or before August 1, 2005.
16 The terms of office of such members shall be as follows: (1) The governor
17 shall appoint one member for a term which shall expire on March 15,
18 2007, two members for a term which shall expire on March 15, 2008, and
19 one member for a term which shall expire on March 15, 2009; (2) the
20 speaker of the house of representatives shall appoint one member for a
21 term which shall expire on March 15, 2009, and one member for a term
22 which shall expire on March 15, 2007; and (3) the president of the senate
23 shall appoint one member for a term which shall expire on March 15,
24 2009. In addition to such terms, each of the first members appointed shall
25 serve until a successor is appointed and confirmed.

26 (g) The members of the Kansas health policy authority shall meet and
27 organize annually by electing one member as chairperson, except that the
28 governor shall designate the first chairperson of the Kansas health policy
29 authority from among the first members appointed. The Kansas health
30 policy authority shall meet at least monthly during the fiscal year ending
31 June 30, 2006, and thereafter not less than once per calendar quarter.

32 (h) Members of the Kansas health policy authority attending meet-
33 ings of the authority, or attending a subcommittee meeting thereof au-
34 thorized by the Kansas health policy authority, shall be paid subsistence
35 allowances, mileage and other expenses as provided in K.S.A. 75-3212,
36 and amendments thereto, for members of the legislature. Members on
37 the Kansas health policy authority shall not receive compensation for their
38 service on the authority.

39 (i) On July 1, 2013, the Kansas health policy authority is hereby
40 abolished.

41 New Sec. 2. (a) The Kansas health policy authority shall appoint the
42 executive director of the authority subject to confirmation by the senate
43 as provided in K.S.A. 75-4315b, and amendments thereto. The Kansas

1 health policy authority may appoint a temporary director to serve and to
2 administer and oversee the operations of the authority until such time as
3 an executive director can be appointed and commences employment.

4 (b) The executive director of the Kansas health policy authority shall
5 be in the unclassified service under the Kansas civil service act and shall
6 serve at the pleasure of the Kansas health policy authority. The executive
7 director of the Kansas health policy authority shall receive a salary fixed
8 by the Kansas health policy authority, subject to approval by the governor.

9 (c) The executive director shall have the authority to hire and super-
10 vise the other personnel of the Kansas health policy authority. Except as
11 otherwise provided by this act, all officers and employees of the Kansas
12 health policy authority shall be in the unclassified service under the Kan-
13 sas civil service act and shall serve at the pleasure of the executive director
14 of the Kansas health policy authority.

15 New Sec. 3. (a) The Kansas health policy authority is hereby autho-
16 rized to establish policies and to adopt rules and regulations for the
17 implementation and administration of the powers, duties and functions
18 prescribed for or transferred to the authority as provided by law.

19 (b) The Kansas health policy authority may enter into contracts as
20 may be necessary to perform the powers, duties and functions of authority
21 and as provided by law. As provided by this act or as otherwise the Kansas
22 health policy authority may enter into contracts with other state agencies
23 or with local governmental entities for the coordination of health care
24 services, including care and prevention programs and activities, and pub-
25 lic health programs.

26 (c) The Kansas health policy authority may appoint advisory com-
27 mittees as deemed necessary by the authority. The advisory committees
28 shall consult with and advise the Kansas health policy authority regarding
29 the matters referred thereto by the authority. Members of any advisory
30 committee created under this section attending meetings of such com-
31 mittee or attending a subcommittee meeting thereof authorized by such
32 committee shall be paid subsistence allowances, mileage and other ex-
33 penses as provided in K.S.A. 75-3223, and amendments thereto, but shall
34 receive no compensation for services as members of such advisory
35 committee.

36 New Sec. 4. The legislative coordinating council shall establish and
37 appoint members of the legislature from the senate and house of repre-
38 sentatives to serve as members of a special committee in accordance with
39 K.S.A. 46-1205, and amendments thereto. The special committee shall
40 have the exclusive responsibility to monitor operations and decisions of
41 the Kansas health policy authority and the legislative coordinating council
42 shall provide for the continuing existence of the special committee for
43 such period as deemed appropriate by the council.

1 New Sec. 5. The Kansas health policy authority shall develop and
2 maintain a coordinated health policy agenda that combines effective pur-
3 chasing and administration of health care with health promotion oriented
4 public health strategies. The powers, duties and functions of the Kansas
5 health policy authority are intended to be exercised to improve the health
6 of the people of Kansas by increasing the quality, efficiency and effect-
7 iveness of health care services and public health programs.

8 New Sec. 6. (a) The Kansas health policy authority is responsible for
9 the development of a statewide health policy agenda including health care
10 and health promotion components. The Kansas health policy authority
11 shall report to the legislature at the beginning of the regular session of
12 the legislature in 2007 and at the beginning of each regular legislative
13 session thereafter. The report of the Kansas health policy authority to the
14 legislature shall include recommendations for implementation of the
15 health policy agenda recommended by the authority. In accordance with
16 the provisions of this act and the provisions of appropriation acts, the
17 Kansas health policy authority shall assume powers, duties and functions
18 in accordance with the provisions of this act.

19 (b) On January 1, 2006, the Kansas health policy authority shall as-
20 sume the functions of the health care data governing board as provided
21 by this act.

22 (c) On January 1, 2006, the Kansas health policy authority shall as-
23 sume responsibility for the drug utilization review program, including
24 oversight of the medicaid drug utilization review board, and the electronic
25 claims management system as provided by this act.

26 (d) On or before March 1, 2006, the Kansas health policy authority
27 shall submit a plan with recommendations for funding and any recom-
28 mended legislation for the powers, duties and functions transferred to
29 the authority on July 1, 2006, of the programs and activities specified in
30 subsection (e).

31 (e) On July 1, 2006, the Kansas health policy authority shall assume
32 operational and purchasing responsibility for (1) the regular medical por-
33 tion of the state medicaid program, (2) the MediKan program, (3) the
34 state children's health insurance program as provided in K.S.A. 38-2001
35 et seq., and amendments thereto, (4) the working healthy portion of the
36 ticket to work program under the federal work incentive improvement
37 act and the medicaid infrastructure grants received for the working
38 healthy portion of the ticket to work program, (5) the medicaid manage-
39 ment information system (MMIS), (6) the state health care benefits pro-
40 gram as provided in K.S.A. 65-6501 through 65-6523, and amendments
41 thereto, and (7) the state workers compensation self-insurance fund and
42 program as provided in K.S.A. 44-575 through 44-580, and amendments
43 thereto.

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

9 (g) At the beginning of the regular session of the legislature in 2008,
10 the Kansas health policy authority shall submit to the legislature recom-
11 mendations and an implementation plan for the Kansas health policy au-
12 thority to assume responsibility for health care purchasing functions
13 within additional state agencies, which may include (1) the department
14 on aging, (2) the department of education for local education agencies,
15 (3) the juvenile justice authority and the juvenile correctional institutions
16 and facilities thereunder, and (4) the department of corrections and the
17 correctional institutions and facilities thereunder.

18 New Sec. 7. On July 1, 2005, the division of health policy and finance
19 is hereby established within the department of administration. The head
20 of the division of health policy and finance shall be the director of health
21 policy and finance, who shall be appointed by and serve at the pleasure
22 of the governor. The director of health policy and finance shall be in the
23 unclassified service under the Kansas civil service act and shall receive an
24 annual salary fixed by the governor. Under the supervision of the gover-
25 nor, the director of health policy and finance shall administer the division
26 of health policy and finance and shall perform such other powers, duties
27 and functions as may be prescribed by law.

28 New Sec. 8. (a) Subject to the provisions of appropriation acts, the
29 director of health policy and finance shall appoint, in accordance with the
30 provisions of the Kansas civil service act, such officers and employees as
31 may be needed, in the judgment of the director, to carry out the powers
32 and duties of the division of health policy and finance. All such officers
33 and employees shall be within the unclassified service under the Kansas
34 civil service act, unless otherwise specifically provided by law.

35 (b) The officers and employees of the division of health policy and
36 finance shall act for and exercise the powers of the director of health
37 policy and finance to the extent that authority to do so is delegated by
38 the director. Subject to the limitations of this act, the director of health
39 policy and finance may organize the division of health policy and finance
40 in the manner the director deems most efficient.

41 New Sec. 9. (a) The director of health policy and finance shall co-
42 ordinate health care planning, administration, and purchasing and analysis
43 of health care data for the state of Kansas with respect to the following

1 health care programs administered by the state of Kansas:

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

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

9 (B) the health benefits program for children established under K.S.A.
10 38-2001 et seq., and amendments thereto, and developed and submitted
11 in accordance with federal guidelines established under title XXI of the
12 federal social security act, section 4901 of public law 105-33, 42
13 U.S.C. § 1397aa et seq., and amendments thereto;

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

17 (D) the working healthy portion of the ticket to work program under
18 the federal work incentive improvement act and the medicaid infrastruc-
19 ture grants received for the working healthy portion of the ticket to work
20 program; and

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

22 (2) serving as the designated contact agency for the state of Kansas
23 under K.S.A. 46-2507, and amendments thereto, with reference to federal
24 health care reform measures; and

25 (3) administering any other health care programs delegated to the
26 director by the governor or by a contract with another state agency.

27 (b) Except to the extent required by its single state agency role as
28 designated in section 10, and amendments thereto, the division of health
29 policy and finance shall not be responsible for health care planning, ad-
30 ministration, purchasing and data with respect to the following:

31 (1) The mental health reform act, K.S.A. 39-1601 et seq., and amend-
32 ments thereto;

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

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

37 (4) the addiction and prevention services prescribed under K.S.A. 65-
38 4001 et seq., and amendments thereto; or

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

41 New Sec. 10. (a) The division of health policy and finance shall be
42 designated as the single state agency with responsibility for supervising
43 and administering the state plan for medical assistance under the federal

1 social security act, 42 U.S.C. § 1396 et seq., and amendments thereto.
2 The director shall develop state plans, as provided under the federal social
3 security act, whereby the state cooperates with the federal government
4 in its program of assisting the states financially in furnishing medical as-
5 sistance and services to eligible individuals.

6 (b) The director of health policy and finance shall undertake to co-
7 operate with the federal government on any other federal program pro-
8 viding federal financial assistance and services for medical assistance not
9 inconsistent with this act. The director of health policy and finance is not
10 required to develop a state plan for participation or cooperation in all
11 federal social security act programs relating to medical assistance or other
12 available federal programs that relate to medical assistance.

13 New Sec. 11. The director of health policy and finance shall have the
14 power, but is not required, to develop a state plan with regard to medical
15 assistance and services in which the federal government does not partic-
16 ipate, within the limits of appropriations therefor.

17 New Sec. 12. (a) Subject to the limitations of subsection (b), the
18 director of health policy and finance may enter into a contract with one
19 or more state agencies or local governmental entities providing for the
20 state agency or local governmental entity to perform services for the di-
21 vision of health policy and finance or delegating to the state agency or
22 local governmental entity the administration of certain functions, services
23 or programs under any of the programs for which the director of health
24 policy and finance or the division of health policy and finance is
25 responsible.

26 (b) With respect to any plan or program that is subject to or financed
27 in part under the federal social security act, 42 U.S.C. §1396 et seq., and
28 amendments thereto, the authority of the director of health policy and
29 finance or the division of health policy and finance to exercise adminis-
30 trative discretion in the administration or supervision of the plan or pro-
31 gram and to issue policies and to adopt rules and regulations on plan or
32 program matters shall not be delegated by the director of health policy
33 and finance, other than to officials and employees of the division of health
34 policy and finance. To the extent that the director of health policy and
35 finance enters into a contract with a state agency or local governmental
36 entity under this section, the other state agency or the local governmental
37 entity shall not have the authority to change or disapprove any adminis-
38 trative decision of the director of health policy and finance or the division
39 of health policy and finance or to otherwise substitute its judgment for
40 that of the director of health policy and finance or the division of health
41 policy and finance with respect to the application of policies issued or
42 rules and regulations adopted by the director of health policy and finance
43 for any plan or program that is subject to or financed in part under the

1 federal social security act, 42 U.S.C. §1396 et seq., and amendments
2 thereto.

3 New Sec. 13. (a) The director of health policy and finance shall have
4 the power and duty to establish general policies relating to the health care
5 programs under the director as provided in section 9, and amendments
6 thereto, and to adopt rules and regulations therefor.

7 (b) The director of health policy and finance shall advise the governor
8 and the legislature on all health care programs, policies and plans for
9 which the director of health policy and finance or the division of health
10 policy and finance is responsible under this act.

11 (c) The director of health policy and finance shall establish an ade-
12 quate system of financial records. The director of health policy and fi-
13 nance shall make periodic reports to the governor and shall make any
14 reports required by federal agencies.

15 (d) The director of health policy and finance may assist other de-
16 partments, agencies and institutions of the state and federal government
17 and of other states under interstate agreements, when so requested, by
18 performing services in conformity with the purposes of this act.

19 (e) All contracts of the division of health policy and finance shall be
20 made in the name of the "director of health policy and finance." In that
21 name, the director may sue and be sued. The grant of authority under
22 this subsection shall not be construed to be a waiver of any rights retained
23 by the state under the 11th amendment to the United States constitution
24 and shall be subject to and shall not supersede the provisions of any
25 appropriation act of this state.

26 (f) After consulting with any agency that has responsibility under a
27 contract with the division of health policy and finance for administration
28 of any of the programs of the division, the director of health policy and
29 finance shall prepare annually, at the time and in the form directed by
30 the governor, a budget covering the estimated receipts and expenditures
31 of the division of health policy and finance for the coming fiscal year.

32 (g) The director of health policy and finance shall have authority to
33 make grants of funds for the promotion of health care programs in the
34 state of Kansas, subject to the provisions of appropriation acts.

35 (h) The director of health policy and finance may receive grants, gifts,
36 bequests, money, or aid of any character whatsoever, for purposes con-
37 sistent with sections 9 through 14, and amendments thereto.

38 (i) The director of health policy and finance may enter into agree-
39 ments with other states or the agency designated as the single state agency
40 under the federal social security act, 42 U.S.C. §1396 et seq., and amend-
41 ments thereto, for another state setting out the manner for determining
42 the state of residence in disputed cases and the bearing or sharing of costs
43 associated with those cases.

1 (j) The director of health policy and finance shall establish such ad-
2 visory groups as are necessary to assist the division of health policy and
3 finance in carrying out its responsibilities under sections 9 through 14,
4 and amendments thereto, including the following:

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

10 (2) a policy coordination board consisting of representatives from
11 those state agencies with which the director enters into a contract under
12 section 12, and amendments thereto, and representatives from any other
13 state agencies, as determined by the director.

14 (k) The director of health policy and finance shall perform any other
15 duties and services that are necessary to carry out the purposes of sections
16 9 through 14, and amendments thereto, and that are not inconsistent with
17 state law.

18 New Sec. 14. On July 1, 2005, except as otherwise provided by this
19 act, all of the following powers, duties and functions of the department
20 of social and rehabilitation services and the secretary of social and reha-
21 bilitation services are hereby transferred to and imposed upon the division
22 of health policy and finance within the department of administration and
23 the director of health policy and finance established by this act:

24 (a) All of the powers, duties and functions of the secretary of social
25 and rehabilitation services under chapter 39 of the Kansas Statutes An-
26 notated, and amendments thereto, that relate to development, imple-
27 mentation and administration of programs that provide medical assis-
28 tance, health insurance programs or waivers granted thereunder for
29 persons who are needy or uninsured, or both, and that are financed by
30 federal funds or state funds, or both, including the following:

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

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

36 (b) all of the powers, duties and functions of the secretary of social
37 and rehabilitation services with respect to the health benefits program for
38 children established under K.S.A. 38-2001 et seq., and amendments
39 thereto, and developed and submitted in accordance with federal guide-
40 lines established under title XXI of the federal social security act, section
41 4901 of public law 105-33, 42 U.S.C. § 1397aa et seq., and amendments
42 thereto; and

43 (c) all of the powers, duties and functions of the department of social

1 and rehabilitation services and secretary of social and rehabilitation serv-
2 ices associated with designation of the department of social and rehabil-
3 itation services as the single state agency under title XIX of the federal
4 social security act, 42 U.S.C. § 1396 et seq., and amendments thereto.
5 The designation of the department of social and rehabilitation services as
6 the single state agency for medicaid purposes is hereby transferred to the
7 division of health policy and finance.

8 New Sec. 15. (a) The division of health policy and finance within the
9 department of administration and the director of health policy and finance
10 established by this act shall be the successor in every way to the powers,
11 duties and functions of the department of social and rehabilitation serv-
12 ices and secretary of social and rehabilitation services in which the same
13 were vested prior to the effective date of this act and that are transferred
14 pursuant to section 14, and amendments thereto. Every act performed in
15 the exercise of such transferred powers, duties and functions by or under
16 the authority of the division of health policy and finance or the director
17 of health policy and finance within the department of administration shall
18 be deemed to have the same force and effect as if performed by the
19 department of social and rehabilitation services or secretary of social and
20 rehabilitation services in which such powers, duties and functions were
21 vested prior to July 1, 2005.

22 (b) Whenever the department of social and rehabilitation services or
23 the secretary of social and rehabilitation services, or words of like effect,
24 are referred to or designated by a statute, contract, memorandum of un-
25 derstanding, plan, grant, waiver or other document and such reference is
26 in regard to any of the powers, duties or functions transferred to the
27 division of health policy and finance or the director of health policy and
28 finance pursuant to section 14, and amendments thereto, such reference
29 or designation shall be deemed to apply to the division of health policy
30 and finance or the director of health policy and finance, respectively. The
31 provisions of this subsection shall not apply to references to or designa-
32 tions of the department of social and rehabilitation services or the sec-
33 retary of social and rehabilitation services, or words of like effect, by the
34 provisions of appropriation acts.

35 (c) All rules and regulations, orders and directives of the secretary of
36 social and rehabilitation services that relate to the functions transferred
37 by section 14, and amendments thereto, and that are in effect on July 1,
38 2005, shall continue to be effective and shall be deemed to be rules and
39 regulations, orders and directives of the director of health policy and
40 finance until revised, amended, revoked or nullified pursuant to law.

41 New Sec. 16. (a) The division of health policy and finance within the
42 department of administration shall succeed to all property, property
43 rights, and records that were used for or pertain to the performance of

1 powers, duties and functions transferred to the division pursuant to sec-
2 tion 14, and amendments thereto. Any conflict as to the proper disposition
3 of property, personnel or records arising under this act shall be deter-
4 mined by the governor, whose decision shall be final.

5 (b) The provisions of this section shall not apply to the balances of
6 any funds or accounts thereof appropriated or reappropriated for the
7 department of social and rehabilitation services relating to the powers,
8 duties and functions transferred by section 14, and amendments thereto.
9 All such balances of any funds or accounts thereof shall be transferred by
10 and be subject to the provisions of appropriation acts.

11 New Sec. 17. (a) (1) All officers and employees of the department of
12 social and rehabilitation services who, immediately prior to the effective
13 date of this act, are engaged in the exercise and performance of the pow-
14 ers, duties and functions transferred to the division of health policy and
15 finance or the director of health policy and finance by section 14, and
16 amendments thereto, are transferred to the department of administration
17 on July 1, 2005, or on a later date or dates determined by the secretary
18 of social and rehabilitation services and the secretary of administration.

19 (2) All officers and employees of the department of social and reha-
20 bilitation services who are determined by the secretary of social and re-
21 habilitation services and the secretary of administration to be engaged in
22 providing administrative, technical or other support services that are es-
23 sential to the exercise and performance of the powers, duties and func-
24 tions transferred by section 14, and amendments thereto, are transferred
25 to the department of administration on July 1, 2005, or on a later date or
26 dates determined by the secretary of social and rehabilitation services and
27 the secretary of administration.

28 (3) All classified employees transferred under this subsection (a) shall
29 retain their status as classified employees. Thereafter, the secretary of
30 administration may convert vacant classified positions to positions that are
31 not classified as otherwise provided by law.

32 (b) Officers and employees of the department of social and rehabil-
33 itation services transferred by this act shall retain all retirement benefits
34 and leave balances and rights that had accrued or vested prior to the date
35 of transfer. The service of each such officer and employee so transferred
36 shall be deemed to have been continuous. Any subsequent transfers, lay-
37 offs or abolition of classified service positions under the Kansas civil serv-
38 ice act shall be made in accordance with the civil service laws and any
39 rules and regulations adopted thereunder. Nothing in this act shall affect
40 the classified status of any transferred person employed by the depart-
41 ment of social and rehabilitation services prior to the date of transfer.

42 New Sec. 18. On July 1, 2005, the designation of the department of
43 health and environment under K.S.A. 46-2507, and amendments thereto,

1 as the contact agency for the state of Kansas with reference to federal
2 health care reform measures is hereby transferred to and imposed upon
3 the division of health policy and finance within the department of ad-
4 ministration and the director of health policy and finance established by
5 section 7, and amendments thereto.

6 New Sec. 19. (a) The division of health policy and finance within the
7 department of administration and the director of health policy and finance
8 established by section 7, and amendments thereto, shall be the successor
9 in every way to the powers, duties and functions of the department of
10 health and environment and secretary of health and environment in which
11 the same were vested prior to July 1, 2005, and that are transferred pur-
12 suant to section 18, and amendments thereto. Every act performed in the
13 exercise of such transferred powers, duties and functions by or under the
14 authority of the division of health policy and finance or the director of
15 health policy and finance within the department of administration shall
16 be deemed to have the same force and effect as if performed by the
17 department of health and environment or secretary of health and envi-
18 ronment in which such powers, duties and functions were vested prior to
19 July 1, 2005.

20 (b) From July 1, 2005, through June 30, 2006, whenever the depart-
21 ment of health and environment or the secretary of health and environ-
22 ment, or words of like effect, are referred to or designated by a statute,
23 contract, memorandum of understanding, plan, grant, waiver or other
24 document and such reference is in regard to any of the powers, duties or
25 functions transferred to the division of health policy and finance or the
26 director of health policy and finance pursuant to section 18, and amend-
27 ments thereto, such reference or designation shall be deemed to apply
28 to the division of health policy and finance or the director of health policy
29 and finance, respectively. The provisions of this subsection shall not apply
30 to references to or designations of the department of health and environ-
31 ment or the secretary of health and environment, or words of like effect,
32 by the provisions of appropriation acts.

33 (c) All rules and regulations, orders and directives of the secretary of
34 health and environment that relate to the functions transferred by section
35 18, and amendments thereto, and that are in effect on July 1, 2005, shall
36 continue to be effective and shall be deemed to be rules and regulations,
37 orders and directives of the director of health policy and finance until
38 revised, amended, revoked or nullified pursuant to law.

39 New Sec. 20. (a) On July 1, 2005, the division of health policy and
40 finance within the department of administration shall succeed to all prop-
41 erty, property rights, and records that were used for or pertain to the
42 performance of powers, duties and functions transferred to the division
43 pursuant to section 18, and amendments thereto. Any conflict as to the

1 proper disposition of property, personnel or records arising under this act
2 shall be determined by the governor, whose decision shall be final.

3 (b) The provisions of this section shall not apply to the balances of
4 any funds or accounts thereof appropriated or reappropriated for the
5 department of health and environment relating to the powers, duties and
6 functions transferred by section 18, and amendments thereto. All such
7 balances of any funds or accounts thereof shall be transferred by and be
8 subject to the provisions of appropriation acts.

9 New Sec. 21. Liability for accrued compensation or salaries of each
10 officer and employee who is transferred to the department of adminis-
11 tration under this act shall be assumed and paid by the department of
12 administration on July 1, 2005, or on the date of the transfer, whichever
13 is later.

14 New Sec. 22. (a) On January 1, 2006, except as otherwise provided
15 by this act, all of the powers, duties and functions of the department of
16 social and rehabilitation services and the secretary of social and rehabil-
17 itation services that relate to the restrictive drug formulary, the drug util-
18 ization review program, including the medicaid drug utilization review
19 board, and the electronic pharmacy claims management system under
20 K.S.A. 39-7,116, 39-7,118, 39-7,119, 39-7,120, 39-7,121 and K.S.A. 2004
21 Supp. 39-7,121a, 39-7,121d, 39-7,121e, and amendments thereto, are
22 hereby transferred to and imposed upon the Kansas health policy au-
23 thority established by section 1, and amendments thereto.

24 (b) The Kansas health policy authority shall be the successor in every
25 way to such powers, duties and functions of the department of social and
26 rehabilitation services and secretary of social and rehabilitation services
27 in which the same were vested prior to January 1, 2006, and that are
28 transferred pursuant to this section. Every act performed in the exercise
29 of such transferred powers, duties and functions by or under the authority
30 of the Kansas health policy authority shall be deemed to have the same
31 force and effect as if performed by the department of social and rehabil-
32 itation services and secretary of social and rehabilitation services in which
33 such powers, duties and functions were vested prior to January 1, 2006.

34 (c) On or after January 1, 2006, whenever the department of social
35 and rehabilitation services or secretary of social and rehabilitation services
36 or words of like effect, are referred to or designated by a statute, contract,
37 memorandum of understanding, plan, grant, waiver or other document
38 and such reference is in regard to any of the powers, duties or functions
39 transferred to the Kansas health policy authority pursuant to this section,
40 such reference or designation shall be deemed to apply to the Kansas
41 health policy authority. The provisions of this subsection shall not apply
42 to references to or designations of the department of social and rehabil-
43 itation services or the secretary of social and rehabilitation services, or

1 words of like effect, by the provisions of appropriation acts.

2 (d) All rules and regulations, orders and directives of the secretary of
3 social and rehabilitation services that relate to the functions transferred
4 pursuant to this section, and that are in effect on January 1, 2006, shall
5 continue to be effective and shall be deemed to be rules and regulations,
6 orders and directives of the Kansas health policy authority until revised,
7 amended, revoked or nullified pursuant to law.

8 (e) The Kansas health policy authority shall succeed to all property,
9 property rights, and records that were used for or pertain to the perform-
10 ance of powers, duties and functions transferred to the Kansas health
11 policy authority pursuant to this section. Any conflict as to the proper
12 disposition of property, personnel or records arising under this section
13 shall be determined by the governor, whose decision shall be final. The
14 provisions of this subsection shall not apply to the balances of any funds
15 or accounts thereof appropriated or reappropriated for the department
16 of social and rehabilitation services relating to the powers, duties and
17 functions transferred by this section. All such balances of any funds or
18 accounts thereof shall be transferred by and be subject to the provisions
19 of appropriation acts.

20 (f) (1) All officers and employees of the department of social and
21 rehabilitation services who, immediately prior to January 1, 2006, are
22 engaged in the exercise and performance of the powers, duties and func-
23 tions transferred to the Kansas health policy authority pursuant to this
24 section, are transferred to the Kansas health policy authority on January
25 1, 2006, or on a later date or dates determined by the secretary of social
26 and rehabilitation services and the Kansas health policy authority.

27 (2) All officers and employees of the department of social and reha-
28 bilitation services who are determined by the secretary of social and re-
29 habilitation services and the Kansas health policy authority to be engaged
30 in providing administrative, technical or other support services that are
31 essential to the exercise and performance of the powers, duties and func-
32 tions transferred pursuant to this section are transferred to the Kansas
33 health policy authority on January 1, 2006, or on a later date or dates
34 determined by the secretary of social and rehabilitation services and the
35 Kansas health policy authority.

36 (3) All classified employees transferred under this subsection (f) shall
37 retain their status as classified employees. Thereafter, the Kansas health
38 policy authority may convert vacant classified positions to positions that
39 are not classified as otherwise provided by law.

40 (g) Officers and employees of the department of social and rehabil-
41 itation services transferred by this section shall retain all retirement ben-
42 efits and leave balances and rights that had accrued or vested prior to the
43 date of transfer. The service of each such officer and employee so trans-

1 transferred shall be deemed to have been continuous. Any subsequent trans-
2 fers, layoffs or abolition of classified service positions under the Kansas
3 civil service act shall be made in accordance with the civil service laws
4 and any rules and regulations adopted thereunder. Nothing in this act
5 shall affect the classified status of any transferred person employed by
6 the department of social and rehabilitation services prior to the date of
7 transfer.

8 (h) Liability for accrued compensation or salaries of each officer and
9 employee who is transferred to the Kansas health policy authority under
10 this section shall be assumed and paid by the Kansas health policy au-
11 thority on January 1, 2006, or on the date of the transfer, whichever is
12 later.

13 New Sec. 23. (a) On January 1, 2006, except as otherwise provided
14 by this act, all of the powers, duties and functions of the health care data
15 governing board, department of health and environment and the secre-
16 tary of health and environment that relate to the health care data system
17 under K.S.A. 65-6801, 65-6802, 65-6804, 65-6805, 65-6806, 65-6807 and
18 65-6809 and K.S.A. 2004 Supp. 65-6803, and amendments thereto, are
19 hereby transferred to and imposed upon the Kansas health policy au-
20 thority established by section 1, and amendments thereto.

21 (b) The Kansas health policy authority shall be the successor in every
22 way to such powers, duties and functions of the health care data governing
23 board, department of health and environment and the secretary of health
24 and environment in which the same were vested prior to January 1, 2006,
25 and that are transferred pursuant to this section. Every act performed in
26 the exercise of such transferred powers, duties and functions by or under
27 the authority of the Kansas health policy authority shall be deemed to
28 have the same force and effect as if performed by the health care data
29 governing board, department of health and environment and the secre-
30 tary of health and environment in which such powers, duties and func-
31 tions were vested prior to January 1, 2006.

32 (c) On or after January 1, 2006, whenever the health care data gov-
33 erning board, department of health and environment or the secretary of
34 health and environment or words of like effect, are referred to or desig-
35 nated by a statute, contract, memorandum of understanding, plan, grant,
36 waiver or other document and such reference is in regard to any of the
37 powers, duties or functions transferred to the Kansas health policy au-
38 thority pursuant to this section, such reference or designation shall be
39 deemed to apply to the Kansas health policy authority. The provisions of
40 this subsection shall not apply to references to or designations of the
41 health care data governing board, department of health and environment,
42 or the secretary of health and environment, or words of like effect, by the
43 provisions of appropriation acts.

1 (d) All rules and regulations, orders and directives of the health care
2 data governing board or the secretary of health and environment that
3 relate to the functions transferred by this section, and that are in effect
4 on January 1, 2006, shall continue to be effective and shall be deemed to
5 be rules and regulations, orders and directives of the Kansas health policy
6 authority until revised, amended, revoked or nullified pursuant to law.

7 (e) The Kansas health policy authority shall succeed to all property,
8 property rights and records that were used for or pertain to the perform-
9 ance of powers, duties and functions transferred to the Kansas health
10 policy authority pursuant to this section. Any conflict as to the proper
11 disposition of property, personnel or records arising under this section
12 shall be determined by the governor, whose decision shall be final. The
13 provisions of this subsection shall not apply to the balances of any funds
14 or accounts thereof appropriated or reappropriated for the department
15 of health and environment relating to the powers, duties and functions
16 transferred by this section. All such balances of any funds or accounts
17 thereof shall be transferred by and be subject to the provisions of appro-
18 priation acts.

19 (f) (1) All officers and employees of the department of health and
20 environment who, immediately prior to January 1, 2006, are engaged in
21 the exercise and performance of the powers, duties and functions trans-
22 ferred to the Kansas health policy authority pursuant to this section, are
23 transferred to the Kansas health policy authority on January 1, 2006, or
24 on a later date or dates determined by the secretary of health and envi-
25 ronment and the Kansas health policy authority.

26 (2) All officers and employees of the department of health and en-
27 vironment who are determined by the secretary of health and environ-
28 ment and the Kansas health policy authority to be engaged in providing
29 administrative, technical or other support services that are essential to
30 the exercise and performance of the powers, duties and functions trans-
31 ferred by this section are transferred to the Kansas health policy authority
32 on January 1, 2006, or on a later date or dates determined by the secretary
33 of health and environment and the Kansas health policy authority.

34 (3) All classified employees transferred under this subsection (f) shall
35 retain their status as classified employees. Thereafter, the Kansas health
36 policy authority may convert vacant classified positions to positions that
37 are not classified as otherwise provided by law.

38 (g) Officers and employees of the department of health and environ-
39 ment transferred pursuant to this section shall retain all retirement ben-
40 efits and leave balances and rights that had accrued or vested prior to the
41 date of transfer. The service of each such officer and employee so trans-
42 ferred shall be deemed to have been continuous. Any subsequent trans-
43 fers, layoffs or abolition of classified service positions under the Kansas

1 civil service act shall be made in accordance with the civil service laws
2 and any rules and regulations adopted thereunder. Nothing in this act
3 shall affect the classified status of any transferred person employed by
4 the department of health and environment prior to the date of transfer.

5 (h) Liability for accrued compensation or salaries of each officer and
6 employee who is transferred to the Kansas health policy authority under
7 this section shall be assumed and paid by the Kansas health policy au-
8 thority on January 1, 2006, or on the date of the transfer, whichever is
9 later.

10 New Sec. 24. (a) When any conflict arises as to the disposition of any
11 property, power, duty or function as a result of any abolition or transfer
12 made by or under the authority of this act, such conflict shall be resolved
13 by the governor, whose decision shall be final.

14 (b) The provisions of this section shall not apply to the balances of
15 any funds or accounts thereof appropriated or reappropriated, or the
16 unexpended balance of any appropriation, for the department of social
17 and rehabilitation services or for the department of health and environ-
18 ment relating to the powers, duties and functions transferred by or under
19 authority of this act. All such balances of any funds or accounts thereof,
20 or the unexpended balance of any appropriation, shall be transferred by
21 and be subject to the provisions of appropriation acts.

22 New Sec. 25. (a) No suit, action, or other proceeding, judicial or
23 administrative, that is lawfully commenced or that could have been law-
24 fully commenced, by or against any state agency or program mentioned
25 in this act, or by or against any officer of the state in such officer's official
26 capacity or in relation to the discharge of such officer's official duties,
27 shall abate by reason of the governmental reorganization effected under
28 the provisions of this act. The court may allow any such suit, action or
29 other proceeding to be maintained by or against the successor of any such
30 state agency or any officer affected.

31 (b) No criminal action that is commenced or that could have been
32 commenced by the state shall abate by the taking effect of this act.

33 Sec. 26. On January 1, 2006, K.S.A. 39-7,116 is hereby amended to
34 read as follows: 39-7,116. As used in this act:

35 (a) "Restrictive drug formulary" means a list of prescription-only
36 drugs established by the department which excludes in whole or in part
37 reimbursement by the department for such drugs under a program ad-
38 ministered by the department.

39 (b) The words and phrases used in this section shall have the same
40 meanings as are ascribed to such words and phrases under K.S.A. 65-
41 1626 and amendments thereto.

42 (c) "Physician" means a person licensed to practice medicine and
43 surgery.

1 (d) ~~“Department” means the department of social and rehabilitation~~
2 ~~services~~ *“Authority” means the Kansas health policy authority.*

3 Sec. 27. On January 1, 2006, K.S.A. 2004 Supp. 39-7,118 is hereby
4 amended to read as follows: 39-7,118. The ~~secretary of social and reha-~~
5 ~~ilitation services~~ *Kansas health policy authority* shall implement a drug
6 utilization review program with the assistance of a medicaid drug utili-
7 zation review board as provided in K.S.A. 39-7,119 and amendments
8 thereto to assure the appropriate utilization of drugs by patients receiving
9 medical assistance under the medicaid program. The drug utilization re-
10 view program shall include:

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

13 (b) making periodic reports of findings and recommendations to the
14 ~~secretary of social and rehabilitation services~~ *Kansas health policy au-*
15 *thority* and the United States department of health and human services
16 regarding the activities of the board, drug utilization review programs,
17 summary of interventions, assessments of education interventions and
18 drug utilization review cost estimates;

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

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

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

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

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

31 (h) recommending any modifications or changes to the medicaid pre-
32 scription drug program.

33 Sec. 28. On January 1, 2006, K.S.A. 2004 Supp. 39-7,119 is hereby
34 amended to read as follows: 39-7,119. (a) There is hereby created the
35 medicaid drug utilization review board which shall be responsible for the
36 implementation of retrospective and prospective drug utilization pro-
37 grams under the Kansas medicaid program.

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

40 (1) Two licensed physicians actively engaged in the practice of med-
41 icine, nominated by the Kansas medical society and appointed by the
42 ~~secretary of social and rehabilitation services~~ *Kansas health policy au-*
43 *thority* from a list of four nominees;

- 1 (2) one licensed physician actively engaged in the practice of osteo-
2 pathic medicine, nominated by the Kansas association of osteopathic
3 medicine and appointed by the ~~secretary of social and rehabilitation serv-~~
4 ~~ices~~ *Kansas health policy authority* from a list of four nominees;
- 5 (3) two licensed pharmacists actively engaged in the practice of phar-
6 macy, nominated by the Kansas pharmacy association and appointed by
7 the ~~secretary of social and rehabilitation services~~ *Kansas health policy*
8 *authority* from a list of four nominees;
- 9 (4) one person licensed as a pharmacist and actively engaged in ac-
10 ademic pharmacy, appointed by the ~~secretary of social and rehabilitation~~
11 ~~services~~ *Kansas health policy authority* from a list of four nominees pro-
12 vided by the university of Kansas;
- 13 (5) one licensed professional nurse actively engaged in long-term care
14 nursing, nominated by the Kansas state nurses association and appointed
15 by the ~~secretary of social and rehabilitation services~~ *Kansas health policy*
16 *authority* from a list of four nominees.
- 17 (c) The ~~secretary of social and rehabilitation services~~ *Kansas health*
18 *policy authority* may add two additional members so long as no class of
19 professional representatives exceeds 51% of the membership.
- 20 (d) The physician and pharmacist members shall have expertise in
21 the clinically appropriate prescribing and dispensing of outpatient drugs.
- 22 (e) The appointments to the board shall be for terms of three years.
23 In making the appointments, the ~~secretary of social and rehabilitation~~
24 ~~services~~ *Kansas health policy authority* shall provide for geographic bal-
25 ance in the representation on the board to the extent possible. Subject to
26 the provisions of subsection (i), members may be reappointed.
- 27 (f) The board shall elect a chairperson from among board members
28 who shall serve a one-year term. The chairperson may serve consecutive
29 terms.
- 30 (g) The board, in accordance with K.S.A. 75-4319 and amendments
31 thereto, may recess for a closed or executive meeting when it is consid-
32 ering matters relating to identifiable patients or providers.
- 33 (h) All actions of the medicaid drug utilization review board shall be
34 upon the affirmative vote of five members of the board and the vote of
35 each member present when action was taken shall be recorded by roll
36 call vote.
- 37 (i) Upon the expiration of the term of office of any member of the
38 medicaid drug utilization review board on or after the effective date of
39 this act and in any case of a vacancy existing in the membership position
40 of any member of the medicaid drug utilization review board on or after
41 the effective date of this act, a successor shall be appointed by the ~~see-~~
42 ~~retary of social and rehabilitation services~~ *Kansas health policy authority*
43 so that as the terms of members expire, or vacancies occur, members are

1 appointed and the composition of the board is changed in accordance
2 with the following and such appointment shall be made by the ~~secretary~~
3 *authority* in the following order of priority:

4 (1) One member shall be a licensed pharmacist who is actively per-
5 forming or who has experience performing medicaid pharmacy services
6 for a hospital and who is nominated by the Kansas hospital association
7 and appointed by the ~~secretary~~ *authority* from a list of two or more
8 nominees;

9 (2) one member shall be a licensed pharmacist who is actively per-
10 forming or who has experience performing medicaid pharmacy services
11 for a licensed adult care home and who is nominated by the state board
12 of pharmacy and appointed by the ~~secretary~~ *authority* from a list of two
13 or more nominees;

14 (3) one member shall be a licensed physician who is actively engaged
15 in the general practice of allopathic medicine and who has practice ex-
16 perience with the state medicaid plan and who is nominated by the Kansas
17 medical society and appointed by the ~~secretary~~ *authority* from a list of
18 two or more nominees;

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

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

28 (6) one member shall be a licensed physician who is actively engaged
29 in the general practice of osteopathic medicine, who has practice expe-
30 rience with the state medicaid plan and who is nominated by the Kansas
31 association of osteopathic medicine and who is appointed by the ~~secretary~~
32 *authority* from a list of two or more nominees;

33 (7) one member shall be a licensed pharmacist who is actively en-
34 gaged in retail pharmacy, who has practice experience with the state med-
35 icaid plan and who is nominated by the state board of pharmacy and
36 appointed by the ~~secretary~~ *authority* from a list of two or more nominees;

37 (8) one member shall be a licensed pharmacist who is actively en-
38 gaged in or who has experience in research pharmacy and who is nomi-
39 nated jointly by the Kansas task force for the pharmaceutical research
40 and manufacturers association and the university of Kansas and appointed
41 by the ~~secretary~~ *authority* from a list of two or more jointly nominated
42 persons; and

43 (9) one member shall be a licensed advanced registered nurse prac-

1 titioner or physician assistant actively engaged in the practice of providing
2 the health care and treatment services such person is licensed to perform,
3 who has practice experience with the state medicaid plan and who is
4 nominated jointly by the Kansas state nurses' association and the Kansas
5 academy of physician assistants and appointed by the ~~secretary authority~~
6 from a list of two or more jointly nominated persons.

7 Sec. 29. On January 1, 2006, K.S.A. 2004 Supp. 39-7,120 is hereby
8 amended to read as follows: 39-7,120. (a) The ~~secretary of social and~~
9 ~~rehabilitation services~~ *Kansas health policy authority* shall not restrict
10 patient access to prescription-only drugs pursuant to a program of prior
11 authorization or a restrictive formulary except by rules and regulations
12 adopted in accordance with K.S.A. 77-415 *et seq.*, and amendments
13 thereto. Prior to the promulgation of any such rules and regulations, the
14 ~~secretary of social and rehabilitation services~~ *Kansas health policy au-*
15 *thority* shall submit such proposed rules and regulations to the medicaid
16 drug utilization review board for written comment. The ~~secretary of social~~
17 ~~and rehabilitation services~~ *Kansas health policy authority* may not imple-
18 ment permanent prior authorization until 30 days after receipt of com-
19 ments by the drug utilization review board.

20 (b) When considering recommendations from the medicaid drug util-
21 ization review board regarding the prior authorization of a drug, the ~~see-~~
22 ~~retary of social and rehabilitation services~~ *Kansas health policy authority*
23 shall consider the net economic impact of such prior authorization, in-
24 cluding, but not limited to, the costs of specific drugs, rebates or discounts
25 pursuant to 42 U.S.C. 1396r-8, dispensing costs, dosing requirements and
26 utilization of other drugs or other medicaid health care services which
27 may be related to the prior authorization of such drug.

28 Sec. 30. On January 1, 2006, K.S.A. 39-7,121 is hereby amended to
29 read as follows: 39-7,121. (a) ~~On or before July 1, 1996, the department~~
30 ~~of social and rehabilitation services~~ *The Kansas health policy authority*
31 shall establish and implement an electronic pharmacy claims management
32 system in order to provide for the on-line adjudication of claims and for
33 electronic prospective drug utilization review.

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

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

1 Sec. 31. On January 1, 2006, K.S.A. 2004 Supp. 39-7,121a is hereby
2 amended to read as follows: 39-7,121a. (a) The ~~secretary of social and~~
3 ~~rehabilitation services~~ *Kansas health policy authority* may establish an
4 advisory committee pursuant to K.S.A. 75-5313, and amendments
5 thereto, to advise the ~~secretary~~ *authority* in the development of a pre-
6 ferred formulary listing of covered drugs by the state medicaid program.
7 (b) The ~~secretary of social and rehabilitation services~~ *Kansas health*
8 *policy authority* shall evaluate drugs and drug classes for inclusion in the
9 state medicaid preferred drug formulary based on safety, effectiveness
10 and clinical outcomes of such treatments. In addition, the ~~secretary au-~~
11 ~~thority~~ shall evaluate drugs and drug classes to determine whether inclu-
12 sion of such drugs or drug classes in a starter dose program would be
13 clinically efficacious and cost effective. If the factors of safety, effective-
14 ness and clinical outcomes among drugs being considered in the same
15 class indicate no therapeutic advantage, then the ~~secretary authority~~ shall
16 consider the cost effectiveness and the net economic impact of such drugs
17 in making recommendations for inclusion in the state medicaid preferred
18 drug formulary. Drugs which do not have a significant, clinically mean-
19 ingful therapeutic advantage in terms of safety, effectiveness or clinical
20 outcomes over other drugs in the same class which have been selected
21 for the preferred drug formulary may be excluded from the preferred
22 drug formulary and may be subject to prior authorization in accordance
23 with state and federal law, except, prior to July 1, 2003, where a prescriber
24 has personally written “dispense as written” or “D.A.W.”, or has signed
25 the prescriber’s name on the “dispense as written” signature line in ac-
26 cordance with K.S.A. 65-1637, and amendments thereto.
27 (c) The ~~secretary of social and rehabilitation services~~ *Kansas health*
28 *policy authority* shall consider the net economic impact of drugs selected
29 or excluded from the preferred formulary and may gather information on
30 the costs of specific drugs, rebates or discounts pursuant to 42 U.S.C.
31 1396r-8, dispensing costs, dosing requirements and utilization of other
32 drugs or other medicaid health care services.
33 (d) The ~~secretary of social and rehabilitation services~~ *Kansas health*
34 *policy authority* may accept all services, including, but not limited to,
35 disease state management, associated with the delivery of pharmacy ben-
36 efits under the state medicaid program having a determinable cost effect
37 in addition to the medicaid prescription drug rebates required pursuant
38 to 42 U.S.C. section 1396r-8.
39 (e) The state medicaid preferred drug formulary shall be submitted
40 to the medicaid drug utilization review board for review and policy
41 recommendations.
42 Sec. 32. On January 1, 2006, K.S.A. 2004 Supp. 39-7,121d is hereby
43 amended to read as follows: 39-7,121d. (a) The state medicaid plan shall

1 include provisions for a program of differential dispensing fees for phar-
2 macies that provide prescriptions for adult care homes under a unit dose
3 system in accordance with rules and regulations of the state board of
4 pharmacy and that participate in the return of unused medications pro-
5 gram under the state medicaid plan.

6 (b) The state medicaid plan shall include provisions for differential
7 ingredient cost reimbursement of generic and brand name pharmaceu-
8 ticals. The ~~secretary of social and rehabilitation services~~ *Kansas health*
9 *policy authority* shall set the rates for differential cost reimbursement of
10 generic and brand name pharmaceuticals by rules and regulations.

11 Sec. 33. On January 1, 2006, K.S.A. 2004 Supp. 39-7,121e is hereby
12 amended to read as follows: 39-7,121e. (a) Except where a prescriber has
13 personally written “dispense as written” or “D.A.W.,” or has signed the
14 prescriber’s name on the “dispense as written” signature line in accord-
15 ance with K.S.A. 65-1637 and amendments thereto, the ~~secretary of social~~
16 ~~and rehabilitation services~~ *Kansas health policy authority* may limit re-
17 imbursement for a prescription under the medicaid program to the mul-
18 tisource generic equivalent drug.

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

22 Sec. 34. On January 1, 2006, K.S.A. 65-6801 is hereby amended to
23 read as follows: 65-6801. (a) The legislature recognizes the urgent need
24 to provide health care consumers, third-party payors, providers and health
25 care planners with information regarding the trends in use and cost of
26 health care services in this state for improved decision-making. This is to
27 be accomplished by compiling a uniform set of data and establishing
28 mechanisms through which the data will be disseminated.

29 (b) It is the intent of the legislature to require that the information
30 necessary for a review and comparison of utilization patterns, cost, quality
31 and quantity of health care services be supplied to the health care data-
32 base by all providers of health care services and third-party payors to the
33 extent required by K.S.A. 65-6805 and amendments thereto and this sec-
34 tion and amendments thereto. The ~~secretary of health and environment~~
35 ~~at the direction of the health care data governing board~~ *Kansas health*
36 *policy authority* shall specify by rule and regulation the types of infor-
37 mation which shall be submitted and the method of submission.

38 (c) The information is to be compiled and made available in a form
39 prescribed by the ~~governing board~~ *Kansas health policy authority* to im-
40 prove the decision-making processes regarding access, identified needs,
41 patterns of medical care, price and use of health care services.

42 Sec. 35. On January 1, 2006, K.S.A. 2004 Supp. 65-6803 is hereby
43 amended to read as follows: 65-6803. (a) ~~There is hereby created a On~~

1 *January 1, 2006, the health care data governing board is hereby abolished.*

2 ~~(b) The board shall consist of 15 members appointed as follows: One~~
3 ~~member shall be appointed by the Kansas medical society, one member~~
4 ~~shall be appointed by the Kansas hospital association, one member shall~~
5 ~~be appointed by the executive vice chancellor of the university of Kansas~~
6 ~~school of medicine, one member who is a licensed professional nurse~~
7 ~~shall be appointed by the Kansas state nurses association, one member~~
8 ~~representing health care insurers or other commercial payors shall be~~
9 ~~appointed by the governor, one member representing a large business~~
10 ~~that is self-insured as to medical coverage for its employees shall be ap-~~
11 ~~pointed by the governor, one member representing a small business that~~
12 ~~is self-insured as to medical coverage for its employees shall be appointed~~
13 ~~by the governor, one member representing adult care homes shall be~~
14 ~~appointed by the governor, one member representing the Kansas health~~
15 ~~institute, one member shall be appointed by the state board of regents,~~
16 ~~one member representing consumers of health care shall be appointed~~
17 ~~by the governor and one additional member the governor deems appro-~~
18 ~~priate to serve on this board shall be appointed by the governor. The~~
19 ~~secretary of health and environment, the secretary of social and rehabil-~~
20 ~~itation services and the insurance commissioner, or their designees, shall~~
21 ~~be voting members of the board. The secretary of health and environ-~~
22 ~~ment, or the designee of the secretary, shall also serve as chairperson of~~
23 ~~the board. Board members and task force members shall not be paid~~
24 ~~compensation, subsistence allowances, mileage or other expenses as oth-~~
25 ~~erwise may be authorized by law for attending meetings or subcommittee~~
26 ~~meetings of the board. The members appointed to the board shall serve~~
27 ~~for three-year terms or until their successors are appointed and qualified.~~

28 ~~—(c) (b) The chairperson of the health care data governing board *Kan-*~~
29 ~~*sas health policy authority* may appoint a task force or task forces of~~
30 ~~interested citizens and providers of health care for the purpose of studying~~
31 ~~technical issues relating to the collection of health care data. At least one~~
32 ~~member of the health care data governing board *Kansas health policy*~~
33 ~~*authority* shall be a member of any task force appointed under this~~
34 ~~subsection.~~

35 ~~(d) The board shall meet at least quarterly and at such other times~~
36 ~~deemed necessary by the chairperson.~~

37 ~~—(e) (c) The board *Kansas health policy authority* shall develop policy~~
38 ~~regarding the collection of health care data and procedures for ensuring~~
39 ~~the confidentiality and security of these data.~~

40 Sec. 36. On January 1, 2006, K.S.A. 65-6804 is hereby amended to
41 read as follows: 65-6804. (a) The ~~secretary of health and environment~~
42 *Kansas health policy authority* shall administer the health care database.
43 In administering the health care database, the ~~secretary authority~~ shall

1 receive health care data from those entities identified in K.S.A. 65-6805
2 and amendments thereto and provide for the dissemination of such data
3 ~~as directed by the board.~~

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

14 (c) The ~~secretary of health and environment~~ *Kansas health policy*
15 *authority* shall adopt rules and regulations approved by the board gov-
16 erning the acquisition, compilation and dissemination of all data collected
17 pursuant to this act. The rules and regulations shall provide at a minimum
18 that:

19 (1) Measures have been taken to provide system security for all data
20 and information acquired under this act;

21 (2) data will be collected in the most efficient and cost-effective man-
22 ner for both the department and providers of data;

23 (3) procedures will be developed to assure the confidentiality of pa-
24 tient records. Patient names, addresses and other personal identifiers will
25 be omitted from the database;

26 (4) users may be charged for data preparation or information that is
27 beyond the routine data disseminated and that the ~~secretary~~ *authority*
28 shall establish by the adoption of such rules and regulations a system of
29 fees for such data preparation or dissemination; and

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

33 (d) Data and other information collected pursuant to this act shall be
34 confidential, shall be disseminated only for statistical purposes pursuant
35 to rules and regulations adopted by the ~~secretary of health and environ-~~
36 ~~ment~~ *Kansas health policy authority* and approved by the board and shall
37 not be disclosed or made public in any manner which would identify
38 individuals. A violation of this subsection (d) is a class C misdemeanor.

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

43 Sec. 37. On January 1, 2006, K.S.A. 65-6805 is hereby amended to

1 read as follows: 65-6805. Each medical care facility as defined by subsec-
2 tion (h) of K.S.A. 65-425 and amendments thereto; health care provider
3 as defined in K.S.A. 40-3401 and amendments thereto; providers of health
4 care as defined in subsection (f) of K.S.A. 65-5001 and amendments
5 thereto; health care personnel as defined in subsection (e) of K.S.A. 65-
6 5001 and amendments thereto; home health agency as defined by sub-
7 section (b) of K.S.A. 65-5101 and amendments thereto; psychiatric hos-
8 pitals licensed under K.S.A. 75-3307b and amendments thereto; state
9 institutions for the mentally retarded; community mental retardation fa-
10 cilities as defined under K.S.A. 65-4412 and amendments thereto; com-
11 munity mental health center as defined under K.S.A. 65-4432 and amend-
12 ments thereto; adult care homes as defined by K.S.A. 39-923 and
13 amendments thereto; laboratories described in K.S.A. 65-1,107 and
14 amendments thereto; pharmacies; board of nursing; Kansas dental board;
15 board of examiners in optometry; state board of pharmacy; state board of
16 healing arts and third-party payors, including but not limited to, licensed
17 insurers, medical and hospital service corporations, health maintenance
18 organizations, fiscal intermediaries for government-funded programs and
19 self-funded employee health plans, shall file health care data with the
20 ~~secretary of health and environment~~ *Kansas health policy authority* as
21 prescribed by the ~~board~~ *authority*. The provisions of this section shall not
22 apply to any individual, facility or other entity under this section which
23 uses spiritual means through prayer alone in accordance with the tenets
24 and practices of a recognized church or religious denomination for the
25 treatment or cure of disease.

26 Sec. 38. On January 1, 2006, K.S.A. 65-6806 is hereby amended to
27 read as follows: 65-6806. The ~~secretary of health and environment~~ *Kansas*
28 *health policy authority* shall make the data available to interested parties
29 on the basis prescribed by the ~~board~~ *authority* and as directed by rules
30 and regulations *of the authority*.

31 Sec. 39. On January 1, 2006, K.S.A. 65-6807 is hereby amended to
32 read as follows: 65-6807. The ~~secretary of health and environment~~ *Kansas*
33 *health policy authority* shall on or before February 1 each year make a
34 report to the governor and the legislature as to health care data activity,
35 including examples of policy analyses conducted and purposes for which
36 the data was disseminated and utilized, and as to the progress made in
37 compiling and making available the information specified under K.S.A.
38 65-6801 and amendments thereto.

39 Sec. 40. On January 1, 2006, K.S.A. 65-6809 is hereby amended to
40 read as follows: 65-6809. (a) There is hereby established in the state treas-
41 ury the health care database fee fund. The ~~secretary of health and envi-~~
42 ~~ronment~~ *Kansas health policy authority* shall remit to the state treasurer,
43 in accordance with the provisions of K.S.A. 75-4215, and amendments

1 thereto, all moneys collected or received by the ~~secretary~~ *authority* from
2 the following sources:

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

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

11 (b) Moneys deposited in the health care database fee fund shall be
12 expended to supplement maintenance costs of the database, provide tech-
13 nical assistance and training in the proper use of health care data and
14 provide funding for dissemination of information from the database to
15 the public. ~~If the performance audit required by K.S.A. 65-6808, and~~
16 ~~amendments thereto, is conducted under contract with a firm, as defined~~
17 ~~by K.S.A. 46-1112, and amendments thereto, the contract cost of that~~
18 ~~performance audit may be paid from the health care database fee fund.~~

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

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

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

31 New Sec. 41. On July 1, 2006, the division of health policy and fi-
32 nance and the office of the director of health policy and finance estab-
33 lished within the department of administration by section 7 are hereby
34 abolished.

35 Sec. 42. On July 1, 2006, section 9 of this act is hereby amended to
36 read as follows: Sec. 9. (a) ~~On and after July 1, 2006, the director of~~
37 ~~health policy and finance~~ *Kansas health policy authority* shall coordinate
38 health care planning, administration, and purchasing and analysis of
39 health care data for the state of Kansas with respect to the following health
40 care programs administered by the state of Kansas:

- 41 (1) Developing, implementing, and administering programs that pro-
42 vide medical assistance, health insurance programs, or waivers granted
43 thereunder for persons who are needy, uninsured, or both, and that are

1 financed by federal funds or state funds, or both, including the following:

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

5 (B) the health benefits program for children established under K.S.A.
6 38-2001 et seq., and amendments thereto, and developed and submitted
7 in accordance with federal guidelines established under title XXI of the
8 federal social security act, section 4901 of public law 105-33, 42 U.S.C. §
9 1397aa et seq., and amendments thereto;

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

13 (D) the working healthy portion of the ticket to work program under
14 the federal work incentive improvement act and the medicaid infrastruc-
15 ture grants received for the working healthy portion of the ticket to work
16 program; and

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

18 (2) serving as the designated contact agency for the state of Kansas
19 under K.S.A. 46-2507, and amendments thereto, with reference to federal
20 health care reform measures; and

21 (3) administering any other health care programs delegated to the
22 ~~director~~ *Kansas health policy authority* by the governor or by a contract
23 with another state agency.

24 (b) Except to the extent required by its single state agency role as
25 designated in section 10, and amendments thereto, *or as otherwise pro-*
26 *vided pursuant to this act* the ~~division of health policy and finance~~ *Kansas*
27 *health policy authority* shall not be responsible for health care planning,
28 administration, purchasing and data with respect to the following:

29 (1) The mental health reform act, K.S.A. 39-1601 et seq., and amend-
30 ments thereto;

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

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

35 (4) the addiction and prevention services prescribed under K.S.A. 65-
36 4001 et seq., and amendments thereto; or

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

39 Sec. 43. On July 1, 2006, section 10 of this act is hereby amended to
40 read as follows: Sec. 10. (a) *On and after July 1, 2006*, the ~~division of~~
41 ~~health policy and finance~~ *Kansas health policy authority* shall be desig-
42 nated as the single state agency with responsibility for supervising and
43 administering the state plan for medical assistance under the federal social

1 security act, 42 U.S.C. § 1396 et seq., and amendments thereto. The
2 ~~director~~ *Kansas health policy authority* shall develop state plans, as pro-
3 vided under the federal social security act, whereby the state cooperates
4 with the federal government in its program of assisting the states finan-
5 cially in furnishing medical assistance and services to eligible individuals.
6 (b) The ~~director of health policy and finance~~ *Kansas health policy*
7 *authority* shall undertake to cooperate with the federal government on
8 any other federal program providing federal financial assistance and serv-
9 ices for medical assistance not inconsistent with this act. The ~~director of~~
10 ~~health policy and finance~~ *Kansas health policy authority* is not required
11 to develop a state plan for participation or cooperation in all federal social
12 security act programs relating to medical assistance or other available
13 federal programs that relate to medical assistance.

14 Sec. 44. On July 1, 2006, section 11 of this act is hereby amended to
15 read as follows: Sec. 11. *On and after July 1, 2006*, the ~~director of health~~
16 ~~policy and finance~~ *Kansas health policy authority* shall have the power,
17 but is not required, to develop a state plan with regard to medical assis-
18 tance and services in which the federal government does not participate,
19 within the limits of appropriations therefor.

20 Sec. 45. On July 1, 2006, section 12 of this act is hereby amended to
21 read as follows: Sec. 12. (a) Subject to the limitations of subsection (b),
22 the ~~director of health policy and finance~~ *Kansas health policy authority*
23 may enter into a contract with one or more state agencies or local gov-
24 ernmental entities providing for the state agency or local governmental
25 entity to perform services for the division of health policy and finance or
26 delegating to the state agency or local governmental entity the adminis-
27 tration of certain functions, services or programs under any of the pro-
28 grams for which the ~~director of health policy and finance or the division~~
29 ~~of health policy and finance~~ *Kansas health policy authority* is responsible.

30 (b) With respect to any plan or program that is subject to or financed
31 in part under the federal social security act, 42 U.S.C. § 1396 et seq., and
32 amendments thereto, the authority of the ~~director of health policy and~~
33 ~~finance or the division of health policy and finance~~ *Kansas health policy*
34 *authority* to exercise administrative discretion in the administration or
35 supervision of the plan or program and to issue policies and to adopt rules
36 and regulations on plan or program matters shall not be delegated by the
37 ~~director of health policy and finance~~ *Kansas health policy authority*, other
38 than to officials and employees of the ~~division of health policy and finance~~
39 *authority*. To the extent that the ~~director of health policy and finance~~
40 *Kansas health policy authority* enters into a contract with a state agency
41 or local governmental entity under this section, the other state agency or
42 the local governmental entity shall not have the authority to change or
43 disapprove any administrative decision of the ~~director of health policy and~~

1 ~~finance or the division of health policy and finance~~ *Kansas health policy*
2 *authority* or to otherwise substitute its judgment for that of the ~~director~~
3 ~~of health policy and finance or the division of health policy and finance~~
4 *Kansas health policy authority* with respect to the application of policies
5 issued or rules and regulations adopted by the ~~director of health policy~~
6 ~~and finance~~ *Kansas health policy authority* for any plan or program that
7 is subject to or financed in part under the federal social security act, 42
8 U.S.C. § 1396 et seq., and amendments thereto.

9 Sec. 46. On July 1, 2006, section 13 of this act is hereby amended to
10 read as follows: Sec. 13. (a) *On and after July 1, 2006*, the ~~director of~~
11 ~~health policy and finance~~ *Kansas health policy authority* shall have the
12 power and duty to establish general policies relating to the health care
13 programs under the ~~director~~ *authority* as provided in section 9, and
14 amendments thereto, and to adopt rules and regulations therefor.

15 (b) The ~~director of health policy and finance~~ *Kansas health policy*
16 *authority* shall advise the governor and the legislature on all health care
17 programs, policies and plans for which the ~~director of health policy and~~
18 ~~finance or the division of health policy and finance~~ *Kansas health policy*
19 *authority* is responsible under this act.

20 (c) The ~~director of health policy and finance~~ *Kansas health policy*
21 *authority* shall establish an adequate system of financial records. The
22 ~~director of health policy and finance~~ *Kansas health policy authority* shall
23 make periodic reports to the governor and shall make any reports re-
24 quired by federal agencies.

25 (d) The ~~director of health policy and finance~~ *Kansas health policy*
26 *authority* may assist other departments, agencies and institutions of the
27 state and federal government and of other states under interstate agree-
28 ments, when so requested, by performing services in conformity with the
29 purposes of this act.

30 (e) All contracts of the ~~division of health policy and finance~~ *Kansas*
31 *health policy authority* shall be made in the name of the “~~director of~~
32 ~~health policy and finance~~ *Kansas health policy authority*.” In that name,
33 the ~~director~~ *Kansas health policy authority* may sue and be sued. The
34 grant of authority under this subsection shall not be construed to be a
35 waiver of any rights retained by the state under the 11th amendment to
36 the United States constitution and shall be subject to and shall not su-
37 perse the provisions of any appropriation act of this state.

38 (f) After consulting with any agency that has responsibility under a
39 contract with the ~~division of health policy and finance~~ *Kansas health pol-*
40 *icy authority* for administration of any of the programs of the ~~division~~
41 *authority*, the ~~director of health policy and finance~~ *Kansas health policy*
42 *authority* shall prepare annually, at the time and in the form directed by
43 the governor, a budget covering the estimated receipts and expenditures

1 of the ~~division of health policy and finance~~ *Kansas health policy authority*
2 for the coming fiscal year.

3 (g) The ~~director of health policy and finance~~ *Kansas health policy*
4 *authority* shall have authority to make grants of funds for the promotion
5 of health care programs in the state of Kansas, subject to the provisions
6 of appropriation acts.

7 (h) The ~~director of health policy and finance~~ *Kansas health policy*
8 *authority* may receive grants, gifts, bequests, money, or aid of any char-
9 acter whatsoever, for purposes consistent with sections 9 through 14, and
10 amendments thereto.

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

17 (j) The ~~director of health policy and finance~~ *Kansas health policy*
18 *authority* shall establish such advisory groups as are necessary to assist
19 the division of health policy and finance in carrying out its responsibilities
20 under sections 9 through 14, and amendments thereto, including the
21 following:

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

27 (2) a policy coordination board consisting of representatives from
28 those state agencies with which the ~~director~~ *Kansas health policy au-*
29 *thority* enters into a contract under section 12, and amendments thereto,
30 and representatives from any other state agencies, as determined by the
31 ~~director~~ *Kansas health policy authority*.

32 (k) The ~~director of health policy and finance~~ *Kansas health policy*
33 *authority* shall perform any other duties and services that are necessary
34 to carry out the purposes of sections 9 through 14, and amendments
35 thereto, and that are not inconsistent with state law.

36 Sec. 47. On July 1, 2006, section 14 of this act is hereby amended to
37 read as follows: Sec. 14. On *and after* July 1, ~~2005~~ 2006, except as oth-
38 erwise provided by this act, all of the following powers, duties and func-
39 tions of the ~~department of social and rehabilitation services and the sec-~~
40 ~~retary of social and rehabilitation services~~ *division of health policy and*
41 *finance within the department of administration and the director of health*
42 *policy and finance* are hereby transferred to and imposed upon the ~~di-~~
43 ~~vision of health policy and finance within the department of administra-~~

1 ~~tion and the director of health policy and finance~~ *Kansas health policy*
 2 *authority established by this act section 1, and amendments thereto:*

3 (a) All of the powers, duties and functions of ~~the secretary of social~~
 4 ~~and rehabilitation services~~ under chapter 39 of the Kansas Statutes An-
 5 notated, and amendments thereto, *that were transferred on July 1, 2005,*
 6 *to the division of health planning and finance and the director of health*
 7 *planning and finance* and that relate to development, implementation and
 8 administration of programs that provide medical assistance, health insur-
 9 ance programs or waivers granted thereunder for persons who are needy
 10 or uninsured, or both, and that are financed by federal funds or state
 11 funds, or both, including the following:

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

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

17 (b) all of the powers, duties and functions of ~~the secretary of social~~
 18 ~~and rehabilitation services~~ *that were transferred on July 1, 2005, to the*
 19 *division of health planning and finance and the director of health planning*
 20 *and finance* with respect to the health benefits program for children es-
 21 tablished under K.S.A. 38-2001 et seq., and amendments thereto, and
 22 developed and submitted in accordance with federal guidelines estab-
 23 lished under title XXI of the federal social security act, section 4901 of
 24 public law 105-33, 42 U.S.C. § 1397aa et seq., and amendments thereto;
 25 and

26 (c) all of the powers, duties and functions of the ~~department of social~~
 27 ~~and rehabilitation services and secretary of social and rehabilitation serv-~~
 28 ~~ices~~ associated with designation of the ~~department of social and rehabil-~~
 29 ~~itation services~~ as the single state agency under title XIX of the federal
 30 social security act, 42 U.S.C. § 1396 et seq., and amendments thereto.
 31 *On and after July 1, 2006,* the designation of the ~~department of social~~
 32 ~~and rehabilitation services~~ *division of health and finance* as the single state
 33 agency for medicaid purposes is hereby transferred to the ~~division of~~
 34 ~~health policy and finance~~ *Kansas health policy authority.*

35 Sec. 48. On July 1, 2006, section 15 of this act is hereby amended to
 36 read as follows: Sec. 15. (a) *On and after July 1, 2006,* the ~~division of~~
 37 ~~health policy and finance within the department of administration and~~
 38 ~~the director of health policy and finance established by this act~~ *Kansas*
 39 *health policy authority* shall be the successor in every way to the powers,
 40 duties and functions of the ~~department of social and rehabilitation serv-~~
 41 ~~ices and secretary of social and rehabilitation services~~ *division of health*
 42 *policy and finance and the director of health policy and finance* in which
 43 the same were vested prior to ~~the effective date of this act~~ *July 1, 2006,*

1 and that are transferred pursuant to section 14, and amendments thereto.
2 Every act performed in the exercise of such transferred powers, duties
3 and functions by or under the authority of the ~~division of health policy~~
4 ~~and finance or the director of health policy and finance within the de-~~
5 ~~partment of administration~~ *Kansas health policy authority* shall be
6 deemed to have the same force and effect as if performed by the ~~de-~~
7 ~~partment of social and rehabilitation services or secretary of social and~~
8 ~~rehabilitation services~~ *division of health policy and finance and the di-*
9 *rector of health policy and finance* in which such powers, duties and
10 functions were vested prior to July 1, ~~2005~~ 2006.

11 (b) Whenever the ~~department of social and rehabilitation services or~~
12 ~~the secretary of social and rehabilitation services~~ *division of health policy*
13 *and finance within the department of administration or the director of*
14 *health policy and finance*, or words of like effect, are referred to or des-
15 ignated by a statute, contract, memorandum of understanding, plan,
16 grant, waiver or other document and such reference is in regard to any
17 of the powers, duties or functions transferred to the ~~division of health~~
18 ~~policy and finance or the director of health policy and finance~~ *Kansas*
19 *health policy authority* pursuant to section 14, and amendments thereto,
20 such reference or designation shall be deemed to apply to the ~~division of~~
21 ~~health policy and finance or the director of health policy and finance,~~
22 ~~respectively~~ *Kansas health policy authority*. The provisions of this sub-
23 section shall not apply to references to or designations of the ~~department~~
24 ~~of social and rehabilitation services or the secretary of social and reha-~~
25 ~~ilitation services~~ *division of health policy and finance within the de-*
26 *partment of administration or the director of health policy and finance*,
27 or words of like effect, by the provisions of appropriation acts.

28 (c) All rules and regulations, orders and directives of the ~~secretary of~~
29 ~~social and rehabilitation services~~ *director of health policy and finance* that
30 relate to the functions transferred by section 14, and amendments
31 thereto, and that are in effect on July 1, ~~2005~~ 2006, shall continue to be
32 effective and shall be deemed to be rules and regulations, orders and
33 directives of the ~~director of health policy and finance~~ *Kansas health policy*
34 *authority* until revised, amended, revoked or nullified pursuant to law.

35 Sec. 49. On July 1, 2006, section 16 of this act is hereby amended to
36 read as follows: Sec. 16. (a) *On July 1, 2006, the division of health policy*
37 ~~and finance within the department of administration~~ *Kansas health policy*
38 *authority* shall succeed to all property, property rights, and records that
39 were used for or pertain to the performance of powers, duties and func-
40 tions transferred to the ~~division~~ *Kansas health policy authority* pursuant
41 to section 14, and amendments thereto. Any conflict as to the proper
42 disposition of property, personnel or records arising under this act shall
43 be determined by the governor, whose decision shall be final.

1 (b) The provisions of this section shall not apply to the balances of
2 any funds or accounts thereof appropriated or reappropriated for the
3 department of ~~social and rehabilitation services~~ *administration* relating to
4 the powers, duties and functions transferred by section 14, and amend-
5 ments thereto. All such balances of any funds or accounts thereof shall
6 be transferred by and be subject to the provisions of appropriation acts.

7 Sec. 50. On July 1, 2006, section 17 of this act is hereby amended to
8 read as follows: Sec. 17. (a) (1) All officers and employees of the ~~depart-~~
9 ~~ment of social and rehabilitation services~~ *division of health policy and*
10 *finance within the department of administration* who, immediately prior
11 to ~~the effective date of this act~~ *July 1, 2006*, are engaged in the exercise
12 and performance of the powers, duties and functions transferred to the
13 ~~division of health policy and finance or the director of health policy and~~
14 ~~finance~~ *Kansas health policy authority* by section 14, and amendments
15 thereto, are transferred to the ~~department of administration~~ *Kansas*
16 *health policy authority* on July 1, ~~2005~~ *2006*, or on a later date or dates
17 determined by the ~~secretary of social and rehabilitation services~~ *Kansas*
18 *health policy authority* and the secretary of administration.

19 (2) All officers and employees of the department of ~~social and reha-~~
20 ~~ilitation services~~ *administration* who are determined by the ~~secretary of~~
21 ~~social and rehabilitation services~~ *Kansas health policy authority* and the
22 secretary of administration to be engaged in providing administrative,
23 technical or other support services that are essential to the exercise and
24 performance of the powers, duties and functions transferred by section
25 14, and amendments thereto, are transferred to the ~~department of ad-~~
26 ~~ministration~~ *Kansas health policy authority* on July 1, ~~2005~~ *2006*, or on a
27 later date or dates determined by the ~~secretary of social and rehabilitation~~
28 ~~services~~ *Kansas health policy authority* and the secretary of
29 administration.

30 (3) All classified employees transferred under this subsection (a) shall
31 retain their status as classified employees. Thereafter, the ~~secretary of~~
32 ~~administration~~ *Kansas health policy authority* may convert vacant classif-
33 ied positions to positions that are not classified as otherwise provided by
34 law.

35 (b) Officers and employees of the department of ~~social and rehabil-~~
36 ~~itation services~~ *administration* transferred by this ~~act~~ *section* shall retain
37 all retirement benefits and leave balances and rights that had accrued or
38 vested prior to the date of transfer. The service of each such officer and
39 employee so transferred shall be deemed to have been continuous. Any
40 subsequent transfers, layoffs or abolition of classified service positions
41 under the Kansas civil service act shall be made in accordance with the
42 civil service laws and any rules and regulations adopted thereunder. Noth-
43 ing in this act shall affect the classified status of any transferred person

1 employed by the department of ~~social and rehabilitation services admin-~~
2 ~~istration~~ prior to the date of transfer.

3 Sec. 51. On July 1, 2006, section 18 of this act is hereby amended as
4 follows: Sec. 18. On July 1, ~~2005~~ 2006, the designation *by this section*
5 of the ~~department of health and environment under K.S.A. 46-2507, and~~
6 ~~amendments thereto, division of health policy and finance within the~~
7 ~~department of administration and the director of health policy and finance~~
8 as the contact agency for the state of Kansas with reference to federal
9 health care reform measures is hereby transferred to and imposed upon
10 the ~~division of health policy and finance within the department of ad-~~
11 ~~ministration and the director of health policy and finance~~ *Kansas health*
12 *policy authority* established by section ~~7 I~~, and amendments thereto.

13 Sec. 52. On July 1, 2006, section 19 of this act is hereby amended to
14 read as follows: Sec. 19. (a) ~~On July 1, 2006, the division of health policy~~
15 ~~and finance within the department of administration and the director of~~
16 ~~health policy and finance~~ *Kansas health policy authority* established by
17 section ~~7 I~~, and amendments thereto, shall be the successor in every way
18 to the powers, duties and functions of the ~~department of health and en-~~
19 ~~vironment and secretary of health and environment~~ *division of health*
20 *policy and finance within the department of administration and the di-*
21 *rector of health policy and finance* in which the same were vested prior
22 to July 1, ~~2005~~ 2006, and that are transferred pursuant to section 18, and
23 amendments thereto. Every act performed in the exercise of such trans-
24 ferred powers, duties and functions by or under the authority of the ~~di-~~
25 ~~vision of health policy and finance or the director of health policy and~~
26 ~~finance within the department of administration~~ *Kansas health policy au-*
27 *thority* shall be deemed to have the same force and effect as if performed
28 by the ~~department of health and environment or secretary of health and~~
29 ~~environment~~ *division of health policy and finance within the department*
30 *of administration or the director of health policy and finance* in which
31 such powers, duties and functions were vested prior to July 1, ~~2005~~ 2006.

32 (b) ~~From~~ *On and after July 1, 2005, through June 30, 2006*, whenever
33 the ~~department of health and environment or the secretary of health and~~
34 ~~environment~~ *division of health policy and finance within the department*
35 *of administration or the director of health policy and finance*, or words
36 of like effect, are referred to or designated by a statute, contract, mem-
37 orandum of understanding, plan, grant, waiver or other document and
38 such reference is in regard to any of the powers, duties or functions
39 transferred to the ~~division of health policy and finance or the director of~~
40 ~~health policy and finance~~ *Kansas health policy authority* pursuant to sec-
41 tion 18, and amendments thereto, such reference or designation shall be
42 deemed to apply to the ~~division of health policy and finance or the di-~~
43 ~~rector of health policy and finance~~, respectively *Kansas health policy au-*

1 *thority*. The provisions of this subsection shall not apply to references to
2 or designations of the ~~department of health and environment or the sec-~~
3 ~~retary of health and environment~~ *division of health policy and finance*
4 *within the department of administration or the director of health policy*
5 *and finance*, or words of like effect, by the provisions of appropriation
6 acts.

7 (c) All rules and regulations, orders and directives of the ~~secretary of~~
8 ~~health and environment~~ *director of health policy and finance* that relate
9 to the functions transferred by section 18, and amendments thereto, and
10 that are in effect on July 1, ~~2005~~ 2006, shall continue to be effective and
11 shall be deemed to be rules and regulations, orders and directives of the
12 ~~director of health policy and finance~~ *Kansas health policy authority* until
13 revised, amended, revoked or nullified pursuant to law.

14 Sec. 53. On July 1, 2006, section 20 of this act is hereby amended to
15 read as follows: Sec. 20. (a) On July 1, ~~2005~~ 2006, the ~~division of health~~
16 ~~policy and finance within the department of administration~~ *Kansas health*
17 *policy authority* shall succeed to all property, property rights, and records
18 that were used for or pertain to the performance of powers, duties and
19 functions transferred to the ~~division~~ *Kansas health policy authority* pur-
20 suant to section 18, and amendments thereto. Any conflict as to the
21 proper disposition of property, personnel or records arising under this act
22 shall be determined by the governor, whose decision shall be final.

23 (b) The provisions of this section shall not apply to the balances of
24 any funds or accounts thereof appropriated or reappropriated for the
25 department of ~~health and environment~~ *administration* relating to the
26 powers, duties and functions transferred by section 18, and amendments
27 thereto. All such balances of any funds or accounts thereof shall be trans-
28 ferred by and be subject to the provisions of appropriation acts.

29 Sec. 54. On July 1, 2006, section 21 of this act is hereby amended to
30 read as follows: Sec. 21. Liability for accrued compensation or salaries of
31 each officer and employee who is transferred to the *Kansas health policy*
32 *authority from the* department of administration under this act shall be
33 assumed and paid by the ~~department of administration~~ *Kansas health*
34 *policy authority* on July 1, ~~2005~~ 2006, or on the date of the transfer,
35 whichever is later.

36 Sec. 55. On January 1, 2006, K.S.A. 39-7,116, 39-7,121, 65-6801, 65-
37 6804, 65-6805, 65-6806, 65-6807, 65-6808 and 65-6809 and K.S.A. 2004
38 Supp. 39-7,118, 39-7,119, 39-7,120, 39-7,121a, 39-7,121d, 39-7,121e and
39 65-6803 are hereby repealed.

40 Sec. 56. On July 1, 2006, sections 7 through 21 of this act are hereby
41 repealed.

42 Sec. 57. This act shall take effect and be in force from and after its
43 publication in the statute book.