SESSION OF 2017

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2044

As Amended by House Committee of the Whole

Brief*

HB 2044, as amended, would establish the KanCare Bridge to a Healthy Kansas Program (Program). The Kansas Department of Health and Environment (KDHE) would be required to administer and promote the Program and provide information to potential eligible individuals who live in medically underserved areas of the state. The bill would modify the eligibility requirements for the Kansas Medical Assistance Program, on or after January 1, 2018, to include any non-pregnant adult under 65 years of age, who is a U.S. citizen or legal resident and who has been a resident of Kansas for at least 12 months, whose income does not exceed 133 percent of the federal poverty level (FPL), to the extent allowed under the federal Social Security Act as it exists on the effective date of the bill, and subject to the requirements of the Program. The bill would require referral to workforce training programs, create a Program Drug Rebate Fund and a Program Privilege Fee Fund, create a health insurance coverage premium assistance program, address federal denial and approval of financial participation, require submission of a waiver request to the federal government, require various Program reports to the Legislature, and create a Program Working Group.

Additionally, the bill would require the Secretary of Health and Environment (Secretary) to include reimbursement for clubhouse rehabilitation services within the Medicaid program on and after the effective date of the bill, subject to the limits of appropriations. The bill would authorize the Secretary to enter into contracts with certified clubhouse

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*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.kslegislature.org

providers and require the contracts be entered into by July 1, 2017, with an expiration date of July 1, 2020. The bill would limit reimbursement under the contracts to $1,000,000 for any one fiscal year. The bill would define “clubhouse” and require a report be made to select legislative committees.

The bill would be in effect upon publication in the *Kansas Register.*

KanCare Bridge to a Healthy Kansas Program

Workforce Training Program Referral

The bill would include provisions for the referral of certain non-disabled adults to the state’s existing workforce training programs and work search resources, as outlined in the bill. The bill would provide exemptions from the referral for:

- Full-time students for each year they are enrolled in a postsecondary education institution or technical school; and
- At the discretion of KDHE, for parents with minor children in the home.

Program Application

The bill would require the Program application to screen applicants for education status and employment status, and require applicants to acknowledge KDHE referrals to workforce training programs and work search resources.

Health Insurance Coverage Premium Assistance Program

The bill would allow KDHE to establish a health insurance coverage premium assistance program for individuals with an annual household income of not more than

133 percent of FPL or for individuals eligible for health insurance coverage through an employer but cannot afford the premiums.

A premium assistance program would be required to contain eligibility requirements similar to those for the Program and provide that an individual's payment for a health insurance coverage premium cannot exceed 2 percent of the individual's annual income.

Federal Denial of Approval and Financial Participation

If a denial of federal approval and federal financial participation that applies to any part of the Program would occur, KDHE would not be prohibited from implementing any other part of the program that is federally approved for federal financial participation or does not require federal approval or federal financial participation—except, if at any point the federal match for non-pregnant adults under 65 years of age and with income not exceeding 133 percent of FPL is less than the enhanced federal match rate under the federal Health Care and Education Reconciliation Act of 2010, as it exists on the effective date of this bill, KDHE would be required to terminate the Program over a 12-month period, beginning on the first day the federal medical assistance percentage falls below such amount.

KDHE would be allowed to make changes to the Program if required by the U.S. Department of Health and Human Services (HHS) or federal statute or regulation.

Waiver Request

KDHE would be required to produce and submit a waiver request to HHS to implement the Program with services to begin on or before January 1, 2018.

Program Drug Rebate Fund

The bill would create the KanCare Bridge to a Healthy Kansas Program Drug Rebate Fund (Rebate Fund) as a reappropriating fund. All moneys collected or received by the Secretary from drug rebates connected to Program beneficiaries would be required to be deposited in the Rebate Fund and such funds would be required to be expended for the sole purpose of Medicaid medical assistance payments for Program beneficiaries. The bill would require the Rebate Fund remain intact and inviolate and would not be subject to transfers and allotments. The bill would provide for the monthly transfer of interest earnings, as outlined in the bill, from the State General Fund (SGF) to the Rebate Fund.

Rebate Fund Report to Legislature

On or before January 8, 2018, and on or before the first day of the regular legislative session each year thereafter, the Secretary would be required to prepare and deliver a report to the Legislature summarizing all expenditures from the Rebate Fund, Rebate Fund revenues, and recommendations regarding the adequacy of the Rebate Fund to support necessary Program expenditures.

Program Privilege Fee Fund

The bill would create the KanCare Bridge to a Healthy Kansas Program Privilege Fee Fund (Privilege Fee Fund) as a reappropriating fund. All moneys collected or received by the Secretary from privilege fees connected to Program beneficiaries would be required to be deposited in the Privilege Fee Fund and such funds would be required to be expended for the sole purpose of Medicaid medical assistance payments for Program beneficiaries. The bill would require the Privilege Fee Fund remain intact and inviolate and would not be subject to transfers and allotments. The bill would provide for the monthly transfer of interest earnings, as outlined in the bill, from the SGF to the Privilege Fee Fund.

Privilege Fee Fund Report to Legislature

On or before January 8, 2018, and on or before the first day of the regular legislative session each year thereafter, the Secretary would be required to prepare and deliver a report to the Legislature summarizing all expenditures from the Privilege Fee Fund, Privilege Fee Fund revenues, and recommendations regarding the adequacy of the Privilege Fee Fund to support necessary Program expenditures.

Program Cost Savings Report to the Legislature

On or before January 8, 2018, and on or before the first day of the regular legislative session each year thereafter, the Secretary would be required to prepare and deliver a report to the Legislature summarizing the cost savings achieved by the state from the movement of beneficiaries from the KanCare program to the Program, including, but not limited to, the MediKan program, the medically needy spend-down program, and the breast and cervical cancer program. The bill would provide the method for calculating the cost savings.

Inmate Inpatient Hospitalization Cost Savings Report to the Legislature

On or before January 8, 2018, and on or before the first day of the regular legislative session each year thereafter, the Secretary of Corrections would be required to prepare and deliver a report to the Legislature identifying the cost savings achieved by the State from the use of the Program to cover inmate inpatient hospitalization.

KDHE Annual Report to Legislative Committees

On or before February 15 of each year, the Secretary would be required to present a report to the House Committee on Appropriations and the Senate Committee on Ways and Means summarizing the costs for the Program and

the cost savings and additional savings identified in previously mentioned annual reports to the Legislature on the Drug Rebate Fund and the Privilege Fee Fund and the report on Program cost savings.

Program Working Group

The bill would establish the KanCare Bridge to a Healthy Kansas Working Group (Program Working Group) that would be charged with identifying non-SGF sources to fund any Program shortfall identified by the Secretary in the annual report to the Legislative Committees.

The Program Working Group would have the following membership:

- Two House members appointed by the Speaker of the House of Representatives;
- One House member appointed by the Minority Leader of the House of Representatives;
- Two Senate members appointed by the President of the Senate;
- One Senate member appointed by the Minority Leader of the Senate;
- One representative from each of the following:
    - Kansas Hospital Association;
    - Kansas Medical Society;
    - Kansas Association for the Medically Underserved;
    - Kansas Academy of Family Physicians;
    - Association of Community Mental Health Centers of Kansas;
    - Kansas Dental Association;

    - Kansas Emergency Medical Services Association;
    - Kansas Optometric Association; and
    - Kansas Pharmacists Association; and
- One representative of Program consumers from Alliance for a Healthy Kansas.

The members of the Program Working Group would elect the chairperson from members of the Program Working Group who are members of the House of Representatives in even-numbered years and from members of the Program Working Group who are members of the Senate in odd-numbered years.

Kansas Legislative Research Department staff would be required to provide assistance as requested by the Program Working Group.

Legislative members of the Program Working Group would receive compensation and travel expenses and subsistence expenses or allowances, as provided by KSA 75-3212, for attending a meeting of the Program Working Group or a subcommittee meeting thereof. Non-legislative members would not receive compensation, subsistence allowance, mileage, or associated expenses from the State for attending a meeting or subcommittee meeting of the Program Working Group.

The Program Working Group would be required to meet no less than two times in a calendar year. Nine members would constitute a quorum, of which the bill would require at least four to be legislative members of the Program Working Group. Additionally, on or before March 15 of each year, the Program Working Group would be required to report to the Legislature recommendations for funding the Program, as necessary.

Clubhouse Rehabilitation Services

The bill would define "clubhouse" to mean a community-based psychosocial rehabilitation program in which a member, with staff assistance, is engaged in operating all aspects of the clubhouse, including food service, clerical, reception, janitorial, and other member services, such as employment training, housing assistance, and educational support. A clubhouse program is designed to alleviate emotional and behavior problems with the goal of transitioning to a less restrictive level of care, reintegrating the member into the community, and increasing social connectedness beyond a clinical or employment setting.

On or before January 1, 2020, the Secretary would be required to report to the Senate Committee on Public Health and Welfare and the House Committee on Health and Human Services information, findings, and recommendations related to the clubhouse rehabilitation services provided under the bill.

The provisions of the bill related to clubhouse rehabilitation services would sunset on July 1, 2020.

Background

The House Committee of the Whole amended HB 2044, as amended by the House Committee on Health and Human Services, to insert the language of HB 2064, with an amendment adopted by the House Committee regarding citizenship and legal residency. Background information on both bills follows.

HB 2044

The bill was introduced by the House Committee on Health and Human Services at the request of Episcopal Social Services, the sponsor of the Breakthrough Club in Wichita. In the House Committee hearing, a representative of

Episcopal Social Services, a volunteer of the Breakthrough Club, and two members of the Breakthrough Club testified in favor of the bill. The Episcopal Social Services representative and the Breakthrough Club volunteer generally stated clubhouse programs provide skill building and mental health management for adults with serious mental illness who wish to participate in a structured program with staff and peers and have identified psychosocial rehabilitative goals that can be achieved in a supportive and structured environment. The two Breakthrough Club members shared their personal struggles with severe mental illness and the positive impact the clubhouse program has had in their lives. Written-only proponent testimony was provided by the Breakthrough Club, the Disability Rights Center of Kansas, and the Kansas Mental Health Coalition.

No neutral or opponent testimony was provided.

The House Committee amended the bill to limit the reimbursement under the contracts with clubhouse providers for each fiscal year.

The House Committee of the Whole amended the bill by inserting the language of HB 2064, with an amendment adopted by the House Committee regarding citizenship and legal residency.

The fiscal note prepared by the Division of the Budget on HB 2044, as introduced, was published after the House Committee action, and a revised fiscal note was subsequently published. The content of both fiscal notes is provided below.

According to the original fiscal note on HB 2044, as introduced, KDHE estimated total expenditures of $7,757,263, including $3,490,768 from the SGF, in FY 2018 if clubhouse community-based programs were eligible for reimbursement through Medicaid. The estimate for FY 2019 was $7,912,408, including $3,560,584 from the SGF. This estimate assumed individual services were provided to 130 members at a rate of $13.63 for each 15-minute increment for

a total of 52 weeks, and group services were provided to 165 members at $4.37 for each 15-minute increment for a total of 52 weeks. Reimbursements were based upon the assumption of 60 increments (15 hours) per person per week.

According to the revised fiscal note prepared by the Division of the Budget on HB 2044, as introduced, KDHE estimates total expenditures of $576,840, including $259,578 from the SGF in FY 2018 if clubhouse community-based programs were eligible for reimbursement through Medicaid. The estimate for FY 2019 would be $594,320, including $267,444 from the SGF. The estimate assumes individual services are provided to 165 members at a rate of $4.37 for each 15-minute increment for a total of 200 hours in FY 2018 and at a rate of $4.41 for 168 members for a total of 200 hours in FY 2019. Reimbursements are based upon the assumption of 200 hours per person per year.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2018 Governor's Budget Report*.

HB 2064

The bill was introduced by the House Committee on Health and Human Services at the request of Representative Concannon. The House Committee held three hearings on the bill. Neutral testimony was heard by the Committee on February 6, 2017; proponent testimony on February 8, 2017; and opponent testimony on February 9, 2017. The Committee took action on the bill on February 20, 2017.

During the February 6, 2017, hearing, neutral testimony was provided by a state legislator from Arkansas and representatives of the Kansas Health Institute and the Center for Health Economics and Policy. It was noted that states that have already expanded Medicaid have seen reductions in uncompensated care, but there is a potential for an increased number of enrollees (often termed the "woodwork effect"). Written-only neutral testimony was provided by the Kansas Department for Children and Families.

During the February 8, 2017, hearing, proponent testimony was provided by a private citizen and representatives of the Alliance for a Healthy Kansas, the Community Health Center of Southeast Kansas, the Greater Kansas City Chamber of Commerce, the Kansas Academy of Family Physicians, the Kansas Hospital Association, the League of Kansas Municipalities, the Kansas Medical Society, the Kansas Silver Haired Legislature, the Salina Family Healthcare Center, the South Central Kansas Medical Center, Via Christi Health, Valeo Behavioral Health Care, and the Wichita Regional Chamber of Commerce. The proponents generally stated the bill would provide better health care for 150,000 Kansans, allow community health centers and hospitals to hire more staff, bring businesses and jobs to communities, provide funding to struggling hospitals, and bring millions of federal tax dollars back to Kansas. Written-only testimony was provided by more than 150 proponents, from business, community, and economic development interests; health foundations, policy, and advocacy organizations; hospitals; community support agencies; health care providers; community health centers; and private citizens.

During the February 9, 2017, hearing, opponent testimony was provided by representatives of Americans for Prosperity, the Cato Institute, the Foundation for Government Accountability, HSA Benefits Consulting, the Kansas Policy Institute, and KDHE. The opponents generally stated the states that expanded Medicaid could not accurately predict Medicaid enrollment, expansion in Kansas would be costly, it is uncertain whether the Affordable Care Act (ACA) will be dismantled and whether the federal government will continue to provide federal funds at an increased matching rate, the vast majority of increased funding in Medicaid would go to big city hospitals and not to rural communities, and resources would be prioritized so the new enrollment group would access care before participants who are disabled or elderly.

Following the hearings, it was requested that KDHE provide a revised fiscal note. The original fiscal note was issued on February 6, 2017, with revisions issued on February 17, 2017, and February 20, 2017.

Prior to the Committee taking action on the bill on February 20, 2017, a representative of KDHE presented information and discussed the fiscal note that was issued on February 20, 2017. An amendment was offered to require medical assistance to be granted only to a United States citizen or legal resident who has been a resident of Kansas for a least 12 months and require that, if any part of the bill is denied on the federal level, the bill would prohibit KDHE from implementing other parts of the bill. The amendment was divided into two parts. The amendment to require legal residency in Kansas for 12 months was adopted. The amendment that would dismantle the bill if any portion of the bill was denied on the federal level was not adopted. Finally, the Committee voted to table the bill until April 3, 2017. A motion in the House Committee of the Whole to withdraw the bill from the House Committee was made on February 21, 2017, and was subsequently withdrawn on February 22, 2017.

Three fiscal notes were prepared by the Division of the Budget on HB 2064 as introduced. The original fiscal note was issued February 6, 2017, followed by revisions issued on February 17, 2017, and February 20, 2017. Since the February 20th revised fiscal note was available when the House Committee worked the bill on February 20, 2017, this is the revised fiscal note discussed below. According to the February 20, 2017, revised fiscal note prepared by the Division of the Budget, and available when the House Committee worked the bill on February 20, 2017, enactment of HB 2064 as introduced would have the following effect.

The expanded Medicaid eligibility in the bill would take effect on January 1, 2018. As a result, the fiscal effect estimates are for one half of FY 2018. KDHE indicates enactment of the bill would assume costs and offsets

associated with a 40.0 percent expansion from current Medicaid member counts, and that count would grow annually. Any savings to the State would be realized through a higher federal match rate for certain populations within Medicaid. KDHE indicates additional revenues would not fully offset the Medicaid expansion costs. KDHE estimates the cost of care for 90,921 newly eligible beneficiaries would be $517.7 million in FY 2018. The state share at 6.0 percent would be $31.1 million. The cost of care for 187,373 newly eligible beneficiaries in FY 2019 would be $1,034.2 million, including the state share at 7.0 percent of $67.2 million. If the ACA enhanced federal match for Medicaid expansion was not available and Kansas' regular state share of approximately 45.0 percent was required for these new beneficiaries, the additional cost to the SGF would be $233.0 million in FY 2018 and $465.4 million in FY 2019.

KDHE estimates additional revenue of $2.6 million in FY 2018 and $5.4 million in FY 2019 from increased drug rebates. This additional revenue would be used to meet state share requirements. The KDHE estimate does not include any additional revenue from privilege fees because under current law those fees collected for calendar year 2018 will be deposited in the SGF instead of the KDHE fee fund. Healthcare cost savings that would be realized for certain populations are also included in the estimate. These savings total $14.5 million in FY 2018 and $29.3 million in FY 2019.

KDHE states because it cannot estimate how many of the newly eligible beneficiaries would also be eligible for the premium assistance program in the bill and because the provision is permissive, an estimate for a premium assistance program has not been provided. KDHE states because new tracking systems would have to be developed and maintained for such a program, the additional administrative costs would likely be substantial.

According to the revised fiscal note, enactment of the bill would also result in increased administrative costs. KDHE would require the addition of 115.0 FTE positions, the

majority of which would be eligibility staff and support staff. This estimate is based on the current staff to beneficiary ratio and assumes a 25.0 percent increase. Salary and other operating expenditures for the added positions are estimated at $2.3 million in FY 2018 and $4.8 million in FY 2019. The cost of the three Medicaid support contracts, Hewlett Packard Enterprises, Accenture, and Maximus, would also increase by approximately $12.0 million per year. Total additional administrative costs are estimated at $8.4 million in FY 2018 and $17.1 million in FY 2019. The state share of those administration expenditures is approximately $4.2 million for FY 2018 and $8.6 million for FY 2019.

The Department of Corrections (DOC) states, when an inmate is hospitalized for longer than 24 hours, the Medicaid inmate exclusion rule does not apply. Therefore, some of these inmates could be Medicaid eligible on a fee-for-service basis. DOC currently estimates approximately $2.0 million in SGF expenditures for these hospitalizations in FY 2018. If half of those inmates were Medicaid eligible under the provisions of the bill, DOC would realize savings of approximately $940,000 from the SGF in FY 2018 and $930,000 in FY 2019. This estimate equates to the enhanced federal match that could be drawn down. These savings would be reduced over time as the enhanced federal match is reduced. DOC would have increased administrative costs that would reduce the savings. DOC would need additional FTE positions to determine eligibility and process claims. The current estimate for increased administration is $300,000, which would include $150,000 from the SGF and 3.00 additional FTE positions.

The Department for Children and Families (DCF) states enactment of the bill would result in additional costs through increased referrals to its Generating Opportunities to Attain Lifelong Success Program (GOALS). The GOALS Program is a time-limited, federally funded program scheduled to end in January 2019. The grant was awarded based on an established caseload. Referrals resulting from enactment of the bill would increase the number of participants beyond the

budgeted amount. Following completion of the pilot program, results from Kansas and other states will be evaluated and continuing federal funding is not certain. DCF assumes for purposes of this fiscal note no federal funding will be available and any additional costs would be funded through the SGF.

Based on KDHE estimates for additional Medicaid recipients and assumptions regarding the bill's requirements for referral to the GOALS Program, DCF estimates at least 1,372 additional program participants in FY 2018 and 3,026 in FY 2019. These estimates equate to 10.0 percent of newly eligible adults. Assistance costs for these new participants are estimated at $140,098 in FY 2018 and $649,013 in FY 2019. Also, to meet the needs of the increased caseload, DCF would require 29.00 additional FTE positions in FY 2018 and 64.00 additional FTE positions in FY 2019. Salaries, benefits, and other operating costs to support the additional FTE are estimated at $903,959 in FY 2018 and $3,843,004 in FY 2019. Therefore, the total estimated fiscal effect for DCF would be $1,044,057 in FY 2018 and $4,492,017 in FY 2019.

Kansas Legislative Services estimates legislative compensation, subsistence, and travel costs would total $6,756 from the SGF for both FY 2018 and FY 2019 for the Program Working Group. The Department of Commerce states it anticipates no fiscal effect for the agency from enactment of the bill. Finally, Medicaid expansion would increase privilege fees paid to the Kansas Insurance Department and deposited in the SGF in FY 2019 by approximately $20.7 million.

According to the February 20, 2017, revised fiscal note, the total estimated fiscal effect of the enactment of this bill for FY 2018 SGF expenditures is $27,406,455, and for FY 2019 SGF revenue is $20,708,150 and SGF expenditures is $62,138,299. The total estimates for FY 2018 are all-funds revenue of $485,439,443 and $512,845,895 in all-funds expenditures, and for FY 2019 all-funds revenues of $985,420,168 and $1,026,850,317 in all-funds expenditures.

Total estimated additional FTE positions needed in FY 2018 is 147.00 and 182.00 FTE positions for FY 2019. Any fiscal effect associated with enactment of HB 2064, as introduced, is not reflected in *The FY 2018 Governor's Budget Report*.