

## HOUSE BILL No. 2065

By Committee on Health and Human Services

1-17

1 AN ACT concerning assessments on certain health care providers;  
2 amending K.S.A. 2016 Supp. 40-3213, 40-3236, 65-6208, 65-6217 and  
3 65-6218 and repealing the existing sections.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2016 Supp. 40-3213 is hereby amended to read as  
7 follows: 40-3213. (a) Every health maintenance organization and medicare  
8 provider organization subject to this act shall pay to the commissioner the  
9 following fees:

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

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

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

13 (b) Every health maintenance organization subject to this act shall  
14 pay annually to the commissioner at the time such organization files its  
15 annual report, a privilege fee in an amount equal to 1% per annum of the  
16 total of all premiums, subscription charges or any other term which may be  
17 used to describe the charges made by such organization to enrollees,  
18 except during the reporting period beginning January 1, 2015, and ending  
19 December 31, 2017, the privilege fee shall be 3.31%, and on and after  
20 January 1, 2018, the privilege fee shall be ~~2%~~ 5.77%. In such  
21 computations all such organizations shall be entitled to deduct therefrom  
22 any premiums or subscription charges returned on account of cancellations  
23 and dividends returned to enrollees. If the commissioner shall determine at  
24 any time that the application of the privilege fee, or a change in the rate of  
25 the privilege fee, would cause a denial of, reduction in or elimination of  
26 federal financial assistance to the state or to any health maintenance  
27 organization subject to this act, the commissioner is hereby authorized to  
28 terminate the operation of such privilege fee or the change in such  
29 privilege fee.

30 (c) For the purpose of insuring the collection of the privilege fee  
31 provided for by subsection (b), every health maintenance organization  
32 subject to this act and required by subsection (b) to pay such privilege fee  
33 shall at the time it files its annual report, as required by K.S.A. 40-3220,  
34 and amendments thereto, make a return, generated by or at the direction of  
35 its chief officer or principal managing director, under penalty of K.S.A.  
36 2016 Supp. 21-5824, and amendments thereto, to the commissioner,

1 stating the amount of all premiums, assessments and charges received by  
2 the health maintenance organization, whether in cash or notes, during the  
3 year ending on the last day of the preceding calendar year. Upon the  
4 receipt of such returns the commissioner of insurance shall verify the same  
5 and assess the fees upon such organization on the basis and at the rate  
6 provided herein and such fees shall thereupon become due and payable.

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

11 (e) Fees charged under this section shall be remitted to the state  
12 treasurer in accordance with the provisions of K.S.A. 75-4215, and  
13 amendments thereto. Upon receipt of each such remittance, the state  
14 treasurer shall deposit the entire amount in the state treasury to the credit  
15 of the state general fund, ~~except during the period beginning July 1, 2015,~~  
16 ~~and ending on June 30, 2018, such deposit shall be to the credit of the~~  
17 ~~medical assistance fee fund created by K.S.A. 2016 Supp. 40-3236, and~~  
18 ~~amendments thereto.~~

19 Sec. 2. K.S.A. 2016 Supp. 40-3236 is hereby amended to read as  
20 follows: 40-3236. (a) There is hereby created in the state treasury the  
21 medical assistance fee fund. The commissioner of insurance shall remit to  
22 the state treasurer, in accordance with the provisions of K.S.A. 75-4215,  
23 and amendments thereto, all moneys collected or received by the  
24 commissioner from health maintenance organizations and medicare  
25 provider organizations for the fees specified in K.S.A. 40-3213, and  
26 amendments thereto. Upon receipt of each such remittance, the state  
27 treasurer shall deposit the entire amount in the state treasury to the credit  
28 of the medical assistance fee fund.

29 (b) Moneys in the medical assistance fee fund shall be expended for  
30 the purpose of medicaid medical assistance payments. All expenditures  
31 from the medical assistance fee fund shall be made in accordance with  
32 appropriation acts upon warrants of the director of accounts and reports  
33 issued pursuant to vouchers approved by the secretary of health and  
34 environment or the secretary's designee.

35 (c) On or before the 10<sup>th</sup> of each month, the director of accounts and  
36 reports shall transfer from the state general fund to the medical assistance  
37 fee fund interest earnings based on:

38 (1) The average daily balance of moneys in the medical ~~programs-~~  
39 ~~assistance~~ fee fund for the preceding month; and

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

42 (d) The medical assistance fee fund shall be used for the purposes set  
43 forth in this act and for no other governmental purposes. It is the intent of

1 the legislature that the fund shall remain intact and inviolate for the  
2 purposes set forth in this act, and moneys in the fund shall not be subject  
3 to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and  
4 amendments thereto.

5 (e) The secretary of health and environment shall prepare and deliver  
6 to the legislature on or before the first day of each regular legislative  
7 session, a report which summarizes all expenditures from the medical  
8 assistance fee fund, fund revenues and recommendations regarding the  
9 adequacy of the fund to support necessary medical assistance programs.

10 ~~(f) The provisions of this section shall expire on July 1, 2018.~~

11 Sec. 3. K.S.A. 2016 Supp. 65-6208 is hereby amended to read as  
12 follows: 65-6208. (a) Subject to the provisions of K.S.A. 2016 Supp. 65-  
13 6209, and amendments thereto, an annual assessment on inpatient services  
14 is imposed on each hospital provider in an amount equal to ~~1.83%~~ 4.65%  
15 of each hospital's net inpatient operating revenue for the hospital's fiscal  
16 year ~~2010~~ 2014. In the event that a hospital does not have a complete  
17 twelve-month ~~2010~~ 2014 fiscal year, the assessment under this section  
18 shall be \$200,000 until such date that such hospital has completed the  
19 hospital's first twelve-month fiscal year. Upon completing such first  
20 twelve-month fiscal year, such hospital's assessment under this section  
21 shall be the amount equal to ~~1.83%~~ 4.65% of such hospital's net operating  
22 revenue for such first completed twelve-month fiscal year.

23 (b) Nothing in this act shall be construed to authorize any home rule  
24 unit or other unit of local government to license for revenue or impose a  
25 tax or assessment upon hospital providers or a tax or assessment measured  
26 by the income or earnings of a hospital provider.

27 Sec. 4. K.S.A. 2016 Supp. 65-6217 is hereby amended to read as  
28 follows: 65-6217. (a) There is hereby created in the state treasury the  
29 health care access improvement fund, which shall be administered by the  
30 secretary of health and environment. All moneys received for the  
31 assessments imposed by K.S.A. 2016 Supp. 65-6208 and 65-6213, and  
32 amendments thereto, including any penalty assessments imposed thereon,  
33 shall be remitted to the state treasurer in accordance with K.S.A. 75-4215,  
34 and amendments thereto. Upon receipt of each such remittance, the state  
35 treasurer shall deposit the entire amount in the state treasury to the credit  
36 of the health care access improvement fund. All expenditures from the  
37 health care access improvement fund shall be made in accordance with  
38 appropriation acts upon warrants of the director of accounts and reports  
39 issued pursuant to vouchers approved by the secretary of health and  
40 environment or the secretary's designee.

41 (b) The fund shall not be used to replace any moneys appropriated by  
42 the legislature for the department's medicaid program.

43 (c) The fund is created for the purpose of receiving moneys in

1 accordance with this act and disbursing moneys only for the purpose of  
2 improving health care delivery and related health activities,  
3 notwithstanding any other provision of law.

4 (d) On or before the 10<sup>th</sup> day of each month, the director of accounts  
5 and reports shall transfer from the state general fund to the health care  
6 access improvement fund interest earnings based on:

7 (1) The average daily balance of moneys in the health care access  
8 improvement fund for the preceding month; and

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

11 (e) The fund shall consist of the following:

12 (1) All moneys collected or received by the department from the  
13 hospital provider assessment and the health maintenance organization  
14 assessment imposed by this act;

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

17 (3) all other moneys received for the fund from any other source.

18 (f) (1) On July 1 of each fiscal year, the director of accounts and  
19 reports shall record a debit to the state treasurer's receivables for the health  
20 care access improvement fund and shall record a corresponding credit to  
21 the health care access improvement fund in an amount certified by the  
22 director of the budget which shall be equal to the sum ~~of 80%~~ of the  
23 moneys estimated by the director of the budget to be received from the  
24 assessment imposed on hospital providers pursuant to K.S.A. 2016 Supp.  
25 65-6208, and amendments thereto, and credited to the health care access  
26 improvement fund during such fiscal year, plus 53% of the moneys  
27 estimated by the director of the budget to be received from the assessment  
28 imposed on health maintenance organizations pursuant to K.S.A. 2016  
29 Supp. 65-6213, and amendments thereto, and credited to the health care  
30 access improvement fund during such fiscal year, except that such amount  
31 shall be proportionally adjusted during such fiscal year with respect to any  
32 change in the moneys estimated by the director of the budget to be  
33 received for such assessments, deposited in the state treasury and credited  
34 to the health care access improvement fund during such fiscal year. Among  
35 other appropriate factors, the director of the budget shall take into  
36 consideration the estimated and actual receipts from such assessments for  
37 the current fiscal year and the preceding fiscal year in determining the  
38 amount to be certified under this subsection (f). All moneys received for  
39 the assessments imposed pursuant to K.S.A. 2016 Supp. 65-6208 and 65-  
40 6213, and amendments thereto, deposited in the state treasury and credited  
41 to the health care access improvement fund during a fiscal year shall  
42 reduce the amount debited and credited to the health care access  
43 improvement fund under this subsection (f) for such fiscal year.

1 (2) On June 30 of each fiscal year, the director of accounts and  
2 reports shall adjust the amounts debited and credited to the state treasurer's  
3 receivables and to the health care access improvement fund pursuant to  
4 this subsection (f), to reflect all moneys actually received for the  
5 assessments imposed pursuant to K.S.A. 2016 Supp. 65-6208 and 65-  
6 6213, and amendments thereto, deposited in the state treasury and credited  
7 to the health care access improvement fund during the current fiscal year.

8 (3) The director of accounts and reports shall notify the state treasurer  
9 of all amounts debited and credited to the health care access improvement  
10 fund pursuant to this subsection (f) and all reductions and adjustments  
11 thereto made pursuant to this subsection (f). The state treasurer shall enter  
12 all such amounts debited and credited and shall make reductions and  
13 adjustments thereto on the books and records kept and maintained for the  
14 health care access improvement fund by the state treasurer in accordance  
15 with the notice thereof.

16 Sec. 5. K.S.A. 2016 Supp. 65-6218 is hereby amended to read as  
17 follows: 65-6218. (a) Assessment revenues generated from the hospital  
18 provider assessments shall be disbursed as follows:

19 (1) Not ~~less~~ *more* than 80% of assessment revenues shall be disbursed  
20 to hospital providers through a combination of medicaid access  
21 improvement payments and increased medicaid rates on designated  
22 diagnostic related groupings, procedures or codes;

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

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

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

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

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

42 (3) not more than 17% of health maintenance organization  
43 assessment revenues shall be disbursed to pharmacy providers through

1 increased medicaid rates.

2 (c) For the purposes of administering and selecting the disbursements  
3 described in subsections (a) and (b) of this section, the health care access  
4 improvement panel is hereby established. The panel shall consist of the  
5 following: Three members appointed by the Kansas hospital association,  
6 two members who are persons licensed to practice medicine and surgery  
7 appointed by the Kansas medical society, one member appointed by each  
8 health maintenance organization that has a medicaid managed care  
9 contract with the Kansas department for aging and disability services, one  
10 member appointed by the Kansas association for the medically  
11 underserved, and one representative of the department of health and  
12 environment appointed by the governor. The panel shall meet as soon as  
13 possible subsequent to the effective date of this act and shall elect a  
14 chairperson from among the members appointed by the Kansas hospital  
15 association. A representative of the panel shall be required to make an  
16 annual report to the legislature regarding the collection and distribution of  
17 all funds received and distributed under this act.

18 Sec. 6. K.S.A. 2016 Supp. 40-3213, 40-3236, 65-6208, 65-6217 and  
19 65-6218 are hereby repealed.

20 Sec. 7. This act shall take effect and be in force from and after its  
21 publication in the statute book.