

**SENATE BILL No. 416**

By Committee on Commerce

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1 AN ACT concerning the state workplace health and safety program;  
2 relating to implementation and administration of the program;  
3 pertaining to transfer of the program from the department of health and  
4 environment to the department of labor; amending K.S.A. 2011 Supp.  
5 44-575 and repealing the existing section.  
6

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

8 New Section. 1. (a) All of the powers, duties and functions of the  
9 secretary of health and environment with regard to the state workplace  
10 health and safety program established in K.S.A. 44-575, and amendments  
11 thereto, are hereby transferred to and conferred and imposed upon the  
12 secretary of labor.

13 (b) The secretary of labor shall be the successor in every way to the  
14 powers, duties and functions of the secretary of health and environment  
15 associated with the state workplace health and safety program established  
16 in K.S.A. 44-575, and amendments thereto. Every act performed in the  
17 exercise of such powers, duties and functions by or under the authority of  
18 the secretary of labor shall be deemed to have the same force and effect as  
19 if performed by the secretary of health and environment in whom such  
20 powers, duties and functions were vested prior to the effective date of this  
21 act.

22 (c) Whenever the department of health and environment, the state  
23 workplace health and safety program, or words of like effect, are referred  
24 to or designated by a statute, contract, memorandum of agreement or other  
25 document, and such reference or designation is in regard to any of the  
26 powers, duties and functions transferred pursuant to subsection (a), such  
27 reference or designation shall be deemed to apply to the state workplace  
28 health and safety program established within the department of labor.  
29 Whenever the secretary of health and environment or words of like effect,  
30 are referred to or designated by a statute, contract, memorandum of  
31 agreement or other document, and such reference is in regard to any of the  
32 powers, duties and functions transferred to the secretary of labor pursuant  
33 to subsection (a), such reference shall be deemed to apply to the secretary  
34 of labor.

35 (d) All rules and regulations, orders and directives of the secretary of  
36 health and environment that relate to the workplace health and safety

1 program, or the powers, duties and functions transferred under subsection  
2 (a), which are in effect on the effective date of this act shall continue to be  
3 effective and shall be deemed to be rules and regulations, orders and  
4 directives of the department of labor or the secretary of labor until revised,  
5 amended, revoked or nullified pursuant to law.

6 (e) The secretary of labor shall have the legal custody of all records,  
7 memoranda, writings, entries, prints, representations, electronic data or  
8 combinations thereof of any act, transaction, occurrence or event of the  
9 state workplace health and safety program in the legal custody of the  
10 secretary of health and environment prior to the effective date of this act.

11 (f) The department of labor shall succeed to all property, property  
12 rights and records which were used for or pertain to the performance of  
13 powers, duties and functions transferred from the department of health and  
14 environment to the department of labor pursuant to this act.

15 (g) All officers and employees of the department of health and  
16 environment who, immediately prior to the effective date of this act, are  
17 engaged in the performance of powers, duties or functions of the state  
18 workplace health and safety program transferred by this act and who, in  
19 the opinion of the secretary of labor, are necessary to perform the powers,  
20 duties and functions of the state workplace health and safety program,  
21 shall be transferred to, and shall become officers and employees of the  
22 department of labor.

23 (h) Such transferred officers and employees of the department of  
24 health and environment shall retain all retirement benefits and leave  
25 balances and rights which had accrued or vested prior to the date of  
26 transfer. The service of each such officer and employee so transferred shall  
27 be deemed to have been continuous. All classified employees so  
28 transferred shall retain their status as classified employees. All transfers,  
29 layoffs or abolition of classified service positions under the Kansas civil  
30 service act shall be made in accordance with the civil service laws and any  
31 rules and regulations adopted thereunder. Nothing in this act shall affect  
32 the classified status of any transferred person employed by the department  
33 of health and environment prior to the date of transfer.

34 (i) No suit, action or other proceeding, judicial or administrative,  
35 lawfully commenced, or which could have been commenced, by or against  
36 any state agency or program mentioned in this act, or by or against any  
37 officer of the state in such officer's official capacity or in relation to the  
38 discharge of such officer's official duties, shall abate by reason of the  
39 governmental reorganization effected under the provisions of this act. The  
40 court may allow any such suit, action or other proceeding to be maintained  
41 by or against the successor of any such state agency or any officer  
42 affected.

43 (j) When any conflict arises as to the disposition of any property,

1 power, duty or function as a result of the transfer of powers, duties and  
2 functions of the state workplace health and safety program pursuant to  
3 subsection (a), such conflict shall be resolved by the governor, whose  
4 decision shall be final.

5 Sec. 2. K.S.A. 2011 Supp. 44-575 is hereby amended to read as  
6 follows: 44-575. (a) As used in K.S.A. 44-575 through 44-580, and  
7 amendments thereto, "state agency" means the state, or any department or  
8 agency of the state, but not including the Kansas turnpike authority, the  
9 university of Kansas hospital authority, any political subdivision of the  
10 state or the district court with regard to district court officers or employees  
11 whose total salary is payable by counties.

12 (b) For the purposes of providing for the payment of compensation  
13 for claims arising on and after July 1, 1974, and all other amounts required  
14 to be paid by any state agency as a self-insured employer under the  
15 workers compensation act and any amendments or additions thereto, there  
16 is hereby established the state workers compensation self-insurance fund  
17 in the state treasury. The name of the state workmen's compensation self-  
18 insurance fund is hereby changed to the state workers compensation self-  
19 insurance fund. Whenever the state workmen's compensation self-  
20 insurance fund is referred to or designated by any statute, contract or other  
21 document, such reference or designation shall be deemed to apply to the  
22 state workers compensation self-insurance fund.

23 (c) The state workers compensation self-insurance fund shall be liable  
24 to pay *the following*: (1) All compensation for claims arising on and after  
25 July 1, 1974, and all other amounts required to be paid by any state agency  
26 as a self-insured employer under the workers compensation act and any  
27 amendments or additions thereto; (2) the amount that all state agencies are  
28 liable to pay of the "carrier's share of expense" of the administration of the  
29 office of the director of workers' compensation as provided in K.S.A. 74-  
30 712 through 74-719, and amendments thereto, for each fiscal year; (3) all  
31 compensation for claims remaining from the self-insurance program which  
32 existed prior to July 1, 1974, for institutional employees of the division of  
33 mental health and retardation services of the department of social and  
34 rehabilitation services; (4) the cost of administering the state workers  
35 compensation self-insurance fund including the defense of such fund and  
36 any costs assessed to such fund in any proceeding to which it is a party;  
37 and (5) the cost of establishing and operating the state workplace health  
38 and safety program ~~under established~~ by subsection (f). For the purposes  
39 of K.S.A. 44-575 through 44-580, and amendments thereto, all state  
40 agencies are hereby deemed to be a single employer whose liabilities  
41 specified in this section are hereby imposed solely upon the state workers  
42 compensation self-insurance fund and such employer is hereby declared to  
43 be a fully authorized and qualified self-insurer under K.S.A. 44-532, and

1 amendments thereto, but such employer shall not be required to make any  
2 reports thereunder.

3 (d) The secretary of ~~administration~~ *health and environment* shall  
4 administer the state workers compensation self-insurance fund and all  
5 payments from such fund shall be upon warrants of the director of  
6 accounts and reports issued pursuant to vouchers approved by the  
7 secretary of ~~administration~~ *health and environment* or a person or persons  
8 designated by the secretary. The director of accounts and reports may issue  
9 warrants pursuant to vouchers approved by the secretary for payments  
10 from the state workers compensation self-insurance fund notwithstanding  
11 the fact that claims for such payments were not submitted or processed for  
12 payment from money appropriated for the fiscal year in which the state  
13 workers compensation self-insurance fund first became liable to make  
14 such payments.

15 (e) The secretary of ~~administration~~ *health and environment* shall  
16 remit all moneys received by or for the secretary in the capacity as  
17 administrator of the state workers compensation self-insurance fund, to the  
18 state treasurer in accordance with the provisions of K.S.A. 75-4215, and  
19 amendments thereto. Upon receipt of each such remittance, the state  
20 treasurer shall deposit the entire amount in the state treasury to the credit  
21 of the state workers compensation self-insurance fund.

22 (f) (1) There is hereby established the state workplace health and  
23 safety program ~~within the state workers compensation self-insurance~~  
24 ~~program of the department of administration.~~ The secretary of  
25 ~~administration~~ *labor* shall implement and administer the state workplace  
26 health and safety program for state agencies. The state workplace health  
27 and safety program shall include, but not be limited to:

28 (⊕) (A) Workplace health and safety hazard surveys in all state  
29 agencies, including onsite interviews with employees;

30 (⊖) (B) workplace health and safety hazard prevention services,  
31 including inspection and consultation services;

32 (⊗) (C) procedures for identifying and controlling workplace hazards;

33 (⊕) (D) development and dissemination of health and safety  
34 informational materials, plans, rules and work procedures; and

35 (⊖) (E) training for supervisors and employees in healthful and safe  
36 work practices.

37 (2) *For purposes of establishing and operating the state workplace*  
38 *health and safety program there is hereby established the state workplace*  
39 *health and safety program fund in the state treasury. The state workplace*  
40 *health and safety program fund shall be administered by the secretary of*  
41 *labor. The secretary of labor shall certify to the secretary of health and*  
42 *environment and the director of accounts and reports the amount*  
43 *necessary to operate the state workplace health and safety program at*

1 *such times as agreed to by the secretary of labor and the secretary of*  
2 *health and environment. Upon such certification, the director of accounts*  
3 *and reports shall transfer such certified amount from the state workers*  
4 *compensation self-insurance fund to the state workplace health and safety*  
5 *program fund.*

6 Sec. 3. K.S.A. 2011 Supp. 44-575 is hereby repealed.

7 Sec. 4. This act shall take effect and be in force from and after its  
8 publication in the statute book.