

SESSION OF 2015

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 2281**

As Recommended by Senate Committee on  
Public Health and Welfare

**Brief\***

Senate Sub. for HB 2281 would amend provisions of the Vision Care Services Act (Act), create in the State Treasury the Medical Assistance Fee Fund (Fund), and would increase the annual privilege fees paid by every health maintenance organization for the period beginning January 1, 2015, and ending December 31, 2017. Additional bill details follow.

**Act**

The bill would authorize the Insurance Commissioner (Commissioner) to administer the provisions of the Act and adopt rules and regulations, as necessary, but no later than January 1, 2016. The bill also would insert language that any violation of the Act would be a violation of the Unfair Trade Practice Law and would be subject to penalties. Additionally, the bill would require the Kansas Attorney General to administer the provisions of the Act as it applies to discount cards and vision care discount plans and adopt rules and regulations, as necessary, but no later than January 1, 2016, to carry out provisions of the Act.

**Fund**

The bill would create in the State Treasury the Medical Assistance Fee Fund (Fund); would increase the annual

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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>

privilege fees paid by every health maintenance organization for the period beginning January 1, 2015, and ending December 31, 2017, from 1.0 percent per year to 5.5 percent per year of the total of all premiums, subscription charges, or any other term that may be used to describe the charges made by such organization to enrollees; and the privilege fees paid from January 1, 2015, through December 31, 2017, would be deposited in the Fund, instead of the State General Fund (SGF).

The provisions in Section 1, pertaining to the Fund, its administration, and reporting, would expire on December 31, 2017.

From January 1, 2015, through December 31, 2017, all moneys collected or received by the Commissioner from health maintenance organizations, including the three KanCare Managed Care Organizations (MCOs), and Medicare provider organizations for fees specified in KSA 2014 Supp. 40-3213 would be remitted to the State Treasurer for deposit in the State Treasury to the credit of the Fund. (Those fees would include filing an application for a certificate of authority, filing each annual report, filing an amendment to the certificate of authority, and privilege fees.)

The use of moneys in the Fund would be expended for the purpose of Medicaid medical assistance payments and for no other governmental purpose. The moneys in the Fund would not be subject to allotments by the Governor, certificates of indebtedness, and transfers by the Secretary of Health and Environment (Secretary.)

The Secretary would be required to prepare and deliver to the Legislature, on or before the first day of each regular legislative session, a report summarizing all expenditures from the Fund, Fund revenues, and recommendations regarding the adequacy of the Fund to support necessary medical assistance programs.

## **Background**

The Senate Committee on Public Health and Welfare added the contents of SB 180, as amended by the Senate Committee of the Whole, to HB 2281, as amended by the Senate Committee, and created a substitute bill.

### ***HB 2281***

In the House Committee on Health and Human Services, a representative from the Kansas Optometric Association (Association) testified as a proponent of the bill. The representative stated the bill was drafted in response to the ongoing concerns of Association members regarding insurance companies and vision plans lacking compliance with the Act since it took effect in April of 2014. No opponent or neutral testimony was provided.

In the Senate Committee on Public Health and Welfare, a representative of the Association testified as a proponent of the bill. The representative requested an amendment that would clarify the ability of the Attorney General's office and Commissioner's office to provide oversight and enforcement of the Act. Representatives of America's Health Insurance Plans and Consumer Health Alliance provided opponent testimony. Both representatives stated they had no objection to the underlying bill, but expressed concerns about the amendment proposed by the Association. No other testimony was provided.

The Senate Committee amended the bill by clarifying the roles of the Commissioner and Attorney General in providing oversight and enforcement of the Act, inserting language that a violation of the Act would be a violation of the Unfair Trade Practice Law and would be subject to penalties, and provided a date certain for rules and regulations promulgated by the Commissioner and Attorney General.

According to the fiscal note prepared by the Division of the Budget, in consultation with the Kansas Insurance Department, the bill, as introduced, would not have a fiscal effect on the Department. The bill would require the Department to design, write, and implement rules and regulations for the Act, which would be completed utilizing existing staff and budget resources.

### ***SB 180***

The bill was introduced by the Senate Committee on Public Health and Welfare at the request of the Kansas Department of Health and Environment (KDHE). In the Senate Committee hearing on the bill, as introduced, a representative of KDHE testified in support of the bill stating the increased privilege fee would be placed in the Fund and would be limited to paying only costs associated with Medicaid medical assistance payments. No other testimony was provided at the hearing.

The Senate Committee amended the bill to allow for the increase in the privilege fees for a limited time and to establish an expiration date for the provisions in Section 1 of the bill relating to the Fund, its administration, and reporting requirements.

The Senate Committee of the Whole amended the bill to change the sunset date to December 31, 2017, on the increase in the privilege fees and the deposit of these fees in the Fund, and on the provisions in Section 1 of the bill relating to the Fund, its administration, and reporting requirements.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, in FY 2014, the Kansas Insurance Department collected and transferred to the SGF \$23.7 million in privilege fees. Of that amount \$22.1 million, or 93.3 percent, was collected from the three KanCare MCOs. KDHE estimates the increase in privilege fees would increase revenue by \$106.1 million in FY 2016. Under the provisions of

the bill, an estimated \$136.4 million from privilege fees would be deposited into the new fee fund in FY 2016 to be used for medical assistance payments. According to KDHE, transfers to the SGF would decrease by \$30.3 million.