

## HOUSE BILL No. 2582

By Committee on Appropriations

4-4

---

AN ACT enacting the Kansas senior caregiving initiative; establishing a program to improve the quality of long-term care services; authorizing grants for and evaluations of models of long-term care; concerning nursing facility reimbursement and enhanced employee training; establishing a prevention program for the improvement of the quality of long-term care services; providing for a senior advisory council; amending K.S.A. 2000 Supp. 75-4265 and repealing the existing section.

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

New Section 1. (a) This act shall be known and may be cited as the Kansas senior caregiving initiative.

(b) The state, in partnership with private providers of long-term care services, shall initiate a comprehensive and sustainable program that provides:

(1) A process for quantifiable and continual improvement in the quality of long-term care and services;

(2) support and training for the workers who provide long-term care and services; and

(3) fiscally prudent funding to prepare for the anticipated increase in the number of older Kansans that will need long-term care services in the years ahead.

(c) The secretary of aging shall establish the Kansas senior advisory council. Such council shall advise and make recommendations to the secretary on the initiatives as set forth by the Kansas senior caregiving initiative. The secretary shall appoint members of this council. The members of the council shall include, but are not limited to, representatives of all provider associations, representatives from the department of aging and the department on health and environment.

(d) The secretary shall establish rules and regulations to implement the provisions of subsection (c).

(e) There is hereby created in the state treasury the Kansas senior caregiving initiative fund. All expenditures from the Kansas senior caregiving initiative fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant

1 to vouchers approved by the secretary of aging or such secretary's des-  
2 ignee and the secretary of Social and Rehabilitation Services.

3 (f) Expenditures shall be made from the Kansas senior caregiving  
4 initiative fund for the following:

5 (1) The secretary of aging, as advised by the Kansas senior advisory  
6 council, shall establish and competitively award grants to nursing facilities  
7 to implement and evaluate models of care that alter the organizational  
8 culture of nursing facilities to provide sustainable improvement in the  
9 quality of long-term care and services or that reduce employee turnover,  
10 or both. These programs shall include, but are not limited to, eden alter-  
11 native, wellspring, person-centered planning and other programs recog-  
12 nized by the secretary as advised by such council. Where necessary, the  
13 secretary shall apply for and aggressively seek federal waivers to permit  
14 the implementation and evaluation of any new models of care that nursing  
15 facilities propose through the grant process.

16 (2) The secretary of human resources shall evaluate the current ed-  
17 ucation and training systems and methods utilized in Kansas for workers  
18 that provide long-term care and services for nursing facilities and shall  
19 identify and recommend any changes to the current system that will result  
20 in improved recruitment and retention of long-term care employees. The  
21 secretary shall report this information and any recommendations to the  
22 long-term care services task force on or before November 1, 2001.

23 (3) The secretary of aging shall modify the current medicaid nursing  
24 facility reimbursement mechanism to permit nursing facilities to report  
25 expenditures related to increased frontline staff wages and benefits mid-  
26 way through the annual cost reporting cycle and to receive a midyear rate  
27 adjustment based on these expenditures. Any minimum occupancy re-  
28 quirement applied to nursing facility costs shall include only those costs  
29 that are fixed and unalterable regardless of resident census.

30 (4) The secretary of aging shall modify the current payment schedules  
31 for providers of adult care home services under the medicaid plan to  
32 establish plant operating costs and the real and personal property fee as  
33 separate cost centers. The real and personal property fee shall be adjusted  
34 upward for inflation from the 1984 base or the date or last rebasing or  
35 the date of construction if built after 1984 using the RS means-cost index  
36 and shall be updated and rarrayed annually. In addition, all authorized  
37 expenditures not otherwise accounted for in the reimbursement rate of  
38 the facility, not under the control of the facility and required by the state  
39 of Kansas or by federal mandate shall be reimbursed by the state as a  
40 direct-cost pass-through.

41 (5) The secretary of aging, as advised by the Kansas senior advisory  
42 council, shall establish and implement a program that provides grants, on  
43 a competitive basis, to community colleges, universities, area vocational-

1 technical colleges and not-for-profit educational organizations to provide  
2 comprehensive, on-site training of long-term care employees that provide  
3 direct resident care. The secretary shall establish goals and minimal  
4 requirements that must be met by the institution or organization that  
5 provides on-site training under this subsection. The secretary shall further  
6 develop a system to objectively evaluate the effectiveness of the on-site  
7 training program and make recommendations to the legislature regarding  
8 the effectiveness, funding and continuation of the grants and training  
9 program.

10 (6) The secretary of aging shall provide incentives for those nursing  
11 facilities which utilize models of care as outlined in subsection (d)(1) of  
12 this section, and other models of care that show quantifiable and continual  
13 improvements in the quality of long term care and services.

14 (7) The secretary shall establish a direct care staff quality incentive  
15 payment program. The criteria for this program shall be determined by  
16 the secretary, with the advice of the Kansas senior advisory council. This  
17 payment shall be paid to direct care staff as a bonus and not to be con-  
18 tained in the cost reporting base.

19 (8) The secretary shall increase the current efficiency factor for low  
20 cost facilities.

21 (g) There is hereby established within the department on aging a  
22 prevention program designed to lend regulatory and best care practices  
23 expertise to nursing facilities and providers of long-term care and services  
24 in order to improve the quality of care provided to residents of nursing  
25 facilities and other providers of long-term care. The program shall be  
26 overseen by the Kansas senior advisory council. The program shall be  
27 designed to provide advice and direction to nursing facilities and provid-  
28 ers of long-term care and services in regard to the provision of resident  
29 care, appropriate situational responses and regulatory requirements.

30 (h) As used in this section:

31 (1) "Nursing facility" means a facility as defined under K.S.A. 39-923  
32 and amendments thereto or an intermediate care facility for the mentally  
33 retarded as defined under K.S.A. 39-923 and amendments thereto;

34 (2) "direct care services" means services provided by licensed pro-  
35 fessional nurses, licensed practical nurses, licensed mental health tech-  
36 nicians, nurses aides, rehabilitation aides, medication aides, activities staff,  
37 social service staff, medical records personnel, dietary personnel, laundry  
38 personnel and housekeeping personnel; and

39 (3) "nursing personnel" shall have the meaning ascribed to such term  
40 under Kansas administrative regulation 28-39-144.

41 Sec. 2. K.S.A. 2000 Supp. 75-4265 is hereby amended to read as  
42 follows: 75-4265. (a) The secretary of social and rehabilitation services  
43 and the secretary of aging shall take necessary actions to establish an

1 intergovernmental transfer program as a part of the nursing facility serv-  
2 ices payment program within the medicaid state plan.

3 (b) In implementing the intergovernmental transfer program, the  
4 secretary of aging shall disburse moneys received from the federal gov-  
5 ernment for the intergovernmental transfer program and moneys trans-  
6 ferred from the state general fund to the intergovernmental transfer fund  
7 for the program to units of government which have entered into partic-  
8 ipation agreements with the secretary of aging and the secretary of social  
9 and rehabilitation services. The amount of moneys disbursed to the units  
10 of government from moneys transferred from the state general fund to  
11 the intergovernmental transfer fund for the program shall not exceed the  
12 amount necessary to match federal funds available to the state under the  
13 intergovernmental transfer program. The secretary of aging shall peri-  
14 odically calculate the amount of federal funds available under the pro-  
15 gram according to the methodology prescribed for the intergovernmental  
16 transfer program in the medicaid state plan.

17 (c) The secretary of social and rehabilitation services and the secre-  
18 tary of aging are authorized to enter into intergovernmental transfer pro-  
19 gram participation agreements with units of government which own and  
20 operate nursing facilities. The participation agreements may permit the  
21 units of government to retain a participation fee specified by the secretary  
22 of aging from moneys received under the intergovernmental transfer pro-  
23 gram which are otherwise required to be transferred back to the secretary  
24 of aging.

25 (d) (1) There is hereby established the intergovernmental transfer  
26 fund in the state treasury which shall be administered by the secretary of  
27 aging in accordance with this act. All expenditures from the intergovern-  
28 mental transfer fund shall be to disburse the state match amount under  
29 the intergovernmental transfer program and shall be made in accordance  
30 with appropriation acts upon warrants of the director of accounts and  
31 reports issued pursuant to vouchers approved by the secretary of aging  
32 or the secretary's designee. Subject to the provisions of appropriation acts,  
33 when the secretary of aging determines that an amount of federal med-  
34 icaid moneys is available for the intergovernmental transfer program, the  
35 secretary of aging shall determine the amount required as the state match  
36 and shall certify that amount to the director of accounts and reports. Upon  
37 receipt of each such state match certification, the director of accounts  
38 and reports shall transfer the amount certified by revenue transfer from  
39 the state general fund to the intergovernmental transfer fund. Upon the  
40 crediting of such state match amount in the intergovernmental transfer  
41 fund, the secretary of aging shall disburse the amount of federal moneys  
42 and the state match amount to the units of government that have entered  
43 into participation agreements under the program.

1 (2) Each unit of government receiving a disbursement under the in-  
2 tergovernmental transfer program shall reimburse the amount of money  
3 received, less the amount of the participation fee, to the secretary of  
4 aging. Upon receipt of each amount of moneys from participating units  
5 of government under the intergovernmental transfer program, the sec-  
6 retary of aging shall deposit the entire amount in the state treasury to the  
7 credit of the intergovernmental transfer fund. The secretary of aging shall  
8 determine the amount of each such deposit that was transferred from the  
9 state general fund to match medicaid federal funds under the intergov-  
10 ernmental transfer program and shall certify such amount to the director  
11 of accounts and reports. Upon receipt of each such certification, the di-  
12 rector of accounts and reports shall retransfer the amount certified from  
13 the intergovernmental transfer fund to the state general fund.

14 (e) There is hereby established the intergovernmental transfer ad-  
15 ministration fund in the state treasury which shall be administered by the  
16 secretary of aging in accordance with this act. All expenditures from the  
17 intergovernmental transfer administration fund shall be to pay the costs  
18 of administering the intergovernmental transfer program and shall be  
19 made in accordance with appropriation acts upon warrants of the director  
20 of accounts and reports issued pursuant to vouchers approved by the  
21 secretary of aging or the secretary's designee. The secretary of aging shall  
22 recover the costs of administering the intergovernmental transfer pro-  
23 gram from the intergovernmental transfer fund by certifying the amount  
24 of such costs to the director of accounts and reports each calendar quar-  
25 ter. Upon receipt of each certification of costs from the secretary of aging  
26 under this subsection, the director of accounts and reports shall transfer  
27 the amount certified from the intergovernmental transfer fund to the  
28 intergovernmental transfer administration fund.

29 (f) After each amount of moneys is credited to the intergovernmental  
30 transfer fund and the amount of the state match that had been transferred  
31 from the state general fund has been transferred back to the state general  
32 fund pursuant to subsection (d)(2), and after the transfer of the amount  
33 certified by the secretary of aging to the intergovernmental transfer ad-  
34 ministration fund pursuant to subsection (e), if any, the director of ac-  
35 counts and reports shall transfer the remaining amount in the intergov-  
36 ernmental transfer fund as follows:

37 (1) During the period from the effective date of this act through June  
38 30, 2001, 60% of such amount shall be transferred to the senior services  
39 trust fund established by K.S.A. 2000 Supp. 75-4266 and amendments  
40 thereto, 9.7% of such amount shall be transferred to the state medicaid  
41 match fund—department on aging established by subsection (o)(1),  
42 15.3% of such amount shall be transferred to the state medicaid match  
43 fund—SRS established by subsection (o)(2), 10% of such amount shall

1 be transferred to the long-term care loan and grant fund established by  
2 subsection (h) and 5% of such amount shall be transferred to the HCBS  
3 programs fund established by subsection (p); and

4 (2) after June 30, 2001, ~~70%~~ 50% of such amount shall be transferred  
5 to the senior services trust fund, 5% of such amount shall be transferred  
6 to the long-term care loan and grant fund ~~and~~, 25% of such amount shall  
7 be transferred to the following special revenue funds in an amount spec-  
8 ified by appropriation acts of the legislature for each such fund: State  
9 medicaid match fund—department on aging and the state medicaid  
10 match fund—SRS *and 20% of such amount shall be transferred to the*  
11 *Kansas senior caregiving initiative fund.*

12 (g) There is hereby established the senior services fund in the state  
13 treasury which shall be administered by the secretary of aging in accord-  
14 ance with this act. All expenditures from the senior services fund shall be  
15 made in accordance with appropriation acts upon warrants of the director  
16 of accounts and reports issued pursuant to vouchers approved by the  
17 secretary of aging or the secretary's designee. Moneys in the senior serv-  
18 ices fund shall be used by the secretary of aging only for projects intended  
19 (1) to reduce future medicaid costs to the state, (2) to help seniors avoid  
20 premature institutionalization, (3) to improve the quality of care or the  
21 quality of life of seniors who are customers of long-term care programs,  
22 (4) to satisfy state matching requirements for senior service programs  
23 authorized by federal law, or (5) to provide financial assistance under the  
24 senior pharmacy assistance program. Moneys credited to the senior serv-  
25 ices fund from income of investments of the moneys in the senior services  
26 trust fund shall not be used to create or fund any entitlement program  
27 not in existence on the effective date of this act.

28 (h) There is hereby established the long-term care loan and grant  
29 fund in the state treasury which shall be administered by the secretary of  
30 aging in accordance with this act. All expenditures from the long-term  
31 care loan and grant fund shall be made in accordance with appropriation  
32 acts upon warrants of the director of accounts and reports issued pursuant  
33 to vouchers approved by the secretary of aging or the secretary's designee.  
34 Moneys in the long-term care loan and grant fund shall be used to make  
35 loans under the long-term care loan program developed by the secretary  
36 of aging in accordance with this section and grants under the long-term  
37 grant program developed by the secretary of aging in accordance with  
38 this section.

39 (i) The secretary of aging is hereby authorized to develop and imple-  
40 ment a long-term care loan program in accordance with this section. Sub-  
41 ject to the provisions of this section and the provisions of appropriation  
42 acts, the secretary of aging may enter into loan agreements for market-  
43 rate, low-interest or no-interest, fully or partially secured or unsecured

1 loans with repayment provisions and other terms and conditions as may  
2 be prescribed by the secretary under such program. Loans under the  
3 long-term care loan program may be made for the following:

4 (1) Converting all or parts of some types of licensed adult care homes  
5 from their existing licensure types to different licensure types to meet  
6 demonstrated changing service demands in their communities;

7 (2) converting private residences to licensed homes plus facilities, as  
8 defined by K.S.A. 39-923 and amendments thereto;

9 (3) converting space in rural hospitals to hospital-based long-term  
10 care facilities;

11 (4) improving quality in some types of licensed adult care homes;

12 (5) rural hospitals contracting for physician, physician assistant or li-  
13 censed professional nurse services; or

14 (6) building congregate housing for seniors in Kansas cities with pop-  
15 ulations of 2,500 or less.

16 (j) The secretary of aging may consider the following factors to pri-  
17 oritize and select loans under the long-term care loan program, grants  
18 under the long-term care grant program and projects financed from the  
19 senior services fund:

20 (1) Type of loan—higher interest is preferable to lower interest and  
21 more secured is preferable to less secured;

22 (2) size of facility—facilities having less than 60 beds are preferable  
23 to facilities having 60 beds or more;

24 (3) availability and utilization of the same type of facilities or services  
25 in the proposed loan or project area;

26 (4) type of facility owner or borrower—unit of government, not-for-  
27 profit organizations, for-profit organizations, and individuals, in that order  
28 of preference; and

29 (5) type of research project organization—geriatric schools or pro-  
30 grams in Kansas colleges or universities, Kansas colleges or universities,  
31 educational foundations, foreign colleges or universities, Kansas not-for-  
32 profit organizations, Kansas for-profit organizations, foreign not-for-profit  
33 organizations, foreign for-profit organizations, and individuals, in that or-  
34 der of preference.

35 (k) All moneys received from repayments of principal and interest of  
36 any loan made under this act shall be deposited in the state treasury and  
37 credited to the long-term care loan and grant fund within the state treas-  
38 ury and used to make new loans or grants under this section. The repay-  
39 ment of a loan or of a senior services fund project contract or grant may  
40 not be forgiven, in whole or in part, except as authorized by law.

41 (l) The secretary of aging is hereby authorized to develop and imple-  
42 ment a long-term care grant program in accordance with this section.  
43 Subject to the provisions of this section and the provisions of appropria-

1 tion acts, the secretary of aging may make competitive matching grants  
2 under such terms and conditions as may be prescribed by the secretary  
3 under such program. Grants under the long-term care grant program may  
4 be made only from the amount of moneys received for interest payments  
5 under loan agreements under the long-term care loan program and cred-  
6 ited to the long-term care loan and grant fund. Grants under the long-  
7 term care grant program may be made for the following:

8 (1) Grants for improvements in the quality of case management serv-  
9 ices under home and community-based services (HCBS) programs and  
10 for improvements for adult care homes; and

11 (2) financial assurance grants for community service providers under  
12 home and community-based services (HCBS) programs.

13 (m) For purposes of this section, “units of government” and “units  
14 of government which own and operate nursing facilities” which are eli-  
15 gible to enter into intergovernmental transfer program participation  
16 agreements shall be limited to cities of the first class, cities of the second  
17 class, counties, hospital districts, or health care facilities and services hos-  
18 pital districts which hold legal title to and are actively involved in the day-  
19 to-day operations of any of the following:

20 (1) Medicaid-certified nursing facilities and nursing facilities for men-  
21 tal health, as defined in K.S.A. 39-923 and amendments thereto;

22 (2) medicaid-certified long-term care facilities which are operated in  
23 connection with city hospitals established under K.S.A. 13-14b01 *et seq.*  
24 and amendments thereto or K.S.A. 14-601 *et seq.* and amendments  
25 thereto, county hospitals established under K.S.A. 19-4601 *et seq.* and  
26 amendments thereto, or district hospitals established under K.S.A. 80-  
27 2501 *et seq.* and amendments thereto; or

28 (3) medicaid-certified long-term care facilities operated under au-  
29 thority of K.S.A. 80-2550 *et seq.* and amendments thereto.

30 (n) Entities eligible to apply for loans under the long-term care loan  
31 program under this section shall be limited to the owners of:

32 (1) Licensed adult care homes, excluding nursing facilities for mental  
33 health and intermediate care facilities for the mentally retarded, as de-  
34 fined in K.S.A. 39-923 and amendments thereto;

35 (2) medicaid-certified licensed hospitals and medicaid-certified long-  
36 term care facilities based in or operated in connection with licensed hos-  
37 pitals as defined in K.S.A. 65-425 and amendments thereto;

38 (3) private residences which the owners will contract to convert into  
39 licensed homes plus facilities, as defined in K.S.A. 39-923 and amend-  
40 ments thereto, and in which the owners will reside after the conversion  
41 and licensure; or

42 (4) congregate senior housing projects being built with loans in Kan-  
43 sas cities with a population of 2,500 or less.



1 (o) (1) There is hereby established the state medicaid match fund—  
2 department on aging in the state treasury which shall be administered by  
3 the secretary of aging in accordance with this act. All expenditures from  
4 the state medicaid match fund—department on aging shall be made in  
5 accordance with appropriation acts upon warrants of the director of ac-  
6 counts and reports issued pursuant to vouchers approved by the secretary  
7 of aging or the secretary's designee. Moneys in the state medicaid match  
8 fund—department on aging shall be used to match moneys for federal  
9 medicaid programs which are the most cost efficient in providing services.

10 (2) There is hereby established the state medicaid match fund—SRS  
11 in the state treasury which shall be administered as provided by law and  
12 in accordance with this act. All expenditures from the state medicaid  
13 match fund—SRS shall be made in accordance with appropriation acts  
14 upon warrants of the director of accounts and reports issued pursuant to  
15 vouchers approved as provided by law. Moneys in the state medicaid  
16 match fund—SRS shall be used to match moneys for federal medicaid  
17 programs which are the most cost efficient in providing services.

18 (p) There is hereby established the HCBS programs fund in the state  
19 treasury which shall be administered by the secretary of social and re-  
20 habilitation services. All moneys in the HCBS programs fund shall be  
21 used for programs and services under the home and community-based  
22 services (HCBS) programs and as otherwise provided by law. All expend-  
23 itures from the HCBS programs fund shall be made in accordance with  
24 appropriation acts upon warrants of the director of accounts and reports  
25 issued pursuant to vouchers approved by the secretary of social and re-  
26 habilitation services or the secretary's designee.

27 Sec. 3. K.S.A. 2000 Supp. 75-4265 is hereby repealed.

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

30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43