

## SENATE BILL No. 327

By Committee on Ways and Means

2-15

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AN ACT concerning nursing facilities; salaries of direct care staff; creating the nursing facility direct care salaries fund; making and concerning appropriations for the fiscal year ending June 30, 2002, for the department on aging; 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) There is hereby created in the state treasury the nursing facility direct care salary increase fund. All expenditures from the nursing facility direct care salary increase fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary on aging or a person designated by the secretary.

(b) Expenditures shall be made from the nursing facility direct care salary increase fund during the fiscal year ending June 30, 2002, to provide for a \$2 per hour salary or benefit increase for those employees of nursing facilities who provide direct care services to residents of nursing facilities. If moneys are provided for the \$2 per hour salary or benefit increase authorized under this section for employees who provide direct care services to residents of nursing facilities, the ratio of nursing personnel to residents, commencing on and after July 1, 2001, and ending on June 30, 2002, shall be a ratio of three hours per day per resident.

(c) As used in this section:

(1) "Nursing facility" means a facility as defined under K.S.A. 39-923 and amendments thereto or an intermediate care facility for the mentally retarded as defined under K.S.A. 29-923 and amendments thereto;

(2) "direct care services" means services provided by licensed professional nurses, licensed practical nurses, licensed mental health technicians, nurses aides, rehabilitation aides, medication aides, activities staff, social service staff, medical records personnel, dietary personnel, laundry personnel and housekeeping personnel;

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

New Sec. 2.

DEPARTMENT ON AGING

1 (a) There is appropriated for the above agency from the state general  
2 fund for the fiscal year ending June 30, 2002, the following:

3 Nursing facility direct care salaries .....	\$16,241,312
4 Staffing ratio requirements .....	\$3,721,538
5 In service training requirements .....	\$357,975
6 Staff development directors .....	\$1,356,498

7 *Provided*, That full-time staff development directors shall be required  
8 only in nursing facilities licensed for 61 residents or more, a part-time  
9 staff development director shall be required for facilities licensed for less  
10 than 61 residents and in-service training hours shall be increased from  
11 12 to 18 hours.

12 (b) There is appropriated for the above agency from the following special  
13 revenue fund for the fiscal year ending June 30, 2002, all moneys  
14 now or hereafter lawfully credited to and available in such fund or funds,  
15 except that expenditures other than refunds authorized by law shall not  
16 exceed the following:

17 Nursing facility direct care salary increase fund .....	\$40,301,022
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18 (c) On the effective date of this act, or as soon thereafter as moneys  
19 are available, the director of accounts and reports shall transfer  
20 \$40,301,022 from the intergovernmental transfer fund to the nursing facility  
21 direct care salary increase fund.

22 Sec. 3. K.S.A. 2000 Supp. 75-4265 is hereby amended to read as  
23 follows: 75-4265. (a) The secretary of social and rehabilitation services  
24 and the secretary of aging shall take necessary actions to establish an  
25 intergovernmental transfer program as a part of the nursing facility services  
26 payment program within the medicaid state plan.

27 (b) In implementing the intergovernmental transfer program, the secretary  
28 of aging shall disburse moneys received from the federal government  
29 for the intergovernmental transfer program and moneys transferred  
30 from the state general fund to the intergovernmental transfer fund for  
31 the program to units of government which have entered into participation  
32 agreements with the secretary of aging and the secretary of social and  
33 rehabilitation services. The amount of moneys disbursed to the units of  
34 government from moneys transferred from the state general fund to the  
35 intergovernmental transfer fund for the program shall not exceed the  
36 amount necessary to match federal funds available to the state under the  
37 intergovernmental transfer program. The secretary of aging shall periodically  
38 calculate the amount of federal funds available under the program  
39 according to the methodology prescribed for the intergovernmental  
40 transfer program in the medicaid state plan.

41 (c) The secretary of social and rehabilitation services and the secretary  
42 of aging are authorized to enter into intergovernmental transfer program  
43 participation agreements with units of government which own and op-

1 erate nursing facilities. The participation agreements may permit the units  
2 of government to retain a participation fee specified by the secretary of  
3 aging from moneys received under the intergovernmental transfer pro-  
4 gram which are otherwise required to be transferred back to the secretary  
5 of aging.

6 (d) (1) There is hereby established the intergovernmental transfer fund  
7 in the state treasury which shall be administered by the secretary of aging  
8 in accordance with this act. All expenditures from the intergovernmental  
9 transfer fund shall be to disburse the state match amount under the in-  
10 tergovernmental transfer program and shall be made in accordance with  
11 appropriation acts upon warrants of the director of accounts and reports  
12 issued pursuant to vouchers approved by the secretary of aging or the  
13 secretary's designee. Subject to the provisions of appropriation acts, when  
14 the secretary of aging determines that an amount of federal medicaid  
15 moneys is available for the intergovernmental transfer program, the sec-  
16 retary of aging shall determine the amount required as the state match  
17 and shall certify that amount to the director of accounts and reports. Upon  
18 receipt of each such state match certification, the director of accounts  
19 and reports shall transfer the amount certified by revenue transfer from  
20 the state general fund to the intergovernmental transfer fund. Upon the  
21 crediting of such state match amount in the intergovernmental transfer  
22 fund, the secretary of aging shall disburse the amount of federal moneys  
23 and the state match amount to the units of government that have entered  
24 into participation agreements under the program.

25 (2) Each unit of government receiving a disbursement under the in-  
26 tergovernmental transfer program shall reimburse the amount of money  
27 received, less the amount of the participation fee, to the secretary of  
28 aging. Upon receipt of each amount of moneys from participating units  
29 of government under the intergovernmental transfer program, the sec-  
30 retary of aging shall deposit the entire amount in the state treasury to the  
31 credit of the intergovernmental transfer fund. The secretary of aging shall  
32 determine the amount of each such deposit that was transferred from the  
33 state general fund to match medicaid federal funds under the intergov-  
34 ernmental transfer program and shall certify such amount to the director  
35 of accounts and reports. Upon receipt of each such certification, the di-  
36 rector of accounts and reports shall retransfer the amount certified from  
37 the intergovernmental transfer fund to the state general fund.

38 (e) There is hereby established the intergovernmental transfer admin-  
39 istration fund in the state treasury which shall be administered by the  
40 secretary of aging in accordance with this act. All expenditures from the  
41 intergovernmental transfer administration fund shall be to pay the costs  
42 of administering the intergovernmental transfer program and shall be  
43 made in accordance with appropriation acts upon warrants of the director

1 of accounts and reports issued pursuant to vouchers approved by the  
2 secretary of aging or the secretary's designee. The secretary of aging shall  
3 recover the costs of administering the intergovernmental transfer pro-  
4 gram from the intergovernmental transfer fund by certifying the amount  
5 of such costs to the director of accounts and reports each calendar quar-  
6 ter. Upon receipt of each certification of costs from the secretary of aging  
7 under this subsection, the director of accounts and reports shall transfer  
8 the amount certified from the intergovernmental transfer fund to the  
9 intergovernmental transfer administration fund.

10 (f) After each amount of moneys is credited to the intergovernmental  
11 transfer fund and the amount of the state match that had been transferred  
12 from the state general fund has been transferred back to the state general  
13 fund pursuant to subsection (d)(2), and after the transfer of the amount  
14 certified by the secretary of aging to the intergovernmental transfer ad-  
15 ministration fund pursuant to subsection (e), if any, the director of ac-  
16 counts and reports shall transfer the remaining amount in the intergov-  
17 ernmental transfer fund as follows:

18 (1) During the period from the effective date of this act through June  
19 30, 2001, 60% of such amount shall be transferred to the senior services  
20 trust fund established by K.S.A. 2000 Supp. 75-4266 and amendments  
21 thereto, 9.7% of such amount shall be transferred to the state medicaid  
22 match fund—department on aging established by subsection (o)(1),  
23 15.3% of such amount shall be transferred to the state medicaid match  
24 fund—SRS established by subsection (o)(2), 10% of such amount shall  
25 be transferred to the long-term care loan and grant fund established by  
26 subsection (h) and 5% of such amount shall be transferred to the HCBS  
27 programs fund established by subsection (p); and

28 (2) after June 30, 2001, 70% of such amount shall be transferred to the  
29 senior services trust fund, 5% of such amount shall be transferred to the  
30 long-term care loan and grant fund and 25% of such amount shall be  
31 transferred to the following special revenue funds in an amount specified  
32 by appropriation acts of the legislature for each such fund: State medicaid  
33 match fund—department on aging and the state medicaid match fund—  
34 SRS. *As used in this paragraph (f)(2), "such amount" shall not include*  
35 *during the fiscal year ending June 30, 2002, the amount transferred from*  
36 *the intergovernmental transfer fund to the nursing facilities direct care*  
37 *salaries fund under section 2 and amendments thereto.*

38 (g) There is hereby established the senior services fund in the state  
39 treasury which shall be administered by the secretary of aging in accord-  
40 ance with this act. All expenditures from the senior services fund shall be  
41 made in accordance with appropriation acts upon warrants of the director  
42 of accounts and reports issued pursuant to vouchers approved by the  
43 secretary of aging or the secretary's designee. Moneys in the senior serv-

1 ices fund shall be used by the secretary of aging only for projects intended  
2 (1) to reduce future medicaid costs to the state, (2) to help seniors avoid  
3 premature institutionalization, (3) to improve the quality of care or the  
4 quality of life of seniors who are customers of long-term care programs,  
5 (4) to satisfy state matching requirements for senior service programs  
6 authorized by federal law, or (5) to provide financial assistance under the  
7 senior pharmacy assistance program. Moneys credited to the senior serv-  
8 ices fund from income of investments of the moneys in the senior services  
9 trust fund shall not be used to create or fund any entitlement program  
10 not in existence on the effective date of this act.

11 (h) There is hereby established the long-term care loan and grant fund  
12 in the state treasury which shall be administered by the secretary of aging  
13 in accordance with this act. All expenditures from the long-term care loan  
14 and grant fund shall be made in accordance with appropriation acts upon  
15 warrants of the director of accounts and reports issued pursuant to vouch-  
16 ers approved by the secretary of aging or the secretary's designee. Moneys  
17 in the long-term care loan and grant fund shall be used to make loans  
18 under the long-term care loan program developed by the secretary of  
19 aging in accordance with this section and grants under the long-term grant  
20 program developed by the secretary of aging in accordance with this sec-  
21 tion.

22 (i) The secretary of aging is hereby authorized to develop and imple-  
23 ment a long-term care loan program in accordance with this section. Sub-  
24 ject to the provisions of this section and the provisions of appropriation  
25 acts, the secretary of aging may enter into loan agreements for market-  
26 rate, low-interest or no-interest, fully or partially secured or unsecured  
27 loans with repayment provisions and other terms and conditions as may  
28 be prescribed by the secretary under such program. Loans under the  
29 long-term care loan program may be made for the following:

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

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

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

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

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

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

42 (j) The secretary of aging may consider the following factors to prior-  
43 itize and select loans under the long-term care loan program, grants under

1 the long-term care grant program and projects financed from the senior  
2 services fund:

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

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

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

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

12 (5) type of research project organization—geriatric schools or programs  
13 in Kansas colleges or universities, Kansas colleges or universities, edu-  
14 cational foundations, foreign colleges or universities, Kansas not-for-profit  
15 organizations, Kansas for-profit organizations, foreign not-for-profit or-  
16 ganizations, foreign for-profit organizations, and individuals, in that order  
17 of preference.

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

24 (l) The secretary of aging is hereby authorized to develop and imple-  
25 ment a long-term care grant program in accordance with this section.  
26 Subject to the provisions of this section and the provisions of appropri-  
27 ation acts, the secretary of aging may make competitive matching grants  
28 under such terms and conditions as may be prescribed by the secretary  
29 under such program. Grants under the long-term care grant program may  
30 be made only from the amount of moneys received for interest payments  
31 under loan agreements under the long-term care loan program and cred-  
32 ited to the long-term care loan and grant fund. Grants under the long-  
33 term care grant program may be made for the following:

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

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

39 (m) For purposes of this section, “units of government” and “units of  
40 government which own and operate nursing facilities” which are eligible  
41 to enter into intergovernmental transfer program participation agree-  
42 ments shall be limited to cities of the first class, cities of the second class,  
43 counties, hospital districts, or health care facilities and services hospital

1 districts which hold legal title to and are actively involved in the day-to-  
2 day operations of any of the following:

3 (1) Medicaid-certified nursing facilities and nursing facilities for mental  
4 health, as defined in K.S.A. 39-923 and amendments thereto;

5 (2) medicaid-certified long-term care facilities which are operated in  
6 connection with city hospitals established under K.S.A. 13-14b01 *et seq.*  
7 and amendments thereto or K.S.A. 14-601 *et seq.* and amendments  
8 thereto, county hospitals established under K.S.A. 19-4601 *et seq.* and  
9 amendments thereto, or district hospitals established under K.S.A. 80-  
10 2501 *et seq.* and amendments thereto; or

11 (3) medicaid-certified long-term care facilities operated under author-  
12 ity of K.S.A. 80-2550 *et seq.* and amendments thereto.

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

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

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

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

25 (4) congregate senior housing projects being built with loans in Kansas  
26 cities with a population of 2,500 or less.

27 (o) (1) There is hereby established the state medicaid match fund—  
28 department on aging in the state treasury which shall be administered by  
29 the secretary of aging in accordance with this act. All expenditures from  
30 the state medicaid match fund—department on aging shall be made in  
31 accordance with appropriation acts upon warrants of the director of ac-  
32 counts and reports issued pursuant to vouchers approved by the secretary  
33 of aging or the secretary's designee. Moneys in the state medicaid match  
34 fund—department on aging shall be used to match moneys for federal  
35 medicaid programs which are the most cost efficient in providing services.

36 (2) There is hereby established the state medicaid match fund—SRS  
37 in the state treasury which shall be administered as provided by law and  
38 in accordance with this act. All expenditures from the state medicaid  
39 match fund—SRS shall be made in accordance with appropriation acts  
40 upon warrants of the director of accounts and reports issued pursuant to  
41 vouchers approved as provided by law. Moneys in the state medicaid  
42 match fund—SRS shall be used to match moneys for federal medicaid  
43 programs which are the most cost efficient in providing services.

1 (p) There is hereby established the HCBS programs fund in the state  
2 treasury which shall be administered by the secretary of social and re-  
3 habilitation services. All moneys in the HCBS programs fund shall be  
4 used for programs and services under the home and community-based  
5 services (HCBS) programs and as otherwise provided by law. All expend-  
6 itures from the HCBS programs fund shall be made in accordance with  
7 appropriation acts upon warrants of the director of accounts and reports  
8 issued pursuant to vouchers approved by the secretary of social and re-  
9 habilitation services or the secretary's designee.

10 Sec. 4. K.S.A. 2000 Supp. 75-4265 is hereby repealed.

11 Sec. 5. This act shall take effect and be in force from and after its  
12 publication in the statute book.

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