

SENATE BILL No. 589

By Senators Hensley, Barone, Downey, Feleciano, Gilstrap,
Gooch, Goodwin, Haley, Lee, and Steineger

2-13

10 AN ACT concerning social welfare; relating to eligibility and benefits
11 under the senior pharmacy assistance program of the department on
12 aging and public assistance programs of the department of social and
13 rehabilitation services; support for the senior health insurance coun-
14 seling for Kansans program of the insurance department; amending
15 K.S.A. 39-709 and K.S.A. 2001 Supp. 75-4266, 75-5961 and 75-5962
16 and repealing the existing sections.

17
18 *Be it enacted by the Legislature of the State of Kansas:*

19 Section 1. K.S.A. 39-709 is hereby amended to read as follows: 39-
20 709. (a) *General eligibility requirements for assistance for which federal*
21 *moneys are expended.* Subject to the additional requirements below, as-
22 sistance in accordance with plans under which federal moneys are ex-
23 pended may be granted to any needy person who:

24 (1) Has insufficient income or resources to provide a reasonable sub-
25 sistence compatible with decency and health. Where a husband and wife
26 are living together, the combined income or resources of both shall be
27 considered in determining the eligibility of either or both for such assis-
28 tance unless otherwise prohibited by law. The secretary, in determining
29 need of any applicant for or recipient of assistance shall not take into
30 account the financial responsibility of any individual for any applicant or
31 recipient of assistance unless such applicant or recipient is such individ-
32 ual's spouse or such individual's minor child or minor stepchild if the
33 stepchild is living with such individual. *The secretary in determining the*
34 *need of an individual for assistance shall take into consideration the*
35 *monthly cost of prescription drugs to that individual and shall deduct that*
36 *verified amount from an applicant's reported monthly income.* The sec-
37 retary in determining need of an individual may provide such income and
38 resource exemptions as may be permitted by federal law. For purposes
39 of eligibility for aid for families with dependent children, for food stamp
40 assistance and for any other assistance provided through the department
41 of social and rehabilitation services under which federal moneys are ex-
42 pended, the secretary of social and rehabilitation services shall consider
43 one motor vehicle owned by the applicant for assistance, regardless of

1 the value of such vehicle, as exempt personal property and shall consider
2 any equity in any additional motor vehicle owned by the applicant for
3 assistance to be a nonexempt resource of the applicant for assistance.

4 (2) Is a citizen of the United States or is an alien lawfully admitted
5 to the United States and who is residing in the state of Kansas.

6 (b) *Assistance to families with dependent children.* Assistance may be
7 granted under this act to any dependent child, or relative, subject to the
8 general eligibility requirements as set out in subsection (a), who resides
9 in the state of Kansas or whose parent or other relative with whom the
10 child is living resides in the state of Kansas. Such assistance shall be known
11 as aid to families with dependent children. Where husband and wife are
12 living together both shall register for work under the program require-
13 ments for aid to families with dependent children in accordance with
14 criteria and guidelines prescribed by rules and regulations of the
15 secretary.

16 (c) *Aid to families with dependent children; assignment of support*
17 *rights and limited power of attorney.* By applying for or receiving aid to
18 families with dependent children such applicant or recipient shall be
19 deemed to have assigned to the secretary on behalf of the state any ac-
20 crued, present or future rights to support from any other person such
21 applicant may have in such person's own behalf or in behalf of any other
22 family member for whom the applicant is applying for or receiving aid.
23 In any case in which an order for child support has been established and
24 the legal custodian and obligee under the order surrenders physical cus-
25 tody of the child to a caretaker relative without obtaining a modification
26 of legal custody and support rights on behalf of the child are assigned
27 pursuant to this section, the surrender of physical custody and the as-
28 signment shall transfer, by operation of law, the child's support rights
29 under the order to the secretary on behalf of the state. Such assignment
30 shall be of all accrued, present or future rights to support of the child
31 surrendered to the caretaker relative. The assignment of support rights
32 shall automatically become effective upon the date of approval for or
33 receipt of such aid without the requirement that any document be signed
34 by the applicant, recipient or obligee. By applying for or receiving aid to
35 families with dependent children, or by surrendering physical custody of
36 a child to a caretaker relative who is an applicant or recipient of such
37 assistance on the child's behalf, the applicant, recipient or obligee is also
38 deemed to have appointed the secretary, or the secretary's designee, as
39 an attorney in fact to perform the specific act of negotiating and endorsing
40 all drafts, checks, money orders or other negotiable instruments repre-
41 senting support payments received by the secretary in behalf of any per-
42 son applying for, receiving or having received such assistance. This limited
43 power of attorney shall be effective from the date the secretary approves

1 the application for aid and shall remain in effect until the assignment of
2 support rights has been terminated in full.

3 (d) *Eligibility requirements for general assistance, the cost of which*
4 *is not shared by the federal government.* (1) General assistance may be
5 granted to eligible persons who do not qualify for financial assistance in
6 a program in which the federal government participates and who satisfy
7 the additional requirements prescribed by or under this subsection (d).

8 (A) To qualify for general assistance in any form a needy person must
9 have insufficient income or resources to provide a reasonable subsistence
10 compatible with decency and health and, except as provided for transi-
11 tional assistance, be a member of a family in which a minor child or a
12 pregnant woman resides or be unable to engage in employment. The
13 secretary shall adopt rules and regulations prescribing criteria for estab-
14 lishing when a minor child may be considered to be living with a family
15 and whether a person is able to engage in employment, including such
16 factors as age or physical or mental condition. Eligibility for general as-
17 sistance, other than transitional assistance, is limited to families in which
18 a minor child or a pregnant woman resides or to an adult or family in
19 which all legally responsible family members are unable to engage in
20 employment. Where a husband and wife are living together the combined
21 income or resources of both shall be considered in determining the eli-
22 gibility of either or both for such assistance unless otherwise prohibited
23 by law. The secretary in determining need of any applicant for or recipient
24 of general assistance shall not take into account the financial responsibility
25 of any individual for any applicant or recipient of general assistance unless
26 such applicant or recipient is such individual's spouse or such individual's
27 minor child or a minor stepchild if the stepchild is living with such indi-
28 vidual. *The secretary in determining the need of an individual for assis-*
29 *tance shall take into consideration the monthly cost of prescription drugs*
30 *to that individual and shall deduct that verified amount from an appli-*
31 *cant's reported monthly income.* In determining the need of an individual,
32 the secretary may provide for income and resource exemptions.

33 (B) To qualify for general assistance in any form a needy person must
34 be a citizen of the United States or an alien lawfully admitted to the
35 United States and must be residing in the state of Kansas.

36 (2) General assistance in the form of transitional assistance may be
37 granted to eligible persons who do not qualify for financial assistance in
38 a program in which the federal government participates and who satisfy
39 the additional requirements prescribed by or under this subsection (d),
40 but who do not meet the criteria prescribed by rules and regulations of
41 the secretary relating to inability to engage in employment or are not a
42 member of a family in which a minor or a pregnant woman resides.

43 (3) In addition to the other requirements prescribed under this sub-

1 section (d), the secretary shall adopt rules and regulations which establish
2 community work experience program requirements for eligibility for the
3 receipt of general assistance in any form and which establish penalties to
4 be imposed when a work assignment under a community work experience
5 program requirement is not completed without good cause. The secretary
6 may adopt rules and regulations establishing exemptions from any such
7 community work experience program requirements. A first time failure
8 to complete such a work assignment requirement shall result in ineligi-
9 bility to receive general assistance for a period fixed by such rules and
10 regulations of not more than three calendar months. A subsequent failure
11 to complete such a work assignment requirement shall result in a period
12 fixed by such rules and regulations of ineligibility of not more than six
13 calendar months.

14 (4) If any person is found guilty of the crime of theft under the pro-
15 visions of K.S.A. 39-720, and amendments thereto, such person shall
16 thereby become forever ineligible to receive any form of general assis-
17 tance under the provisions of this subsection (d) unless the conviction is
18 the person's first conviction under the provisions of K.S.A. 39-720, and
19 amendments thereto, or the law of any other state concerning welfare
20 fraud. First time offenders convicted of a misdemeanor under the pro-
21 visions of such statute shall become ineligible to receive any form of
22 general assistance for a period of 12 calendar months from the date of
23 conviction. First time offenders convicted of a felony under the provisions
24 of such statute shall become ineligible to receive any form of general
25 assistance for a period of 60 calendar months from the date of conviction.
26 If any person is found guilty by a court of competent jurisdiction of any
27 state other than the state of Kansas of a crime involving welfare fraud,
28 such person shall thereby become forever ineligible to receive any form
29 of general assistance under the provisions of this subsection (d) unless
30 the conviction is the person's first conviction under the law of any other
31 state concerning welfare fraud. First time offenders convicted of a mis-
32 demeanor under the law of any other state concerning welfare fraud shall
33 become ineligible to receive any form of general assistance for a period
34 of 12 calendar months from the date of conviction. First time offenders
35 convicted of a felony under the law of any other state concerning welfare
36 fraud shall become ineligible to receive any form of general assistance for
37 a period of 60 calendar months from the date of conviction.

38 (e) *Requirements for medical assistance for which federal moneys or*
39 *state moneys or both are expended.* When the secretary has adopted a
40 medical care plan under which federal moneys or state moneys or both
41 are expended, medical assistance in accordance with such plan shall be
42 granted to any person who is a citizen of the United States or who is an
43 alien lawfully admitted to the United States and who is residing in the

1 state of Kansas, whose resources and income do not exceed the levels
2 prescribed by the secretary. In determining the need of an individual, the
3 secretary may provide for income and resource exemptions and protected
4 income and resource levels. Resources from inheritance shall be counted.
5 A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and amend-
6 ments thereto, shall constitute a transfer of resources. *The secretary in*
7 *determining the need of an individual for medical assistance shall take*
8 *into consideration the monthly cost of prescription drugs to that individ-*
9 *ual and shall deduct that verified amount from an applicant's reported*
10 *monthly income.* The secretary shall exempt principal and interest held
11 in irrevocable trust pursuant to subsection (c) of K.S.A. 16-303, and
12 amendments thereto, from the eligibility requirements of applicants for
13 and recipients of medical assistance. Such assistance shall be known as
14 medical assistance.

15 (f) *Eligibility for medical assistance of resident receiving medical care*
16 *outside state.* A person who is receiving medical care including long-term
17 care outside of Kansas whose health would be endangered by the post-
18 ponement of medical care until return to the state or by travel to return
19 to Kansas, may be determined eligible for medical assistance if such in-
20 dividual is a resident of Kansas and all other eligibility factors are met.
21 Persons who are receiving medical care on an ongoing basis in a long-
22 term medical care facility in a state other than Kansas and who do not
23 return to a care facility in Kansas when they are able to do so, shall no
24 longer be eligible to receive assistance in Kansas unless such medical care
25 is not available in a comparable facility or program providing such medical
26 care in Kansas. For persons who are minors or who are under guardi-
27 anship, the actions of the parent or guardian shall be deemed to be the
28 actions of the child or ward in determining whether or not the person is
29 remaining outside the state voluntarily.

30 (g) *Medical assistance; assignment of rights to medical support and*
31 *limited power of attorney; recovery from estates of deceased recipients.*
32 (1) Except as otherwise provided in K.S.A. 39-786 and 39-787, and
33 amendments thereto, or as otherwise authorized on and after September
34 30, 1989, under section 303 and amendments thereto of the federal med-
35 icare catastrophic coverage act of 1988, whichever is applicable, by ap-
36 plying for or receiving medical assistance under a medical care plan in
37 which federal funds are expended, any accrued, present or future rights
38 to support and any rights to payment for medical care from a third party
39 of an applicant or recipient and any other family member for whom the
40 applicant is applying shall be deemed to have been assigned to the sec-
41 retary on behalf of the state. The assignment shall automatically become
42 effective upon the date of approval for such assistance without the re-
43 quirement that any document be signed by the applicant or recipient. By

1 applying for or receiving medical assistance the applicant or recipient is
2 also deemed to have appointed the secretary, or the secretary's designee,
3 as an attorney in fact to perform the specific act of negotiating and en-
4 doring all drafts, checks, money orders or other negotiable instruments,
5 representing payments received by the secretary in behalf of any person
6 applying for, receiving or having received such assistance. This limited
7 power of attorney shall be effective from the date the secretary approves
8 the application for assistance and shall remain in effect until the assign-
9 ment has been terminated in full. The assignment of any rights to pay-
10 ment for medical care from a third party under this subsection shall not
11 prohibit a health care provider from directly billing an insurance carrier
12 for services rendered if the provider has not submitted a claim covering
13 such services to the secretary for payment. Support amounts collected on
14 behalf of persons whose rights to support are assigned to the secretary
15 only under this subsection and no other shall be distributed pursuant to
16 subsection (d) of K.S.A. 39-756, and amendments thereto, except that
17 any amounts designated as medical support shall be retained by the sec-
18 retary for repayment of the unreimbursed portion of assistance. Amounts
19 collected pursuant to the assignment of rights to payment for medical
20 care from a third party shall also be retained by the secretary for repay-
21 ment of the unreimbursed portion of assistance.

22 (2) The amount of any medical assistance paid after June 30, 1992,
23 under the provisions of subsection (e) is (A) a claim against the property
24 or any interest therein belonging to and a part of the estate of any de-
25 ceased recipient or, if there is no estate, the estate of the surviving spouse,
26 if any, shall be charged for such medical assistance paid to either or both,
27 and (B) a claim against any funds of such recipient or spouse in any
28 account under K.S.A. 9-1215, 9-1216, 17-2263, 17-2264, 17-5828 or 17-
29 5829, and amendments thereto. There shall be no recovery of medical
30 assistance correctly paid to or on behalf of an individual under subsection
31 (e) except after the death of the surviving spouse of the individual, if any,
32 and only at a time when the individual has no surviving child who is under
33 21 years of age or is blind or permanently and totally disabled. Transfers
34 of real or personal property by recipients of medical assistance without
35 adequate consideration are voidable and may be set aside. Except where
36 there is a surviving spouse, or a surviving child who is under 21 years of
37 age or is blind or permanently and totally disabled, the amount of any
38 medical assistance paid under subsection (e) is a claim against the estate
39 in any guardianship or conservatorship proceeding. The monetary value
40 of any benefits received by the recipient of such medical assistance under
41 long-term care insurance, as defined by K.S.A. 40-2227, and amendments
42 thereto, shall be a credit against the amount of the claim provided for
43 such medical assistance under this subsection (g). The secretary is au-

1 thORIZED TO ENFORCE EACH CLAIM PROVIDED FOR UNDER THIS SUBSECTION (G).
2 THE SECRETARY SHALL NOT BE REQUIRED TO PURSUE EVERY CLAIM, BUT IS GRANTED
3 DISCRETION TO DETERMINE WHICH CLAIMS TO PURSUE. ALL MONEYS RECEIVED BY
4 THE SECRETARY FROM CLAIMS UNDER THIS SUBSECTION (G) SHALL BE DEPOSITED IN
5 THE SOCIAL WELFARE FUND. THE SECRETARY MAY ADOPT RULES AND REGULATIONS
6 FOR THE IMPLEMENTATION AND ADMINISTRATION OF THE MEDICAL ASSISTANCE RE-
7 COVERY PROGRAM UNDER THIS SUBSECTION (G).

8 (H) *Placement under code for care of children or juvenile offenders*
9 *code; assignment of support rights and limited power of attorney.* In any
10 case in which the secretary of social and rehabilitation services pays for
11 the expenses of care and custody of a child pursuant to K.S.A. 38-1501
12 *et seq.* or 38-1601 *et seq.*, and amendments thereto, including the ex-
13 penses of any foster care placement, an assignment of all past, present
14 and future support rights of the child in custody possessed by either
15 parent or other person entitled to receive support payments for the child
16 is, by operation of law, conveyed to the secretary. Such assignment shall
17 become effective upon placement of a child in the custody of the secretary
18 or upon payment of the expenses of care and custody of a child by the
19 secretary without the requirement that any document be signed by the
20 parent or other person entitled to receive support payments for the child.
21 When the secretary pays for the expenses of care and custody of a child
22 or a child is placed in the custody of the secretary, the parent or other
23 person entitled to receive support payments for the child is also deemed
24 to have appointed the secretary, or the secretary's designee, as attorney
25 in fact to perform the specific act of negotiating and endorsing all drafts,
26 checks, money orders or other negotiable instruments representing sup-
27 port payments received by the secretary on behalf of the child. This lim-
28 ited power of attorney shall be effective from the date the assignment to
29 support rights becomes effective and shall remain in effect until the as-
30 signment of support rights has been terminated in full.

31 (I) No person who voluntarily quits employment or who is fired from
32 employment due to gross misconduct as defined by rules and regulations
33 of the secretary or who is a fugitive from justice by reason of a felony
34 conviction or charge shall be eligible to receive public assistance benefits
35 in this state. Any recipient of public assistance who fails to timely comply
36 with monthly reporting requirements under criteria and guidelines pre-
37 scribed by rules and regulations of the secretary shall be subject to a
38 penalty established by the secretary by rules and regulations.

39 (J) If the applicant or recipient of aid to families with dependent chil-
40 dren is a mother of the dependent child, as a condition of the mother's
41 eligibility for aid to families with dependent children the mother shall
42 identify by name and, if known, by current address the father of the
43 dependent child except that the secretary may adopt by rules and regu-

1 lations exceptions to this requirement in cases of undue hardship. Any
2 recipient of aid to families with dependent children who fails to cooperate
3 with requirements relating to child support enforcement under criteria
4 and guidelines prescribed by rules and regulations of the secretary shall
5 be subject to a penalty established by the secretary by rules and regula-
6 tions which penalty shall progress to ineligibility for the family after three
7 months of noncooperation.

8 (k) By applying for or receiving child care benefits or food stamps,
9 the applicant or recipient shall be deemed to have assigned, pursuant to
10 K.S.A. 39-756 and amendments thereto, to the secretary on behalf of the
11 state only accrued, present or future rights to support from any other
12 person such applicant may have in such person's own behalf or in behalf
13 of any other family member for whom the applicant is applying for or
14 receiving aid. The assignment of support rights shall automatically be-
15 come effective upon the date of approval for or receipt of such aid without
16 the requirement that any document be signed by the applicant or recip-
17 ient. By applying for or receiving child care benefits or food stamps, the
18 applicant or recipient is also deemed to have appointed the secretary, or
19 the secretary's designee, as an attorney in fact to perform the specific act
20 of negotiating and endorsing all drafts, checks, money orders or other
21 negotiable instruments representing support payments received by the
22 secretary in behalf of any person applying for, receiving or having received
23 such assistance. This limited power of attorney shall be effective from the
24 date the secretary approves the application for aid and shall remain in
25 effect until the assignment of support rights has been terminated in full.
26 An applicant or recipient who has assigned support rights to the secretary
27 pursuant to this subsection shall cooperate in establishing and enforcing
28 support obligations to the same extent required of applicants for or re-
29 cipients of aid to families with dependent children.

30 Sec. 2. K.S.A. 2001 Supp. 75-4266 is hereby amended to read as
31 follows: 75-4266. (a) The board of trustees is responsible for the man-
32 agement and investment of the senior services trust fund which is hereby
33 established in the state treasury. The board of trustees shall discharge the
34 board's duties relative to the fund for the exclusive purpose of providing
35 investment revenue for the purposes for which the fund moneys may be
36 used and defraying reasonable expenses of administering the fund. The
37 board shall invest and reinvest moneys in the fund and acquire, retain,
38 manage, including the exercise of any voting rights, and dispose of in-
39 vestments of the fund within the limitations and according to the powers,
40 duties and purposes as prescribed by this section.

41 (b) Moneys in the fund shall be invested and reinvested to achieve
42 the investment objective which is preservation of the fund to provide
43 income and accordingly providing that the moneys are as productive as

1 possible, subject to the standards set forth in this act. No moneys in the
2 fund shall be invested or reinvested if the sole or primary investment
3 objective is for economic development or social purposes or objectives.

4 (c) In investing and reinvesting moneys in the fund and in acquiring,
5 retaining, managing and disposing of investments of the fund, the board
6 of trustees shall exercise the judgment, care, skill, prudence and diligence
7 under the circumstances then prevailing, which persons of prudence, dis-
8 cretion and intelligence acting in a like capacity and familiar with such
9 matters would use in the conduct of an enterprise of like character and
10 with like aims by diversifying the investments of the fund so as to mini-
11 mize the risk of large losses, unless under the circumstances it is clearly
12 prudent not to do so, and not in regard to speculation but in regard to
13 the permanent disposition of similar funds, considering the probable in-
14 come as well as the probable safety of their capital.

15 (d) In the discharge of such management and investment responsi-
16 bilities the board of trustees may contract for services of one or more
17 professional investment advisors or other consultants in the management
18 and investment of moneys in the fund and otherwise in the performance
19 of the duties of the board of trustees under this act.

20 (e) The board of trustees shall require that each person contracted
21 with under subsection (d) to provide services shall obtain commercial
22 insurance which provides for errors and omissions coverage for such per-
23 son in an amount to be specified by the board of trustees. The amount
24 of such coverage specified by the board of trustees shall be at least the
25 greater of \$500,000 or 1% of the funds entrusted to such person up to a
26 maximum of \$10,000,000. The board of trustees shall require a person
27 contracted with under subsection (d) to provide services give a fidelity
28 bond in a penal sum as may be fixed by law or, if not so fixed, as may be
29 fixed by the board of trustees, with corporate surety authorized to do
30 business in this state. Such persons contracted with the board of trustees
31 pursuant to subsection (d) and any persons contracted with such persons
32 to perform the functions specified in subsection (b) shall be deemed to
33 be fiduciary agents of the board of trustees in the performance of con-
34 tractual obligations.

35 (f) (1) Subject to the objective set forth in subsection (b) and the
36 standards set forth in subsection (c), the board of trustees shall formulate
37 and adopt policies and objectives for the investment and reinvestment of
38 moneys in the fund and the acquisition, retention, management and dis-
39 position of investments of the fund. Such policies and objectives shall be
40 in writing and shall include:

41 (A) Specific asset allocation standards and objectives;

42 (B) establishment of criteria for evaluating the risk versus the poten-
43 tial return on a particular investment; and

1 (C) a requirement that all investment advisors, and any managers or
2 others with similar duties and responsibilities as investment advisors, shall
3 immediately report all instances of default on investments to the board
4 of trustees and provide such board of trustees with recommendations and
5 options, including, but not limited to, curing the default or withdrawal
6 from the investment.

7 (2) The board of trustees shall review such policies and objectives,
8 make changes considered necessary or desirable and readopt such policies
9 and objectives on an annual basis.

10 (g) (1) Except as provided in subsection (d) and this subsection, the
11 custody of money and securities of the fund shall remain in the custody
12 of the state treasurer, except that the board of trustees may arrange for
13 the custody of such money and securities as it considers advisable with
14 one or more member banks or trust companies of the federal reserve
15 system or with one or more banks in the state of Kansas, or both, to be
16 held in safekeeping by the banks or trust companies for the collection of
17 the principal and interest or other income or of the proceeds of sale.

18 (2) The state treasurer and the board of trustees shall collect the
19 principal and interest or other income of investments or the proceeds of
20 sale of securities of the fund in the custody of the state treasurer and shall
21 pay such moneys when so collected into the state treasury to the credit
22 of the fund.

23 (3) The principal and interest or other income or the proceeds of sale
24 of securities of the fund as provided in paragraph (1) of this subsection
25 shall be reported to the state treasurer, the director of accounts and re-
26 ports and the board of trustees and credited to the fund.

27 (h) All interest or other income of the investments of the moneys in
28 the fund, after payment of any management fees, shall be considered
29 income of the fund and shall be withdrawn and deposited quarterly in
30 the state treasury to the credit of the senior services fund to be used by
31 the secretary of aging for the purposes permitted by K.S.A. 2001 Supp.
32 75-4265 and amendments thereto.

33 (i) (1) *During the fiscal year ending June 30, 2003, the fiscal year*
34 *ending June 30, 2004, and the fiscal year ending June 30, 2005, the sec-*
35 *retary of aging shall make one or more certifications to the board of trus-*
36 *tees of the Kansas public employees retirement system specifying an*
37 *amount or amounts, which in the aggregate are equal to \$18,200,000 for*
38 *such fiscal year, to be transferred in accordance with such certifications*
39 *from the senior services trust fund to the senior pharmacy assistance fund*
40 *of the department on aging. Moneys accumulated in and not transferred*
41 *or expended from the senior services trust fund and moneys transferred*
42 *to and deposited in the senior services trust fund on or after July 1, 2005,*
43 *shall be transferred from the senior services trust fund to the senior phar-*

1 macy assistance fund of the department on aging during a fiscal year in
2 accordance with certifications by the secretary of aging for such amounts
3 as may be prescribed in accordance with the provisions of appropriation
4 acts for such fiscal year. During each fiscal year, the board of trustees of
5 the Kansas public employees retirement system shall provide for moneys
6 to be credited to and available in the senior services trust fund for the
7 purposes of providing for each amount to be transferred under this sub-
8 section (i)(1) from the senior services trust fund to the senior pharmacy
9 assistance fund, pursuant to the certification therefor.

10 (2) During the fiscal year ending June 30, 2003, the fiscal year ending
11 June 30, 2004, and the fiscal year ending June 30, 2005, the secretary of
12 social and rehabilitation services shall make one or more certifications to
13 the board of trustees of the Kansas public employees retirement system
14 specifying an amount or amounts, which in the aggregate are equal to
15 \$3,200,000 for the fiscal year, to be transferred in accordance with such
16 certifications from the senior services trust fund to a separate account of
17 the social welfare fund of the department of social and rehabilitation serv-
18 ices. Moneys accumulated in and not transferred or expended from the
19 senior services trust fund and moneys transferred to and deposited in the
20 senior services trust fund on or after July 1, 2005, shall be transferred
21 from the senior services trust fund to the separate account of the social
22 welfare fund of the department of social and rehabilitation services during
23 a fiscal year in accordance with certifications by the secretary of social
24 and rehabilitation services for such amounts as may be prescribed in ac-
25 cordance with the provisions of appropriation acts for such fiscal year.
26 During each fiscal year, the board of trustees of the Kansas public em-
27 ployees retirement system shall provide for moneys to be credited to and
28 available in the senior services trust fund for the purposes of providing
29 for each amount to be transferred under this subsection (i)(2) from the
30 senior services trust fund to a separate account of the social welfare fund,
31 pursuant to the certification therefor. All moneys credited to such separate
32 account of the social welfare fund shall be used only for the costs of public
33 assistance programs administered by the secretary of social and rehabil-
34 itation services that are attributable to taking into consideration the
35 monthly cost of prescription drugs under need determinations for pur-
36 poses of eligibility for assistance under such public assistance programs.

37 (3) During the fiscal year ending June 30, 2003, the fiscal year ending
38 June 30, 2004, and the fiscal year ending June 30, 2005, the commissioner
39 of insurance shall make one or more certifications to the board of trustees
40 of the Kansas public employees retirement system specifying an amount
41 or amounts, which in the aggregate are equal to \$175,000 for the fiscal
42 year, to be transferred in accordance with such certifications from the
43 senior services trust fund to the senior health insurance counseling for

1 *Kansans fund of the insurance department. Moneys accumulated in and*
2 *not transferred or expended from the senior services trust fund and mon-*
3 *eys transferred to and deposited in the senior services trust fund on or*
4 *after July 1, 2005, shall be transferred from the senior services trust fund*
5 *to the senior health insurance counseling for Kansans fund of the insur-*
6 *ance department during a fiscal year in accordance with certifications by*
7 *the commissioner of insurance for such amounts as may be prescribed in*
8 *accordance with the provisions of appropriation acts for such fiscal year.*
9 *During each such fiscal year, the board of trustees of the Kansas public*
10 *employees retirement system shall provide for moneys to be credited to*
11 *and available in the senior services trust fund for the purposes of provid-*
12 *ing for each amount to be transferred under this subsection (i)(3) from*
13 *the senior services trust fund to the senior health insurance counseling*
14 *for Kansans fund, pursuant to the certification therefor.*

15 (j) As used in this section:

16 (1) “Board of trustees” means the board of trustees of the Kansas
17 public employees retirement system established by K.S.A. 74-4905 and
18 amendments thereto.

19 (2) “Fiduciary” means a person who, with respect to the fund, is a
20 person who:

21 (A) Exercises any discretionary authority with respect to administra-
22 tion of the fund;

23 (B) exercises any authority to invest or manage assets of the fund or
24 has any authority or responsibility to do so;

25 (C) provides investment advice for a fee or other direct or indirect
26 compensation with respect to the assets of the fund or has any authority
27 or responsibility to do so;

28 (D) provides actuarial, accounting, auditing, consulting, legal or other
29 professional services for a fee or other direct or indirect compensation
30 with respect to the fund or has any authority or responsibility to do so;
31 or

32 (E) is a member of the board of trustees or of the staff of the board
33 of trustees.

34 (3) “Fund” means the senior services trust fund, *except as otherwise*
35 *specifically provided.*

36 (4) With respect to the investment of moneys in the senior services
37 trust fund, “purposes for which the moneys may be used” means the
38 purposes for which the moneys in the senior services fund may be used,
39 as provided in K.S.A. 2001 Supp. 75-4265 and amendments thereto.

40 Sec. 3. K.S.A. 2001 Supp. 75-5961 is hereby amended to read as
41 follows: 75-5961. (a) Within the limits of appropriations therefor, the
42 secretary of aging shall establish a senior pharmacy assistance program in
43 accordance with the provisions of this section. The senior pharmacy as-

1 sistance program shall provide financial assistance to eligible individuals
2 for the purchase of prescription drugs.

3 (b) The secretary of aging shall adopt rules and regulations establish-
4 ing eligibility for the senior pharmacy assistance program subject to the
5 following criteria:

6 (1) An individual to be eligible for the program must be 67 years of
7 age or older,

8 (2) unless modified as provided in K.S.A. 2001 Supp. 75-5962 and
9 amendments thereto, an eligible individual's income must not exceed
10 150% of the federal poverty guidelines for a one person family unit and
11 the individual's household income must not exceed 150% of the federal
12 poverty guidelines for a two person family unit,

13 (3) an eligible individual must not qualify for funding from any other
14 local, state or federal prescription drug program,

15 (4) an eligible individual must not be covered under any private pre-
16 scription reimbursement plan,

17 (5) an eligible individual must not have voluntarily canceled a local,
18 state or federal prescription drug program or a private prescription re-
19 imbursement plan within six months prior to application for enrollment
20 in the senior pharmacy assistance program,

21 (6) unless modified as provided in K.S.A. 2001 Supp. 75-5962 and
22 amendments thereto, prescription drugs eligible for reimbursement shall
23 be limited to maintenance drugs for specified disease states,

24 (7) a copayment of 30% of the cost of each prescription shall be
25 established,

26 (8) unless modified as provided in K.S.A. 2001 Supp. 75-5962 and
27 amendments thereto, a maximum annual drug benefit of ~~\$1,200~~ \$600
28 shall be established for each eligible individual, and

29 (9) the pharmacy cost reimbursement and dispensing fee shall be
30 established by the secretary of aging.

31 (c) The secretary of aging shall adopt rules and regulations as nec-
32 essary to implement the provisions of the senior pharmacy assistance pro-
33 gram. Enrollment in the program shall be in accordance with applications
34 and procedures established by the secretary.

35 (d) Appropriations for the senior pharmacy assistance program shall
36 be from the interest or earnings from the senior services trust fund and
37 shall be made in accordance with appropriation acts.

38 (e) As used in this section:

39 (1) "Income" means income from whatever source derived; and

40 (2) "federal poverty guidelines" means the most recent poverty
41 guidelines as published annually in the federal register by the United
42 States department of health and human services.

43 Sec. 4. K.S.A. 2001 Supp. 75-5962 is hereby amended to read as

1 follows: 75-5962. (a) To implement the provisions of this act, the secretary
2 of aging is hereby authorized to negotiate and enter into contracts for the
3 performance of the powers, duties and functions established under this
4 act, receive grants, gifts or donations from the United States government,
5 or its agencies, or private nongovernmental sources. Any moneys so re-
6 ceived shall be deposited in the state treasury and credited to the senior
7 services trust fund.

8 (b) In the event that the secretary determines that the funds appro-
9 priated may not meet projected expenditures for the fiscal year, the sec-
10 retary may take one or more of the following actions:

11 (1) Adjust the maximum benefit set forth in subsection (b) of K.S.A.
12 2001 Supp. 75-5961 and amendments thereto;

13 (2) adjust the income eligibility levels set forth in subsection (b) of
14 K.S.A. 2001 Supp. 75-5961 and amendments thereto;

15 (3) adjust the copayment level as set forth in subsection (b) of K.S.A.
16 2001 Supp. 75-5961 and amendments thereto; or

17 (4) establish a period of open enrollment which shall be not less than
18 30 days and which shall include an enrollment period for those who be-
19 come age eligible during the year. Any such changes will be effective 30
20 days after notice of the same is published in the Kansas register.

21 (c) The secretary of social and rehabilitation services shall serve as
22 fiscal agent for the senior pharmacy assistance program pursuant to agree-
23 ments entered into with the secretary of aging.

24 (d) The provisions of ~~this act~~ K.S.A. 2001 Supp. 75-5961 and 75-5962,
25 and amendments thereto, are hereby suspended on the day upon which
26 payments commence under any federal law enacted on or after the ef-
27 fective date of this act which provides financial assistance for the purchase
28 of prescription drugs to those individuals eligible for financial assistance
29 for the purchase of prescription drugs under this act.

30 (e) *There is hereby established the senior pharmacy assistance fund*
31 *in the state treasury which shall be administered by the secretary of aging*
32 *in accordance with this act. All expenditures from the senior pharmacy*
33 *assistance fund shall be made in accordance with appropriation acts upon*
34 *warrants of the director of accounts and reports issued pursuant to vouch-*
35 *ers approved by the secretary of aging or the secretary's designee. Moneys*
36 *in the senior pharmacy assistance fund shall be used only to provide*
37 *financial assistance under the senior pharmacy assistance program in ac-*
38 *cordance with this act.*

39 Sec. 5. K.S.A. 39-709 and K.S.A. 2001 Supp. 75-4266, 75-5961 and
40 75-5962 are hereby repealed.

41 Sec. 6. This act shall take effect and be in force from and after its
42 publication in the statute book.