

Substitute for SENATE BILL No. 397

By Committee on Public Health and Welfare

2-23

1 AN ACT providing for a change in terminology in the statutes from the
2 terms mental retardation, handicap and similar terms to the term
3 intellectual disability and similar terms; amending K.S.A. 17-1762, 19-
4 4001, 19-4002, 19-4002a, 19-4002b, 19-4003, 19-4004, 19-4005, 19-
5 4007, 19-4009, 19-4010, 19-4011, 39-927, 39-971, 39-1001, 39-1002,
6 39-1005, 39-1006, 39-1007, 39-1201, 39-1202, 39-1205, 39-1207, 39-
7 1803, 58-24a16, 59-2946, 59-2972, 59-3077, 65-5a14, 65-3501, 65-
8 4202, 65-4212, 65-4411, 65-4412, 65-4413, 65-4414, 65-4415, 65-
9 5601, 72-6203, 74-8917, 75-4375, 75-5399, 75-6508, 76-12b01, 76-
10 12b02, 76-12b03, 76-12b07, 76-12b11 and 76-17c01 and K.S.A. 2011
11 Supp. 12-1675, 21-5417, 21-6622, 39-923, 39-936, 39-1401, 39-1702,
12 40-3401, 50-676, 65-180, 65-1124, 65-1626, 65-4915, 65-4921, 65-
13 6805, 72-962, 74-5344, 75-4265, 75-5321a, 75-6506, 75-6609, 75-
14 6610, 75-7303 and 79-3606 and repealing the existing sections; also
15 repealing K.S.A. 2011 Supp. 79-3606g.
16

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

18 New Section 1. It is hereby declared to be the official policy of the
19 state of Kansas that the term "intellectual disability" be used in place of the
20 term "mental retardation" and the term "person or people with intellectual
21 disability" be used in place of the term "mentally retarded." Whenever the
22 term "mental retardation" or "retardation" appears in the Kansas
23 administrative regulations, state agencies are hereby directed to read and
24 use the term "intellectual disability." State agencies are further directed
25 that, in the normal course of conducting their planned updates or changes
26 to language in rules and regulations, agencies update the terminology of
27 their rules and regulations to be consistent with this policy. The changes to
28 the new policy and new terminology can take place as rules and
29 regulations are naturally updated.

30 Sec. 2. K.S.A. 2011 Supp. 12-1675 is hereby amended to read as
31 follows: 12-1675. (a) The governing body of any county, city, township,
32 school district, area vocational-technical school, community college,
33 firemen's relief association, community mental health center, community
34 facility for ~~the mentally retarded~~ *people with intellectual disability* or any
35 other governmental entity, unit or subdivision in the state of Kansas having
36 authority to receive, hold and expend public moneys or funds may invest

1 any moneys which are not immediately required for the purposes for
2 which the moneys were collected or received, and the investment of which
3 is not subject to or regulated by any other statute.

4 (b) Such moneys shall be invested only:

5 (1) In temporary notes or no-fund warrants issued by such investing
6 governmental unit;

7 (2) in savings deposits, time deposit, open accounts, certificates of
8 deposit or time certificates of deposit with maturities of not more than two
9 years: (A) In banks, savings and loan associations and savings banks,
10 which have main or branch offices located in such investing governmental
11 unit; or (B) if no main or branch office of a bank, savings and loan
12 association or savings bank is located in such investing governmental unit,
13 then in banks, savings and loan associations and savings banks, which
14 have main or branch offices in the county or counties in which all or part
15 of such investing governmental unit is located;

16 (3) in repurchase agreements with: (A) Banks, savings and loan
17 associations and savings banks, which have main or branch offices located
18 in such investing governmental unit, for direct obligations of, or
19 obligations that are insured as to principal and interest by, the United
20 States government or any agency thereof; or (B)(i) if no main or branch
21 office of a bank, savings and loan association or savings bank, is located in
22 such investing governmental unit; or (ii) if no such bank, savings and loan
23 association or savings bank having a main or branch office located in such
24 investing governmental unit is willing to enter into such an agreement with
25 the investing governmental unit at an interest rate equal to or greater than
26 the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and
27 amendments thereto, then such repurchase agreements may be entered into
28 with banks, savings and loan associations or savings banks which have
29 main or branch offices in the county or counties in which all or part of
30 such investing governmental unit is located; or (C) if no bank, savings and
31 loan association or savings bank, having a main or branch office in such
32 county or counties is willing to enter into such an agreement with the
33 investing governmental unit at an interest rate equal to or greater than the
34 investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and
35 amendments thereto, then such repurchase agreements may be entered into
36 with banks, savings and loan associations or savings banks located within
37 this state;

38 (4) in United States treasury bills or notes with maturities as the
39 governing body shall determine, but not exceeding two years. Such
40 investment transactions shall only be conducted with banks, savings and
41 loan associations and savings banks; the federal reserve bank of Kansas
42 City, Missouri; or with primary government securities dealers which report
43 to the market report division of the federal reserve bank of New York, or

1 any broker-dealer engaged in the business of selling government securities
2 which is registered in compliance with the requirements of section 15 or
3 15C of the securities exchange act of 1934 and registered pursuant to
4 K.S.A. 17-12a401, and amendments thereto;

5 (5) in the municipal investment pool fund established in K.S.A. 12-
6 1677a, and amendments thereto;

7 (6) in the investments authorized and in accordance with the
8 conditions prescribed in K.S.A. 12-1677b, and amendments thereto;

9 (7) in multiple municipal client investment pools managed by the
10 trust departments of banks which have main or branch offices located in
11 the county or counties where such investing governmental unit is located
12 or with trust companies incorporated under the laws of this state which
13 have contracted to provide trust services under the provisions of K.S.A. 9-
14 2107, and amendments thereto, with banks which have main or branch
15 offices located in the county or counties in which such investing
16 governmental unit is located. Public moneys invested under this paragraph
17 shall be secured in the same manner as provided for under K.S.A. 9-1402,
18 and amendments thereto. Pooled investments of public moneys made by
19 trust departments under this paragraph shall be subject to the same terms,
20 conditions and limitations as are applicable to the municipal investment
21 pool established by K.S.A. 12-1677a, and amendments thereto; or

22 (8) municipal bonds or other obligations issued by any municipality
23 of the state of Kansas as defined in K.S.A. 10-1101, and amendments
24 thereto, which are general obligations of the municipality issuing the same.

25 (c) The investments authorized in paragraphs (4), (5), (6), (7) or (8)
26 of subsection (b) shall be utilized only if the banks, savings and loan
27 associations and savings banks eligible for investments authorized in
28 paragraph (2) of subsection (b), cannot or will not make the investments
29 authorized in paragraph (2) of subsection (b) available to the investing
30 governmental unit at interest rates equal to or greater than the investment
31 rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments
32 thereto.

33 (d) In selecting a depository pursuant to paragraph (2) of subsection
34 (b), if a bank, savings and loan association or savings bank eligible for an
35 investment deposit thereunder has an office located in the investing
36 governmental unit and such financial institution will make such deposits
37 available to the investing governmental unit at interest rates equal to or
38 greater than the investment rate, as defined in subsection (g) of K.S.A. 12-
39 1675a, and amendments thereto, and such financial institution otherwise
40 qualifies for such deposit, the investing governmental unit shall select one
41 or more of such eligible financial institutions for deposit of funds pursuant
42 to this section. If no such financial institution qualifies for such deposits,
43 the investing governmental unit may select for such deposits one or more

1 eligible banks, savings and loan associations or savings banks which have
2 offices in the county or counties in which all or a part of such investing
3 governmental unit is located which will make such deposits available to
4 the investing governmental unit at interest rates equal to or greater than the
5 investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and
6 amendments thereto, and which otherwise qualify for such deposits.

7 (e) (1) All security purchases and repurchase agreements shall occur
8 on a delivery versus payment basis.

9 (2) All securities, including those acquired by repurchase agreements,
10 shall be perfected in the name of the investing governmental unit and shall
11 be delivered to the purchaser or a third-party custodian which may be the
12 state treasurer.

13 (f) Public moneys deposited pursuant to subsection (b)(2) of K.S.A.
14 12-1675, and amendments thereto, by the governing body of any
15 governmental unit listed in subsection (a) of K.S.A. 12-1675, and
16 amendments thereto, through a selected bank, savings and loan association
17 or savings bank which is part of a reciprocal deposit program in which the
18 bank, savings and loan association or savings bank:

19 (1) Receives reciprocal deposits from other participating institutions
20 located in the United States in an amount equal to the amount of funds
21 deposited by the municipal corporation or quasi-municipal corporation;
22 and

23 (2) for which the total cumulative amount of each deposit does not
24 exceed the maximum deposit insurance amount for one depositor at one
25 financial institution as determined by the federal deposit insurance
26 corporation.

27 Such deposits shall not be treated as securities and need not be secured
28 as provided in this or any other act.

29 Sec. 3. K.S.A. 17-1762 is hereby amended to read as follows: 17-
30 1762. The following persons shall not be required to register with the
31 secretary of state:

32 (a) State educational institutions under the control and supervision of
33 the state board of regents, unified school districts, educational interlocals,
34 educational cooperatives, area vocational-technical schools, all
35 educational institutions that are accredited by a regional accrediting
36 association or by an organization affiliated with the national commission
37 of accrediting, any foundation having an established identity with any of
38 the aforementioned educational institutions, any other educational
39 institution confining its solicitation of contributions to the student body,
40 alumni, faculty and trustees of such institution, and their families, or a
41 library established under the laws of this state, provided that the annual
42 financial report of such institution or library shall be filed with the attorney
43 general;

1 (b) fraternal, patriotic, social, educational, alumni organizations and
2 historical societies when solicitation of contributions is confined to their
3 membership. This exemption shall be extended to any subsidiary of a
4 parent or superior organization exempted by this subsection where such
5 solicitation is confined to the membership of the subsidiary, parent or
6 superior organization;

7 (c) persons requesting any contributions for the relief or benefit of
8 any individual, specified by name at the time of the solicitation, if the
9 contributions collected are turned over to the named beneficiary, first
10 deducting reasonable expenses for costs of banquets, or social gatherings,
11 if any, provided all fund raising functions are carried on by persons who
12 are unpaid, directly or indirectly, for such services;

13 (d) any charitable organization which does not intend to solicit and
14 receive and does not actually receive contributions in excess of \$10,000
15 during such organization's tax period, as defined by K.S.A. 17-7501, and
16 amendments thereto, if all of such organization's fund-raising functions are
17 carried on by persons who are unpaid for such services. However, if the
18 gross contributions received by such charitable organization during any
19 such tax period is in excess of \$10,000, such organization, within 30 days
20 after the end of such tax period, shall register with the secretary of state as
21 provided in K.S.A. 17-1763, and amendments thereto;

22 (e) any incorporated community chest, united fund, united way or any
23 charitable organization receiving an allocation from an incorporated
24 community chest, united fund or united way;

25 (f) a *bona fide* organization of volunteer firemen, or a *bona fide*
26 auxiliary or affiliate of such organization, if all fund-raising activities are
27 carried on by members of such organization or an affiliate thereof and such
28 members receive no compensation, directly or indirectly, therefor;

29 (g) any charitable organization operating a nursery for infants
30 awaiting adoption if all fund-raising activities are carried on by members
31 of such an organization or an affiliate thereof and such members receive
32 no compensation, directly or indirectly, therefor;

33 (h) any corporation established by the federal congress that is
34 required by federal law to submit annual reports of such corporation's
35 activities to congress containing itemized accounts of all receipts and
36 expenditures after being duly audited by the department of defense or
37 other federal department;

38 (i) any girls' club which is affiliated with the girls' club of America, a
39 corporation chartered by congress, if such an affiliate properly files the
40 reports required by the girls' club of America and that the girls' club of
41 America files with the government of the United States the reports
42 required by such federal charter;

43 (j) any boys' club which is affiliated with the boys' club of America, a

1 corporation chartered by congress, if such an affiliate properly files the
2 reports required by the boys' club of America and that the boys' club of
3 America files with the government of the United States the reports
4 required by such federal charter;

5 (k) any corporation, trust or organization incorporated or established
6 for religious purposes, or established for charitable, hospital or educational
7 purposes and engaged in effectuating one or more of such purposes, that is
8 affiliated with, operated by or supervised or controlled by a corporation,
9 trust or organization incorporated or established for religious purposes, or
10 to any other religious agency or organization which serves religion by the
11 preservation of religious rights and freedom from persecution or prejudice
12 or by fostering religion, including the moral and ethical aspects of a
13 particular religious faith;

14 (l) the boy scouts of America and the girl scouts of America,
15 including any regional or local organization affiliated therewith;

16 (m) the young men's christian association and the young women's
17 christian association, including any regional or local organization affiliated
18 therewith;

19 (n) any licensed medical care facility which is organized as a
20 nonprofit corporation under the laws of this state;

21 (o) any licensed community mental health center or licensed mental
22 health clinic;

23 (p) any licensed community ~~mental-retardation~~ center *for people with*
24 *intellectual disability* and its affiliates as determined by the department of
25 social and rehabilitation services;

26 (q) any charitable organization of employees of a corporation whose
27 principal gifts are made to an incorporated community chest, united fund
28 or united way, and whose solicitation is limited to such employees;

29 (r) any community foundation or community trust to which
30 deductible contributions can be made by individuals, corporations, public
31 charities and private foundations, as well as other charitable organizations
32 and governmental agencies for the overall purposes of the foundation or to
33 particular charitable and endowment funds established under agreement
34 with the foundation or trust for the charitable benefit of the people of a
35 specific geographic area and which is a nonprofit organization exempt
36 from federal income taxation pursuant to section 501(a) of the internal
37 revenue code of 1986, as in effect on the effective date of this act, by
38 reason of qualification under section 501(c)(3) of the internal revenue code
39 of 1986, as in effect on the effective date of this act, and which is deemed
40 a publicly supported organization and not a private foundation within the
41 meaning of section 509(a)(1) of the internal revenue code of 1986, as in
42 effect on the effective date of this act;

43 (s) any charitable organization which does not intend to or does not

1 actually solicit or receive contributions from more than 100 persons;

2 (t) any charitable organization the funds of which are used to support
3 an activity of a municipality of this state; and

4 (u) the junior league, including any local community organization
5 affiliated therewith.

6 Sec. 4. K.S.A. 19-4001 is hereby amended to read as follows: 19-

7 4001. The board of county commissioners of any county or the boards of
8 county commissioners of two (2) or more counties jointly may establish a

9 community mental health center, ~~and/or~~ community facility for ~~the~~
10 ~~mentally retarded~~ *people with intellectual disability, or both*, which shall

11 be organized, operated, and financed according to the provisions of this
12 act. The mental health center may render the following mental health

13 services: Out-patient and inpatient diagnostic and treatment services;
14 rehabilitation services to individuals returning to the community from an

15 inpatient facility; consultative services to schools, courts, health and
16 welfare agencies, both public and private, and conducting, in collaboration

17 with other agencies when practical, in-service training for students
18 entering the mental health professions, educational programs, information

19 and research. The community facilities for ~~the mentally retarded~~ *people*
20 *with intellectual disability* may render, and a ~~mental retardation~~ *an*

21 *intellectual disability* governing board which contracts with nonprofit
22 corporations to provide services for ~~the mentally retarded~~ *people with*

23 *intellectual disability* may provide, the following services: Pre-school, day
24 care, work activity, sheltered workshops, sheltered domiciles, parent and

25 community education and, in collaboration with other agencies when
26 practical, clinical services, rehabilitation services, in-service training for

27 students entering professions dealing with the above aspects of ~~mental~~
28 ~~retardation~~ *intellectual disability*, information and research. It may

29 establish consulting ~~and/or~~ referral services, *or both*, in conjunction with
30 related community health, education, and welfare services.

31 No community mental health center, ~~and/or~~ facility for ~~the mentally~~
32 ~~retarded~~ *for people with intellectual disability, or both*, shall be established

33 in ~~said~~ *such* community after the effective date of this act unless and until
34 the establishment of the same has been approved by the secretary of social

35 and rehabilitation services.

36 Sec. 5. K.S.A. 19-4002 is hereby amended to read as follows: 19-
37 4002. (a) (1) Except as provided by K.S.A. 19-4002a and 19-4002b, and

38 amendments thereto, every county which establishes a mental health
39 center or facility for ~~the mentally retarded~~ *people with intellectual*

40 *disability* shall establish a community mental health or ~~mental~~
41 ~~retardation~~ *an intellectual disability* governing board. Every county which

42 wants to establish such board for the purpose of allowing such board to
43 contract with a nonprofit corporation to provide services for ~~the mentally~~

1 ~~retarded people with intellectual disability~~ may establish a ~~mental-~~
2 ~~retardation~~ *an intellectual disability* governing board in accordance with
3 the provisions of this section. Any board established under this subsection
4 shall be referred to as the governing board. The governing board shall be
5 composed of not less than seven members. The members of such
6 governing board shall be appointed by and shall serve at the pleasure of
7 the board of county commissioners of the county.

8 (2) When two or more counties desire to establish a mental health
9 center or facility for ~~the mentally retarded~~ *people with intellectual*
10 *disability*, the chairperson of the board of the county commissioners of
11 each participating county shall appoint two members to a selection
12 committee, which committee shall select the first governing board. Each
13 participating county shall have at least one representative on such board.

14 (b) Membership of each governing board, as nearly as possible, shall
15 be representative of public health, medical profession, the judiciary, public
16 welfare, hospitals, mental health organizations and ~~mental-retardation-~~
17 *organizations for people with intellectual disability*, education,
18 rehabilitation, labor, business and civic groups and the general public. The
19 governing board of a mental health center also shall include consumers of
20 mental health services or representatives of mental health consumer groups
21 and shall include family members of mentally ill persons.

22 (c) If the board of county commissioners desires to provide both
23 mental health services and services for ~~the mentally retarded~~ *people with*
24 *intellectual disability* in accordance with the provisions of this act, and
25 determine it is more practical to establish a single governing board for
26 mental health services and ~~mental-retardation~~ *facilities for people with*
27 *intellectual disability*, the board of commissioners may establish a single
28 board. If the board of county commissioners determine that separate
29 boards are more practical, the board of county commissioners may
30 establish a governing board for a mental health center and a separate board
31 for ~~mental-retardation~~ *facilities for people with intellectual disability*.

32 Sec. 6. K.S.A. 19-4002a is hereby amended to read as follows: 19-
33 4002a. (a) (1) In lieu of appointing a governing board as provided by
34 K.S.A. 19-4002, and amendments thereto, the board of county
35 commissioners of Sedgwick county may serve as the community mental
36 health or ~~mental-retardation~~ *intellectual disability* governing board for
37 Sedgwick county.

38 (2) In lieu of appointing a governing board as provided by K.S.A. 19-
39 4002, and amendments thereto, the unified government board of
40 commissioners of Wyandotte county may serve as the community mental
41 health or ~~mental-retardation~~ *intellectual disability* governing board for
42 Wyandotte county.

43 (b) If the board of county commissioners or the unified government

1 board of commissioners elects to serve as the governing board pursuant to
2 this section, the board of county commissioners or the unified government
3 board of commissioners shall appoint a mental health and ~~mental-~~
4 ~~retardation~~ *intellectual disability* advisory board of not less than seven
5 members. Members of the advisory board shall serve at the pleasure of the
6 board making their appointment. Membership of the advisory board shall
7 include consumers of mental health services *and services for people with*
8 *intellectual disability* or representatives of mental health consumer groups
9 *and consumer groups for people with intellectual disability* and shall
10 include family members of mentally ill persons *and people with*
11 *intellectual disability* and, as nearly as possible, shall be representative of
12 public health, medical profession, the judiciary, public welfare, hospitals
13 and mental health organizations *and organizations for people with*
14 *intellectual disability* and education, rehabilitation, labor, business and
15 civic groups.

16 (c) The board of county commissioners or the unified government
17 board of commissioners, as the mental health or ~~mental-retardation-~~
18 *intellectual disability* governing board, shall seek the recommendations of
19 the mental health and ~~mental-retardation~~ *intellectual disability* advisory
20 board prior to adopting the annual plan and budget for county mental
21 health and ~~retardation~~ programs *for people with intellectual disability* .

22 Sec. 7. K.S.A. 19-4002b is hereby amended to read as follows: 19-
23 4002b. (a) In lieu of appointing a governing board as provided by K.S.A.
24 19-4002 and amendments thereto, the board of county commissioners of
25 Johnson county may serve as the community mental health or ~~mental-~~
26 ~~retardation~~ *intellectual disability* governing board for Johnson county.

27 (b) If the board of county commissioners elects to serve as the
28 governing board pursuant to this section, the board of county
29 commissioners shall appoint a mental health and ~~mental-retardation-~~
30 *intellectual disability* advisory board of not less than seven members.
31 Members of the advisory board shall serve at the pleasure of the board of
32 county commissioners. Membership of the advisory board shall include
33 consumers of mental health services *and services for people with*
34 *intellectual disability* or representatives of mental health consumer groups
35 *and consumer groups for people with intellectual disability* and shall
36 include family members of mentally ill persons *and people with*
37 *intellectual disability* and, as nearly as possible, shall be representative of
38 public health, medical profession, the judiciary, public welfare, hospitals
39 and mental health organizations *and organizations for people with*
40 *intellectual disability* and education, rehabilitation, labor, business and
41 civic groups.

42 (c) The board of county commissioners, as the mental health or
43 ~~mental-retardation~~ *intellectual disability* governing board, shall seek the

1 recommendations of the mental health and ~~mental retardation~~ *intellectual*
2 *disability* advisory board prior to adopting the annual plan and budget for
3 county mental health and ~~retardation~~ *programs for people with intellectual*
4 *disability*.

5 Sec. 8. K.S.A. 19-4003 is hereby amended to read as follows: 19-
6 4003. The duties of the governing boards shall include: (a) Election from
7 its members of a chairman, a vice-chairman, a secretary and a treasurer,
8 who shall hold office for a term of one (±) year. Such treasurer shall give
9 bond to be approved by the board of county commissioners of the county
10 in which the mental health center and/or facilities for ~~the mentally retarded~~
11 *people with intellectual disability, or both*, -are located or the board of
12 county commissioners which created a governing board to contract with a
13 nonprofit corporation to provide services for ~~the mentally retarded~~ *people*
14 *with intellectual disability* for the safekeeping and the disbursements of all
15 funds that may come into ~~his or her~~ *such treasurer's* hands. All money
16 provided for mental health and/or ~~mental retardation~~ *intellectual disability*
17 purposes under the provisions of this act shall, when collected, be paid
18 over to the treasurer of ~~said~~ *the* governing board for the purposes of this
19 act. Such governing board shall have exclusive control over the
20 expenditures of all moneys paid to the credit of its treasurer under the
21 provisions of this act, and no money shall be paid therefrom, except upon
22 vouchers signed by the treasurer and on order of the governing board.

23 (b) Formulating and establishing policies for the operation of the
24 mental health center and/or facilities for ~~the mentally retarded~~ *people with*
25 *intellectual disability, or both*, and employment of personnel if the
26 governing board operates a mental health center or facility for ~~the mentally~~
27 ~~retarded~~ *people with intellectual disability, or both*.

28 (c) Annually reviewing, evaluating and reporting of community
29 mental health and ~~mental retardation~~ *services and services for people with*
30 *intellectual disability* provided by the center pursuant to this act to such
31 board or boards of county commissioners.

32 (d) Preparing and submitting the annual plan and budget and making
33 recommendations thereon.

34 Sec. 9. K.S.A. 19-4004 is hereby amended to read as follows: 19-
35 4004. In all counties wherein the board or boards of county commissioners
36 in the event of a combination of counties has established a governing
37 board, the respective board or boards of county commissioners may levy
38 an annual tax upon all taxable tangible property in such county for mental
39 health services and to pay a portion of the principal and interest on bonds
40 issued under the authority of K.S.A. 12-1774, and amendments thereto, by
41 cities located in the county. The respective board or boards of county
42 commissioners may also levy an additional annual tax upon all taxable
43 tangible property in such county for ~~mental retardation~~ *intellectual*

1 *disability* services and to pay a portion of the principal and interest on
2 bonds issued under the authority of K.S.A. 12-1774, and amendments
3 thereto, by cities located in the county. The additional levy authorized by
4 this section for ~~mental-retardation~~ *intellectual disability* services shall not
5 be made until a notice of intent to make such levy has been published in a
6 newspaper of general circulation in the county or counties involved by the
7 board or boards of county commissioners proposing to make such levy,
8 and such notice shall state that if a petition signed by 5% of the electors of
9 the county shall file a protest petition within 60 days of the date of such
10 publication a proposition will be submitted at an election called for the
11 purpose in the county for approval of the levy; if such proposition is
12 approved or if no sufficient protest is made, then the board or boards of
13 county commissioners shall levy such tax, but if a sufficient protest is
14 made and such proposition is not approved, the levy will not be made. The
15 proceeds thereof shall be placed in the hands of the appropriate governing
16 board to be administered as provided by this act.

17 In addition thereto, to provide for the purchase of or the construction of
18 facilities for the community mental health center, ~~and/or~~ facility for ~~the~~
19 ~~mentally-retarded~~ *people with intellectual disability, or both*, the board or
20 boards of county commissioners ~~may~~, upon petition of the governing
21 board, *may* levy an annual tax on all taxable tangible property in their
22 county and to issue and sell general obligation bonds of such county, for
23 the purpose of creating and providing a special fund to be used in
24 acquiring a site for, and the building, equipping, repairing, remodeling and
25 furnishing of a community mental health center, ~~and/or~~ facilities for ~~the~~
26 ~~mentally-retarded~~ *people with intellectual disability, or both*, or for any
27 one or more of such purposes. The additional levy authorized by this
28 section shall not be made until a notice of intent to make such levy has
29 been published in a newspaper of general circulation in the county or
30 counties involved by the board or boards of county commissioners
31 proposing to make such levy, and such notice shall state that if a petition
32 signed by 5% of the electors of the county shall file a protest petition
33 within 60 days of the date of such publication a proposition will be
34 submitted at an election called for the purpose in the county for approval
35 of the levy; if such proposition is approved or if no sufficient protest is
36 made, then the board of county commissioners will make the levy of such
37 tax, but if a sufficient protest is made and such proposition is not
38 approved, the levy will not be made. The board of county commissioners
39 shall proceed in the manner prescribed to be followed in such notice. The
40 tax levy may be made annually until sufficient funds have been created for
41 the purpose or purposes, or if the county has issued and sold general
42 obligation bonds, the proceeds raised by the annual tax levy shall be used
43 to retire the general obligation bonds and the tax levy shall continue until

1 the general obligation bonds have been retired. Such federal, state or
2 private funds as may be available may be accepted by the board of county
3 commissioners to be placed in the fund for operation of or construction of
4 a community mental health center, ~~and/or~~ facility for ~~the mentally retarded~~
5 *people with intellectual disability, or both*, as the case may be. Title to the
6 building or buildings of the community mental health center, ~~and/or~~
7 facility for ~~the mentally retarded~~ *people with intellectual disability, or*
8 *both*, shall vest in the governing board which is responsible for the
9 maintenance and operation of the facilities if a combination of counties has
10 established the center, but, if only one county has established the mental
11 health center or facilities for ~~the mentally retarded~~ *people with intellectual*
12 *disability*, title shall vest in the board of county commissioners of such
13 county. If the board of county commissioners has contracted with a
14 nonprofit corporation to provide mental health services under K.S.A. 19-
15 4007, and amendments thereto, the title to the building or buildings ~~may~~,
16 in the discretion of the board of county commissioners, *may* vest in the
17 board of county commissioners or the nonprofit corporation providing
18 mental health services, and the board of county commissioners may allow
19 the nonprofit corporation to use the buildings without charge.

20 Sec. 10. K.S.A. 19-4005 is hereby amended to read as follows: 19-
21 4005. ~~Said~~ The governing board may establish a schedule of charges for
22 services to persons using ~~said~~ the community mental health center, ~~and/or~~
23 ~~mental retardation~~ ~~facilities~~, *or facilities for people with intellectual*
24 *disability, or both*, but no person shall be denied the services of ~~said~~ the
25 mental health center ~~and/or~~ facilities for ~~the mentally retarded~~ *people with*
26 *intellectual disability* because of inability to pay for the same.

27 Sec. 11. K.S.A. 19-4007 is hereby amended to read as follows: 19-
28 4007. (a) If the board or boards of county commissioners desire to provide
29 either mental health services or services for ~~the mentally retarded~~ *people*
30 *with intellectual disability*, or both such services, and to levy the taxes
31 authorized in K.S.A. 19-4004, ~~or any~~ and amendments thereto, but
32 determine that it is more practicable to contract for such services with a
33 nonprofit corporation, such board or boards may contract with the
34 nonprofit corporation to provide either mental health services or services
35 for ~~the mentally retarded~~ *people with intellectual disability*, or both such
36 services, for the residents of ~~said~~ the county or counties. In lieu of
37 contracting with a nonprofit corporation to provide services for ~~the~~
38 ~~mentally retarded~~ *people with intellectual disability*, a board of county
39 commissioners may establish ~~a mental retardation~~ *an intellectual disability*
40 governing board for the purpose of allowing this board to contract for and
41 on behalf of the board of county commissioners with a nonprofit
42 corporation to provide services for ~~the mentally retarded~~ *people with*
43 *intellectual disability*. The board or boards entering into such a contract

1 with a nonprofit corporation, or the ~~mental-retardation~~ *intellectual*
2 *disability* governing board authorized to contract with a nonprofit
3 corporation under this section, are hereby authorized to pay the amount
4 agreed upon in such contract from the proceeds of the tax or taxes levied
5 pursuant to K.S.A. 19-4004, ~~or any~~ and amendments thereto, for mental
6 health services or ~~mental-retardation~~ *intellectual disability* services, or for
7 both such services. ~~Said~~ The nonprofit corporation may not deny service to
8 anyone because of inability to pay for the same, but ~~said~~ the nonprofit
9 corporation may establish a schedule of charges for services to those who
10 are financially able to pay for such services. ~~Said~~ The nonprofit
11 corporation shall annually provide ~~said~~ the board or boards of county
12 commissioners with a complete financial report showing the amount of
13 fees collected, the amount of tax money received under ~~said~~ the contract,
14 and any other income. The financial report shall also show the nonprofit
15 corporation's disbursements, including salaries paid to each person
16 employed by ~~said~~ the nonprofit corporation. No such nonprofit corporation
17 shall be organized to receive public funds raised through taxation or public
18 solicitation, or both, unless and until the establishment of the same has
19 been approved by the secretary of social and rehabilitation services. The
20 governing board of all such nonprofit corporations shall report annually to
21 the secretary of social and rehabilitation services, in such form as may be
22 required on the activities of the mental health center, or community facility
23 for ~~the mentally-retarded~~ *people with intellectual disability*.

24 (b) If the board or boards of county commissioners desire to provide
25 services for ~~the mentally-retarded~~ *people with intellectual disability* and to
26 levy the tax authorized in K.S.A. 19-4004, ~~or any~~ and amendments
27 thereto, for ~~mental-retardation~~ *intellectual disability* services, but
28 determine that it is more practicable to transfer the proceeds from such tax
29 levy or a portion thereof to a state agency operating a program established
30 under the federal social security act whereby the funds will be eligible for
31 federal financial participation in the purchase of services for eligible
32 persons in facilities for ~~the mentally-retarded~~ *people with intellectual*
33 *disability*, the board or boards are hereby authorized to transfer such
34 proceeds, or a portion thereof, to any such state agency to purchase
35 services in facilities for ~~the mentally-retarded~~ *people with intellectual*
36 *disability*.

37 Sec. 12. K.S.A. 19-4009 is hereby amended to read as follows: 19-
38 4009. Nothing contained in this act shall be construed as repealing any
39 existing law nor as affecting any mental health center or facilities for ~~the~~
40 ~~mentally-retarded~~ *people with intellectual disability* established by any
41 county under any other law prior to the effective date of this act except as
42 herein otherwise specifically provided; but no county which has heretofore
43 established or shall hereafter establish under any other law a mental health

1 center or facilities for ~~the mentally retarded~~ *people with intellectual*
2 *disability* shall make a tax levy under such other law for a mental health
3 center or facilities for ~~the mentally retarded~~ *people with intellectual*
4 *disability* if it shall establish either singly or jointly a mental health center
5 under the provisions of this act.

6 Sec. 13. K.S.A. 19-4010 is hereby amended to read as follows: 19-
7 4010. The board of county commissioners of any county which is not a
8 part of a community mental health center is hereby authorized to contract
9 with a community mental health center ~~and/or~~ community facilities for ~~the~~
10 ~~mentally retarded~~ *people with intellectual disability, or both*, organized in
11 accordance with the provisions of K.S.A. 19-4001 *et seq.*, and ~~any~~
12 ~~amendments~~ thereto, for such mental health services ~~and/or mental~~
13 ~~retardation~~ *or intellectual disability* services, *or both*, for the residents of
14 such county as may be mutually agreeable between the governing board of
15 the center ~~and/or~~ community facilities for ~~the mentally retarded~~ *people*
16 *with intellectual disability, or both*, and the county commissioners,
17 requesting the services for the residents thereof. Such an agreement may
18 provide for out-patient and treatment services, rehabilitation services,
19 consultative services and other services assented to by both parties. The
20 consideration for such services shall not in any case exceed in amount the
21 revenue that will be derived from the tax levy authorized by K.S.A. 19-
22 4011, *and amendments thereto*. Such agreement may be for a term of not
23 exceeding five (5) years, but may be renewed from time to time.

24 Sec. 14. K.S.A. 19-4011 is hereby amended to read as follows: 19-
25 4011. The county commissioners of a county entering into such an
26 agreement with a community mental health center is hereby authorized to
27 levy an annual tax upon all of the taxable tangible property in such county
28 for the purpose of providing revenue to pay for the mental health services
29 contracted for with the center and to pay a portion of the principal and
30 interest on bonds issued under the authority of K.S.A. 12-1774, and
31 amendments thereto, by cities located in the county. The county
32 commissioners of a county entering into such an agreement with a
33 community facility for ~~the mentally retarded~~ *people with intellectual*
34 *disability* is hereby authorized to levy an annual tax upon all of the taxable
35 tangible property in such county for the purpose of providing revenue to
36 pay for ~~the mental retardation~~ *intellectual disability* services contracted for
37 with the facility and to pay a portion of the principal and interest on bonds
38 issued under the authority of K.S.A. 12-1774, and amendments thereto, by
39 cities located in the county. Upon receipt of such tax moneys, the county
40 commissioners shall pay the amount agreed upon to the governing body of
41 the center ~~and/or~~ community facilities for ~~the mentally retarded~~ *people*
42 *with intellectual disability, or both*, and the governing body is authorized
43 to receive and expend such moneys to provide community mental health

1 services.

2 Sec. 15. K.S.A. 2011 Supp. 21-5417 is hereby amended to read as
3 follows: 21-5417. (a) Mistreatment of a dependent adult is knowingly
4 committing one or more of the following acts:

5 (1) Infliction of physical injury, unreasonable confinement or
6 unreasonable punishment upon a dependent adult;

7 (2) taking unfair advantage of a dependent adult's physical or
8 financial resources for another individual's personal or financial advantage
9 by the use of undue influence, coercion, harassment, duress, deception,
10 false representation or false pretense; or

11 (3) omission or deprivation of treatment, goods or services that are
12 necessary to maintain physical or mental health of a dependent adult.

13 (b) Mistreatment of a dependent adult as defined in:

14 (1) Subsection (a)(1) is a severity level 5, person felony;

15 (2) subsection (a)(2) if the aggregate amount of the value of the
16 resources is:

17 (A) \$1,000,000 or more is a severity level 2, person felony;

18 (B) at least \$250,000 but less than \$1,000,000 is a severity level 3,
19 person felony;

20 (C) at least \$100,000 but less than \$250,000 is a severity level 4,
21 person felony;

22 (D) at least \$25,000 but less than \$100,000 is a severity level 5,
23 person felony;

24 (E) at least \$1,000 but less than \$25,000 is a severity level 7, person
25 felony;

26 (F) less than \$1,000 is a class A person misdemeanor, except as
27 provided in subsection (b)(2)(G); and

28 (G) less than \$1,000 and committed by a person who has, within five
29 years immediately preceding commission of the crime, the offender has
30 been convicted of mistreatment of a dependent adult two or more times is
31 a severity level 7, person felony; and

32 (3) subsection (a)(3) is a severity level 8, person felony.

33 (c) No dependent adult is considered to be mistreated for the sole
34 reason that such dependent adult relies upon or is being furnished
35 treatment by spiritual means through prayer in lieu of medical treatment in
36 accordance with the tenets and practices of a recognized church or
37 religious denomination of which such dependent adult is a member or
38 adherent.

39 (d) As used in this section, "dependent adult" means an individual 18
40 years of age or older who is unable to protect the individual's own interest.
41 Such term shall include, but is not limited to, any:

42 (1) Resident of an adult care home including, but not limited to, those
43 facilities defined by K.S.A. 39-923, and amendments thereto;

- 1 (2) adult cared for in a private residence;
- 2 (3) individual kept, cared for, treated, boarded, confined or otherwise
3 accommodated in a medical care facility;
- 4 (4) individual with ~~mental retardation~~ *intellectual disability* or a
5 developmental disability receiving services through a community ~~mental~~
6 ~~retardation~~ *facility for people with intellectual disability* or residential
7 facility licensed under K.S.A. 75-3307b, and amendments thereto;
- 8 (5) individual with a developmental disability receiving services
9 provided by a community service provider as provided in the
10 developmental disability reform act; or
- 11 (6) individual kept, cared for, treated, boarded, confined or otherwise
12 accommodated in a state psychiatric hospital or state institution for ~~the~~
13 ~~mentally-retarded~~ *people with intellectual disability*.
- 14 (e) An offender who violates the provisions of this section may also
15 be prosecuted for, convicted of, and punished for any other offense in
16 article 54, 55, 56 or 58 of chapter 21 of the Kansas Statutes Annotated, or
17 K.S.A. 2011 Supp. 21-6418, and amendments thereto.
- 18 Sec. 16. K.S.A. 2011 Supp. 21-6622 is hereby amended to read as
19 follows: 21-6622. (a) If, under K.S.A. 2011 Supp. 21-6617, and
20 amendments thereto, the county or district attorney has filed a notice of
21 intent to request a separate sentencing proceeding to determine whether
22 the defendant should be sentenced to death and the defendant is convicted
23 of the crime of capital murder, the defendant's counsel or the warden of the
24 correctional institution or sheriff having custody of the defendant may
25 request a determination by the court of whether the defendant is ~~mentally~~
26 ~~retarded~~ *a person with intellectual disability*. If the court determines that
27 there is not sufficient reason to believe that the defendant is ~~mentally~~
28 ~~retarded~~ *a person with intellectual disability*, the court shall so find and the
29 defendant shall be sentenced in accordance with K.S.A. 2011 Supp. 21-
30 6617, 21-6619, 21-6624, 21-6625, 21-6628 and 21-6629, and amendments
31 thereto. If the court determines that there is sufficient reason to believe that
32 the defendant is ~~mentally-retarded~~ *a person with intellectual disability*, the
33 court shall conduct a hearing to determine whether the defendant is
34 ~~mentally-retarded~~ *a person with intellectual disability*.
- 35 (b) If a defendant is convicted of the crime of capital murder and a
36 sentence of death is not imposed, or if a defendant is convicted of the
37 crime of murder in the first degree based upon the finding of premeditated
38 murder, the defendant's counsel or the warden of the correctional
39 institution or sheriff having custody of the defendant may request a
40 determination by the court of whether the defendant is ~~mentally-retarded~~ *a*
41 *person with intellectual disability*. If the court determines that there is not
42 sufficient reason to believe that the defendant is ~~mentally-retarded~~ *a*
43 *person with intellectual disability*, the court shall so find and the defendant

1 shall be sentenced in accordance with K.S.A. 2011 Supp. 21-6620, 21-
2 6623, 21-6624 and 21-6625, and amendments thereto. If the court
3 determines that there is sufficient reason to believe that the defendant is
4 ~~mentally-retarded a person with intellectual disability~~, the court shall
5 conduct a hearing to determine whether the defendant is ~~mentally-retarded~~
6 *a person with intellectual disability*.

7 (c) At the hearing, the court shall determine whether the defendant is
8 ~~mentally-retarded a person with intellectual disability~~. The court shall
9 order a psychiatric or psychological examination of the defendant. For that
10 purpose, the court shall appoint two licensed physicians or licensed
11 psychologists, or one of each, qualified by training and practice to make
12 such examination, to examine the defendant and report their findings in
13 writing to the judge within 14 days after the order of examination is
14 issued. The defendant shall have the right to present evidence and cross-
15 examine any witnesses at the hearing. No statement made by the defendant
16 in the course of any examination provided for by this section, whether or
17 not the defendant consents to the examination, shall be admitted in
18 evidence against the defendant in any criminal proceeding.

19 (d) If, at the conclusion of a hearing pursuant to subsection (a), the
20 court determines that the defendant is not ~~mentally-retarded a person with~~
21 *intellectual disability*, the defendant shall be sentenced in accordance with
22 K.S.A. 2011 Supp. 21-6617, 21-6619, 21-6624, 21-6625, 21-6628 and 21-
23 6629, and amendments thereto.

24 (e) If, at the conclusion of a hearing pursuant to subsection (b), the
25 court determines that the defendant is not ~~mentally-retarded a person with~~
26 *intellectual disability*, the defendant shall be sentenced in accordance with
27 K.S.A. 2011 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and
28 amendments thereto.

29 (f) If, at the conclusion of a hearing pursuant to this section, the court
30 determines that the defendant is ~~mentally-retarded a person with~~
31 *intellectual disability*, the court shall sentence the defendant as otherwise
32 provided by law, and no sentence of death, life without the possibility of
33 parole, or mandatory term of imprisonment shall be imposed hereunder.

34 (g) Unless otherwise ordered by the court for good cause shown, the
35 provisions of subsection (b) shall not apply if it has been determined,
36 pursuant to a hearing granted under the provisions of subsection (a), that
37 the defendant is not ~~mentally-retarded a person with intellectual disability~~.

38 (h) As used in this section, "~~mentally-retarded intellectual disability~~"
39 means having significantly subaverage general intellectual functioning, as
40 defined by K.S.A. 76-12b01, and amendments thereto, to an extent which
41 substantially impairs one's capacity to appreciate the criminality of one's
42 conduct or to conform one's conduct to the requirements of law.

43 Sec. 17. K.S.A. 2011 Supp. 39-923 is hereby amended to read as

1 follows: 39-923. (a) As used in this act:

2 (1) "Adult care home" means any nursing facility, nursing facility for
3 mental health, intermediate care facility for ~~the mentally-retarded~~ *people*
4 *with intellectual disability*, assisted living facility, residential health care
5 facility, home plus, boarding care home and adult day care facility; all of
6 which are classifications of adult care homes and are required to be
7 licensed by the secretary of aging.

8 (2) "Nursing facility" means any place or facility operating 24 hours a
9 day, seven days a week, caring for six or more individuals not related
10 within the third degree of relationship to the administrator or owner by
11 blood or marriage and who, due to functional impairments, need skilled
12 nursing care to compensate for activities of daily living limitations.

13 (3) "Nursing facility for mental health" means any place or facility
14 operating 24 hours a day, seven days a week, caring for six or more
15 individuals not related within the third degree of relationship to the
16 administrator or owner by blood or marriage and who, due to functional
17 impairments, need skilled nursing care and special mental health services
18 to compensate for activities of daily living limitations.

19 (4) "Intermediate care facility for ~~the mentally-retarded~~ *people with*
20 *intellectual disability*" means any place or facility operating 24 hours a
21 day, seven days a week, caring for six or more individuals not related
22 within the third degree of relationship to the administrator or owner by
23 blood or marriage and who, due to functional impairments caused by
24 ~~mental-retardation~~ *intellectual disability* or related conditions, need
25 services to compensate for activities of daily living limitations.

26 (5) "Assisted living facility" means any place or facility caring for six
27 or more individuals not related within the third degree of relationship to
28 the administrator, operator or owner by blood or marriage and who, by
29 choice or due to functional impairments, may need personal care and may
30 need supervised nursing care to compensate for activities of daily living
31 limitations and in which the place or facility includes apartments for
32 residents and provides or coordinates a range of services including
33 personal care or supervised nursing care available 24 hours a day, seven
34 days a week, for the support of resident independence. The provision of
35 skilled nursing procedures to a resident in an assisted living facility is not
36 prohibited by this act. Generally, the skilled services provided in an
37 assisted living facility shall be provided on an intermittent or limited term
38 basis, or if limited in scope, a regular basis.

39 (6) "Residential health care facility" means any place or facility, or a
40 contiguous portion of a place or facility, caring for six or more individuals
41 not related within the third degree of relationship to the administrator,
42 operator or owner by blood or marriage and who, by choice or due to
43 functional impairments, may need personal care and may need supervised

1 nursing care to compensate for activities of daily living limitations and in
2 which the place or facility includes individual living units and provides or
3 coordinates personal care or supervised nursing care available on a 24-
4 hour, seven-days-a-week basis for the support of resident independence.
5 The provision of skilled nursing procedures to a resident in a residential
6 health care facility is not prohibited by this act. Generally, the skilled
7 services provided in a residential health care facility shall be provided on
8 an intermittent or limited term basis, or if limited in scope, a regular basis.

9 (7) "Home plus" means any residence or facility caring for not more
10 than 12 individuals not related within the third degree of relationship to the
11 operator or owner by blood or marriage unless the resident in need of care
12 is approved for placement by the secretary of the department of social and
13 rehabilitation services, and who, due to functional impairment, needs
14 personal care and may need supervised nursing care to compensate for
15 activities of daily living limitations. The level of care provided to residents
16 shall be determined by preparation of the staff and rules and regulations
17 developed by the department on aging. An adult care home may convert a
18 portion of one wing of the facility to a not less than five-bed and not more
19 than 12-bed home plus facility provided that the home plus facility
20 remains separate from the adult care home, and each facility must remain
21 contiguous. Any home plus that provides care for more than eight
22 individuals after the effective date of this act shall adjust staffing personnel
23 and resources as necessary to meet residents' needs in order to maintain the
24 current level of nursing care standards. Personnel of any home plus who
25 provide services for residents with dementia shall be required to take
26 annual dementia care training.

27 (8) "Boarding care home" means any place or facility operating 24
28 hours a day, seven days a week, caring for not more than 10 individuals
29 not related within the third degree of relationship to the operator or owner
30 by blood or marriage and who, due to functional impairment, need
31 supervision of activities of daily living but who are ambulatory and
32 essentially capable of managing their own care and affairs.

33 (9) "Adult day care" means any place or facility operating less than
34 24 hours a day caring for individuals not related within the third degree of
35 relationship to the operator or owner by blood or marriage and who, due to
36 functional impairment, need supervision of or assistance with activities of
37 daily living.

38 (10) "Place or facility" means a building or any one or more complete
39 floors of a building, or any one or more complete wings of a building, or
40 any one or more complete wings and one or more complete floors of a
41 building, and the term "place or facility" may include multiple buildings.

42 (11) "Skilled nursing care" means services performed by or under the
43 immediate supervision of a registered professional nurse and additional

1 licensed nursing personnel. Skilled nursing includes administration of
2 medications and treatments as prescribed by a licensed physician or
3 dentist; and other nursing functions which require substantial nursing
4 judgment and skill based on the knowledge and application of scientific
5 principles.

6 (12) "Supervised nursing care" means services provided by or under
7 the guidance of a licensed nurse with initial direction for nursing
8 procedures and periodic inspection of the actual act of accomplishing the
9 procedures; administration of medications and treatments as prescribed by
10 a licensed physician or dentist and assistance of residents with the
11 performance of activities of daily living.

12 (13) "Resident" means all individuals kept, cared for, treated, boarded
13 or otherwise accommodated in any adult care home.

14 (14) "Person" means any individual, firm, partnership, corporation,
15 company, association or joint-stock association, and the legal successor
16 thereof.

17 (15) "Operate an adult care home" means to own, lease, establish,
18 maintain, conduct the affairs of or manage an adult care home, except that
19 for the purposes of this definition the word "own" and the word "lease"
20 shall not include hospital districts, cities and counties which hold title to an
21 adult care home purchased or constructed through the sale of bonds.

22 (16) "Licensing agency" means the secretary of aging.

23 (17) "Skilled nursing home" means a nursing facility.

24 (18) "Intermediate nursing care home" means a nursing facility.

25 (19) "Apartment" means a private unit which includes, but is not
26 limited to, a toilet room with bathing facilities, a kitchen, sleeping, living
27 and storage area and a lockable door.

28 (20) "Individual living unit" means a private unit which includes, but
29 is not limited to, a toilet room with bathing facilities, sleeping, living and
30 storage area and a lockable door.

31 (21) "Operator" means an individual who operates an assisted living
32 facility or residential health care facility with fewer than 61 residents, a
33 home plus or adult day care facility and has completed a course approved
34 by the secretary of health and environment on principles of assisted living
35 and has successfully passed an examination approved by the secretary of
36 health and environment on principles of assisted living and such other
37 requirements as may be established by the secretary of health and
38 environment by rules and regulations.

39 (22) "Activities of daily living" means those personal, functional
40 activities required by an individual for continued well-being, including but
41 not limited to eating, nutrition, dressing, personal hygiene, mobility,
42 toileting.

43 (23) "Personal care" means care provided by staff to assist an

1 individual with, or to perform activities of daily living.

2 (24) "Functional impairment" means an individual has experienced a
3 decline in physical, mental and psychosocial well-being and as a result, is
4 unable to compensate for the effects of the decline.

5 (25) "Kitchen" means a food preparation area that includes a sink,
6 refrigerator and a microwave oven or stove.

7 (26) The term "intermediate personal care home" for purposes of
8 those individuals applying for or receiving veterans' benefits means
9 residential health care facility.

10 (27) "Paid nutrition assistant" means an individual who is paid to feed
11 residents of an adult care home, or who is used under an arrangement with
12 another agency or organization, who is trained by a person meeting nurse
13 aide instructor qualifications as prescribed by 42 C.F.R. § 483.152, 42
14 C.F.R. § 483.160 and paragraph (h) of 42 C.F.R. § 483.35, and who
15 provides such assistance under the supervision of a registered professional
16 or licensed practical nurse.

17 (b) The term "adult care home" shall not include institutions operated
18 by federal or state governments, except institutions operated by the Kansas
19 commission on veterans affairs, hospitals or institutions for the treatment
20 and care of psychiatric patients, child care facilities, maternity centers,
21 hotels, offices of physicians or hospices which are certified to participate
22 in the medicare program under 42 code of federal regulations, chapter IV,
23 section 418.1 *et seq.*, and amendments thereto, and which provide services
24 only to hospice patients.

25 (c) Nursing facilities in existence on the effective date of this act
26 changing licensure categories to become residential health care facilities
27 shall be required to provide private bathing facilities in a minimum of 20%
28 of the individual living units.

29 (d) Facilities licensed under the adult care home licensure act on the
30 day immediately preceding the effective date of this act shall continue to
31 be licensed facilities until the annual renewal date of such license and may
32 renew such license in the appropriate licensure category under the adult
33 care home licensure act subject to the payment of fees and other conditions
34 and limitations of such act.

35 (e) Nursing facilities with less than 60 beds converting a portion of
36 the facility to residential health care shall have the option of licensing for
37 residential health care for less than six individuals but not less than 10% of
38 the total bed count within a contiguous portion of the facility.

39 (f) The licensing agency may by rule and regulation change the name
40 of the different classes of homes when necessary to avoid confusion in
41 terminology and the agency may further amend, substitute, change and in a
42 manner consistent with the definitions established in this section, further
43 define and identify the specific acts and services which shall fall within the

1 respective categories of facilities so long as the above categories for adult
2 care homes are used as guidelines to define and identify the specific acts.

3 Sec. 18. K.S.A. 39-927 is hereby amended to read as follows: 39-927.

4 An application for a license to operate an adult care home shall be made in
5 writing to the licensing agency upon forms provided by it and shall be in
6 such form and shall contain such information as the licensing agency shall
7 require, which may include affirmative evidence of the applicant's ability
8 to comply with such reasonable standards and rules and regulations as are
9 adopted under the provisions of this act. The application shall be signed
10 by the person or persons seeking to operate an adult care home, as
11 specified by the licensing agency, or by a duly authorized agent of any
12 person so specified. Any nonprofit corporation operating a nursing facility
13 for ~~the mentally retarded~~ *people with intellectual disability* which, on the
14 effective date of this act, includes more than one residential building
15 located on one site or on contiguous sites may apply for a license to
16 operate a new nursing facility for ~~the mentally retarded~~ *people with*
17 *intellectual disability* which includes more than one residential building
18 located on one site or on contiguous sites and may apply for one license
19 for each residential building located on the new site, except that total
20 resident population at any such location shall not exceed 75 residents.

21 Sec. 19. K.S.A. 2011 Supp. 39-936 is hereby amended to read as
22 follows: 39-936. (a) The presence of each resident in an adult care home
23 shall be covered by a statement provided at the time of admission, or prior
24 thereto, setting forth the general responsibilities and services and daily or
25 monthly charges for such responsibilities and services. Each resident shall
26 be provided with a copy of such statement, with a copy going to any
27 individual responsible for payment of such services and the adult care
28 home shall keep a copy of such statement in the resident's file. No such
29 statement shall be construed to relieve any adult care home of any
30 requirement or obligation imposed upon it by law or by any requirement,
31 standard or rule and regulation adopted pursuant thereto.

32 (b) A qualified person or persons shall be in attendance at all times
33 upon residents receiving accommodation, board, care, training or treatment
34 in adult care homes. The licensing agency may establish necessary
35 standards and rules and regulations prescribing the number, qualifications,
36 training, standards of conduct and integrity for such qualified person or
37 persons attendant upon the residents.

38 (c) (1) The licensing agency shall require unlicensed employees of an
39 adult care home, except an adult care home licensed for the provision of
40 services to ~~the mentally retarded~~ *people with intellectual disability* which
41 has been granted an exception by the secretary of aging upon a finding by
42 the licensing agency that an appropriate training program for unlicensed
43 employees is in place for such adult care home, employed on and after the

1 effective date of this act who provide direct, individual care to residents
2 and who do not administer medications to residents and who have not
3 completed a course of education and training relating to resident care and
4 treatment approved by the secretary of health and environment or are not
5 participating in such a course on the effective date of this act to complete
6 successfully 40 hours of training in basic resident care skills. Any
7 unlicensed person who has not completed 40 hours of training relating to
8 resident care and treatment approved by the secretary of health and
9 environment shall not provide direct, individual care to residents. The 40
10 hours of training shall be supervised by a registered professional nurse and
11 the content and administration thereof shall comply with rules and
12 regulations adopted by the secretary of health and environment. The 40
13 hours of training may be prepared and administered by an adult care home
14 or by any other qualified person and may be conducted on the premises of
15 the adult care home. The 40 hours of training required in this section shall
16 be a part of any course of education and training required by the secretary
17 of health and environment under subsection (c)(2). Training for paid
18 nutrition assistants shall consist of at least eight hours of instruction, at a
19 minimum, which meets the requirements of 42 C.F.R. § 483.160.

20 (2) The licensing agency may require unlicensed employees of an
21 adult care home, except an adult care home licensed for the provision of
22 services to ~~the mentally retarded~~ *people with intellectual disability* which
23 has been granted an exception by the secretary of health and environment
24 upon a finding by the licensing agency that an appropriate training
25 program for unlicensed employees is in place for such adult care home,
26 who provide direct, individual care to residents and who do not administer
27 medications to residents and who do not meet the definition of paid
28 nutrition assistance under paragraph (a)(27) of K.S.A. 39-923, and
29 amendments thereto after 90 days of employment to successfully complete
30 an approved course of instruction and an examination relating to resident
31 care and treatment as a condition to continued employment by an adult
32 care home. A course of instruction may be prepared and administered by
33 any adult care home or by any other qualified person. A course of
34 instruction prepared and administered by an adult care home may be
35 conducted on the premises of the adult care home which prepared and
36 which will administer the course of instruction. The licensing agency shall
37 not require unlicensed employees of an adult care home who provide
38 direct, individual care to residents and who do not administer medications
39 to residents to enroll in any particular approved course of instruction as a
40 condition to the taking of an examination, but the secretary of health and
41 environment shall prepare guidelines for the preparation and
42 administration of courses of instruction and shall approve or disapprove
43 courses of instruction. Unlicensed employees of adult care homes who

1 provide direct, individual care to residents and who do not administer
2 medications to residents may enroll in any approved course of instruction
3 and upon completion of the approved course of instruction shall be eligible
4 to take an examination. The examination shall be prescribed by the
5 secretary of health and environment, shall be reasonably related to the
6 duties performed by unlicensed employees of adult care homes who
7 provide direct, individual care to residents and who do not administer
8 medications to residents and shall be the same examination given by the
9 secretary of health and environment to all unlicensed employees of adult
10 care homes who provide direct, individual care to residents and who do not
11 administer medications.

12 (3) The secretary of health and environment shall fix, charge and
13 collect a fee to cover all or any part of the costs of the licensing agency
14 under this subsection (c). The fee shall be fixed by rules and regulations of
15 the secretary of health and environment. The fee shall be remitted to the
16 state treasurer in accordance with the provisions of K.S.A. 75-4215, and
17 amendments thereto. Upon receipt of each such remittance, the state
18 treasurer shall deposit the entire amount in the state treasury to the credit
19 of the state general fund.

20 (4) The secretary of health and environment shall establish a state
21 registry containing information about unlicensed employees of adult care
22 homes who provide direct, individual care to residents and who do not
23 administer medications in compliance with the requirements pursuant to
24 PL 100-203, Subtitle C, as amended November 5, 1990.

25 (5) No adult care home shall use an individual as an unlicensed
26 employee of the adult care home who provides direct, individual care to
27 residents and who does not administer medications unless the facility has
28 inquired of the state registry as to information contained in the registry
29 concerning the individual.

30 (6) Beginning July 1, 1993, the adult care home must require any
31 unlicensed employee of the adult care home who provides direct,
32 individual care to residents and who does not administer medications and
33 who since passing the examination required under paragraph (2) of this
34 subsection has had a continuous period of 24 consecutive months during
35 none of which the unlicensed employee provided direct, individual care to
36 residents to complete an approved refresher course. The secretary of health
37 and environment shall prepare guidelines for the preparation and
38 administration of refresher courses and shall approve or disapprove
39 courses.

40 (d) Any person who has been employed as an unlicensed employee of
41 an adult care home in another state may be so employed in this state
42 without an examination if the secretary of health and environment
43 determines that such other state requires training or examination, or both,

1 for such employees at least equal to that required by this state.

2 (e) All medical care and treatment shall be given under the direction
3 of a physician authorized to practice under the laws of this state and shall
4 be provided promptly as needed.

5 (f) No adult care home shall require as a condition of admission to or
6 as a condition to continued residence in the adult care home that a person
7 change from a supplier of medication needs of their choice to a supplier of
8 medication selected by the adult care home. Nothing in this subsection (f)
9 shall be construed to abrogate or affect any agreements entered into prior
10 to the effective date of this act between the adult care home and any person
11 seeking admission to or resident of the adult care home.

12 (g) Except in emergencies as defined by rules and regulations of the
13 licensing agency and except as otherwise authorized under federal law, no
14 resident may be transferred from or discharged from an adult care home
15 involuntarily unless the resident or legal guardian of the resident has been
16 notified in writing at least 30 days in advance of a transfer or discharge of
17 the resident.

18 (h) No resident who relies in good faith upon spiritual means or
19 prayer for healing shall, if such resident objects thereto, be required to
20 undergo medical care or treatment.

21 Sec. 20. K.S.A. 39-971 is hereby amended to read as follows: 39-971.

22 (a) Notwithstanding any provision of law to the contrary, and within the
23 limits of appropriations therefor, the secretary of social and rehabilitation
24 services and the secretary on aging shall establish a quality enhancement
25 wage pass-through program as part of the state medicaid plan to allow
26 nursing facilities electing to participate in such program a payment option
27 of not to exceed \$4 per resident day designed to increase salaries or
28 benefits, or both, for those employees providing direct care and support
29 services to residents of nursing facilities. The categories of employees
30 eligible to receive the wage pass-through are the following: Nurse aides,
31 medication aides, restorative-rehabilitation aides, licensed mental health
32 technicians, plant operating and maintenance personnel, nonsupervisory
33 dietary personnel, laundry personnel, housekeeping personnel and
34 nonsupervisory activity staff. The program shall establish a pass-through
35 wage payment system designed to reimburse facilities during the
36 reimbursement period in which the pass-through wage payment costs are
37 incurred.

38 (b) Nursing facilities shall have the option to elect to participate in the
39 quality enhancement wage pass-through program. The wage pass-through
40 moneys are to be paid to nursing facilities outside of cost center limits or
41 occupancy penalties as a pass-through labor cost reimbursement. The pass-
42 through cost shall be included in the cost report base.

43 (c) The quality enhancement wage pass-through program shall

1 require quarterly wage audits for all nursing facilities participating in the
2 program. The quarterly wage audits will require facilities to submit cost
3 information within 45 days of the end of each quarter reporting on the use
4 of the wage pass-through payment under the quality enhancement wage
5 pass-through program. This quarterly wage audit process shall be used to
6 assure that the wage pass-through payment was used to increase salaries
7 and benefits to direct care and other support staff as specified in this
8 subsection or to hire additional staff that fall into the eligible personnel
9 categories specified in this subsection.

10 (d) No wage pass-through moneys shall be expended to increase
11 management compensation or facility profits. A nursing facility
12 participating in the quality enhancement wage pass-through program
13 which fails to file quarterly enhancement audit reports shall be terminated
14 from the program and shall repay all amounts which the nursing facility
15 has received under the quality enhancement wage pass-through program
16 for that reporting period.

17 (e) All expenditures for the quality enhancement wage pass-through
18 program shall be made only from moneys specifically appropriated
19 therefor.

20 (f) As used in this section, "nursing facility" means a nursing facility
21 as defined under K.S.A. 39-923, and amendments thereto, or an
22 intermediate care facility for ~~the mentally retarded~~ *people with intellectual*
23 *disability* as defined under K.S.A. 39-923, and amendments thereto.

24 Sec. 21. K.S.A. 39-1001 is hereby amended to read as follows: 39-
25 1001. The purpose of this act shall be to aid in development, maintenance,
26 improvement or expansion of day care programs for ~~the mentally retarded~~
27 ~~and other handicapped~~ *children with intellectual or other disabilities* in
28 this state.

29 Sec. 22. K.S.A. 39-1002 is hereby amended to read as follows: 39-
30 1002. The secretary of social and rehabilitation services hereinafter
31 referred to as the secretary is hereby designated as the official of this state
32 authorized to accept and disburse funds made available to the secretary for
33 grants-in-aid to eligible local community organizations for day care
34 programs for ~~mentally retarded or other handicapped~~ *children with*
35 *intellectual or other disabilities*. The secretary is authorized to accept any
36 moneys made available to the state by the federal government or any
37 agency thereof and to accept and account for state appropriations, gifts and
38 donations from any other sources.

39 Sec. 23. K.S.A. 39-1005 is hereby amended to read as follows: 39-
40 1005. The purpose of grants-in-aid shall be: (a) To encourage the
41 development of local community initiative in broadening the scope of
42 noninstitutional care and training programs for ~~persons handicapped by~~
43 ~~mental retardation or otherwise handicapped~~ *people with intellectual or*

1 *other disabilities*; (b) to maintain minimum standards for the operations of
2 such programs; (c) to review the experience of individual programs as they
3 develop; *and* (d) to foster the progress of day care programs to
4 successively higher levels of quality and service. Grants-in-aid under the
5 provisions of this act shall only supplement local funds, shall not exceed
6 one-half of the cost of operating expenses of day care centers for ~~retarded~~
7 ~~or other handicapped~~ children *with intellectual or other disabilities* and
8 shall not be used for the purchase or construction of buildings.

9 Sec. 24. K.S.A. 39-1006 is hereby amended to read as follows: 39-
10 1006. Day care programs shall be those which provide day service for
11 development in self-help, social, recreational, and work skills for ~~mentally~~
12 ~~retarded and other handicapped persons~~ *people with intellectual and other*
13 *disabilities*, giving priority to providing services for ~~the severely and~~
14 ~~young retarded or handicapped~~ *people with severe intellectual and other*
15 *disabilities*.

16 Sec. 25. K.S.A. 39-1007 is hereby amended to read as follows: 39-
17 1007. Eligible local community organizations shall be organizations which
18 are nonprofit charitable agencies operating day care programs under public
19 or private auspices (excluding public schools), and serving ~~the mentally~~
20 ~~retarded or handicapped~~ *people with intellectual or other disabilities*
21 without regard to race, religion, or color, or national origin. Such
22 organizations shall be licensed in accordance with the provisions of article
23 5 of chapter 65 of the Kansas Statutes Annotated, *and amendments thereto*.

24 Sec. 26. K.S.A. 39-1201 is hereby amended to read as follows: 39-
25 1201. The purpose of this act will be to aid in development, maintenance,
26 improvement or expansion of rehabilitation facilities and half-way houses
27 serving ~~the mentally retarded and other handicapped~~ adults *with*
28 *intellectual and other disabilities* in this state.

29 Sec. 27. K.S.A. 39-1202 is hereby amended to read as follows: 39-
30 1202. The secretary of social and rehabilitation services, hereinafter
31 referred to as the secretary, is hereby designated as the official of this state
32 authorized to accept and disburse funds made available to said secretary
33 for grants in aid to eligible local community organizations for
34 rehabilitation facilities and half-way houses for ~~the mentally retarded and~~
35 ~~other handicapped~~ adults *with intellectual and other disabilities*. The
36 secretary is authorized to accept any moneys made available to the state by
37 the federal government or any agency thereof, and to accept and account
38 for state appropriations, gifts and donations from any other sources.

39 Sec. 28. K.S.A. 39-1205 is hereby amended to read as follows: 39-
40 1205. The purpose of grants-in-aid shall be: (a) To encourage the
41 development of local community initiative in broadening the scope of
42 noninstitutional care and training programs for ~~persons handicapped by~~
43 ~~mental retardation or other handicaps~~ *people with intellectual or other*

1 *disabilities*; (b) to maintain minimum standards in the operation of such
2 programs; (c) to review the experiences of the individual community
3 programs as they develop or maintain their programs; (d) to foster the
4 progress of rehabilitation programs and half-way house programs to higher
5 levels of quality and service. Grants-in-aid under the provisions of this act
6 shall only supplement funds, shall not exceed ~~one-half (1/2)~~ ^{1/2} of the cost
7 of operating expense of rehabilitation facilities or half-way houses for
8 ~~mentally retarded or other handicapped~~ *adults with intellectual or other*
9 *disabilities* and shall not be used for the purchase or construction of
10 buildings.

11 Sec. 29. K.S.A. 39-1207 is hereby amended to read as follows: 39-
12 1207. Eligible local community organizations shall be organizations which
13 are nonprofit, charitable agencies, operating sheltered workshop programs
14 and half-way house programs under private auspices and serving ~~the~~
15 ~~mentally retarded or other handicapped~~ *people with intellectual or other*
16 *disabilities* without regard to race, religion, color, ancestry or national
17 origin. Such organizations shall be licensed in accordance with the
18 provisions of existing statutes.

19 Sec. 30. K.S.A. 2011 Supp. 39-1401 is hereby amended to read as
20 follows: 39-1401. As used in this act:

21 (a) "Resident" means:

22 (1) Any resident, as defined by K.S.A. 39-923 and amendments
23 thereto; or

24 (2) any individual kept, cared for, treated, boarded or otherwise
25 accommodated in a medical care facility; or

26 (3) any individual, kept, cared for, treated, boarded or otherwise
27 accommodated in a state psychiatric hospital or state institution for ~~the~~
28 ~~mentally retarded~~ *people with intellectual disability*.

29 (b) "Adult care home" has the meaning ascribed thereto in K.S.A. 39-
30 923, and amendments thereto.

31 (c) "In need of protective services" means that a resident is unable to
32 perform or obtain services which are necessary to maintain physical or
33 mental health, or both.

34 (d) "Services which are necessary to maintain physical and mental
35 health" include, but are not limited to, the provision of medical care for
36 physical and mental health needs, the relocation of a resident to a facility
37 or institution able to offer such care, assistance in personal hygiene, food,
38 clothing, adequately heated and ventilated shelter, protection from health
39 and safety hazards, protection from maltreatment the result of which
40 includes, but is not limited to, malnutrition, deprivation of necessities or
41 physical punishment and transportation necessary to secure any of the
42 above stated needs, except that this term shall not include taking such
43 person into custody without consent, except as provided in this act.

1 (e) "Protective services" means services provided by the state or other
2 governmental agency or any private organizations or individuals which are
3 necessary to prevent abuse, neglect or exploitation. Such protective
4 services shall include, but not be limited to, evaluation of the need for
5 services, assistance in obtaining appropriate social services and assistance
6 in securing medical and legal services.

7 (f) "Abuse" means any act or failure to act performed intentionally or
8 recklessly that causes or is likely to cause harm to a resident, including:

9 (1) Infliction of physical or mental injury;

10 (2) any sexual act with a resident when the resident does not consent
11 or when the other person knows or should know that the resident is
12 incapable of resisting or declining consent to the sexual act due to mental
13 deficiency or disease or due to fear of retribution or hardship;

14 (3) unreasonable use of a physical restraint, isolation or medication
15 that harms or is likely to harm a resident;

16 (4) unreasonable use of a physical or chemical restraint, medication
17 or isolation as punishment, for convenience, in conflict with a physician's
18 orders or as a substitute for treatment, except where such conduct or
19 physical restraint is in furtherance of the health and safety of the resident
20 or another resident;

21 (5) a threat or menacing conduct directed toward a resident that
22 results or might reasonably be expected to result in fear or emotional or
23 mental distress to a resident;

24 (6) fiduciary abuse; or

25 (7) omission or deprivation by a caretaker or another person of goods
26 or services which are necessary to avoid physical or mental harm or
27 illness.

28 (g) "Neglect" means the failure or omission by one's self, caretaker or
29 another person with a duty to provide goods or services which are
30 reasonably necessary to ensure safety and well-being and to avoid physical
31 or mental harm or illness.

32 (h) "Caretaker" means a person or institution who has assumed the
33 responsibility, whether legally or not, for the care of the resident
34 voluntarily, by contract or by order of a court of competent jurisdiction.

35 (i) "Exploitation" means misappropriation of resident property or
36 intentionally taking unfair advantage of an adult's physical or financial
37 resources for another individual's personal or financial advantage by the
38 use of undue influence, coercion, harassment, duress, deception, false
39 representation or false pretense by a caretaker or another person.

40 (j) "Medical care facility" means a facility licensed under K.S.A. 65-
41 425 *et seq.*, and amendments thereto, but shall not include, for purposes of
42 this act, a state psychiatric hospital or state institution for ~~the mentally~~
43 ~~retarded~~ *people with intellectual disability*, including Larned state hospital,

1 Osawatomie state hospital and Rainbow mental health facility, Kansas
2 neurological institute and Parsons state hospital and training center.

3 (k) "Fiduciary abuse" means a situation in which any person who is
4 the caretaker of, or who stands in a position of trust to, a resident, takes,
5 secretes, or appropriates the resident's money or property, to any use or
6 purpose not in the due and lawful execution of such person's trust.

7 (l) "State psychiatric hospital" means Larned state hospital,
8 Osawatomie state hospital and Rainbow mental health facility.

9 (m) "State institution for ~~the mentally retarded~~ *people with*
10 *intellectual disability*" means Kansas neurological institute and Parsons
11 state hospital and training center.

12 (n) "Report" means a description or accounting of an incident or
13 incidents of abuse, neglect or exploitation under this act and for the
14 purposes of this act shall not include any written assessment or findings.

15 (o) "Law enforcement" means the public office which is vested by
16 law with the duty to maintain public order, make arrests for crimes and
17 investigate criminal acts, whether that duty extends to all crimes or is
18 limited to specific crimes.

19 (p) "Legal representative" means an agent designated in a durable
20 power of attorney, power of attorney or durable power of attorney for
21 health care decisions or a court appointed guardian, conservator or trustee.

22 (q) "Financial institution" means any bank, trust company, escrow
23 company, finance company, saving institution or credit union, chartered
24 and supervised under state or federal law.

25 (r) "Governmental assistance provider" means an agency, or
26 employee of such agency, which is funded solely or in part to provide
27 assistance within the Kansas senior care act, K.S.A. 75-5926 *et seq.*, and
28 amendments thereto, including medicaid and medicare.

29 No person shall be considered to be abused, neglected or exploited or
30 in need of protective services for the sole reason that such person relies
31 upon spiritual means through prayer alone for treatment in accordance
32 with the tenets and practices of a recognized church or religious
33 denomination in lieu of medical treatment.

34 Sec. 31. K.S.A. 2011 Supp. 39-1702 is hereby amended to read as
35 follows: 39-1702. As used in this act:

36 (a) "Children and adolescents who require multiple levels and kinds
37 of specialized services which are beyond the capability of one agency"
38 means children and adolescents who are residents of Kansas, and with
39 respect to whom there is documentation that: (1) Various agencies have
40 acknowledged the need for a certain type of service and have taken action
41 to provide that level of care; (2) various agencies have collaborated to
42 develop a program plan to meet the needs of the child or adolescent; and
43 (3) various agencies have collaborated to develop programs and funding to

1 meet the need of the child or adolescent, and that existing or alternative
2 programs and funding have been exhausted or are insufficient or
3 inappropriate in view of the distinctive nature of the situation of the child
4 or adolescent.

5 (b) "Agency" means and includes county health departments, area
6 offices of the department of social and rehabilitation services, district
7 offices of the department of health and environment, local offices of the
8 department of labor, boards of education of public school districts,
9 community mental health centers, community facilities for ~~the mentally~~
10 ~~retarded/developmentally disabled~~ *people with intellectual or*
11 *developmental disabilities, or both*, district courts, county commissions,
12 and law enforcement agencies.

13 (c) "Authorized decision makers" means agency representatives who
14 have the authority to commit the resources of the agency they represent in
15 the provision of services to any child or adolescent whose needs are
16 brought before a regional interagency council.

17 (d) "District court" means the chief judge for a judicial district.

18 (e) "Parent" means a natural parent, an adoptive parent, a stepparent,
19 a foster care provider of a child or adolescent for whom services are
20 needed from more than one agency, or a person acting as parent of a child
21 or adolescent for whom services are needed from more than one agency.

22 (f) "Person acting as parent" means a guardian or conservator, or a
23 person, other than a parent, who is liable by law to maintain, care for, or
24 support a child or adolescent, or who has actual care and custody of the
25 child or adolescent and is contributing the major portion of the cost of
26 support of the child or adolescent, or who has actual care and control of
27 the child or adolescent with the written consent of a person who has legal
28 custody of the child or adolescent, or who has been granted custody of the
29 child or adolescent, by a court of competent jurisdiction.

30 Sec. 32. K.S.A. 39-1803 is hereby amended to read as follows: 39-
31 1803. As used in the developmental disabilities reform act:

32 (a) "Adaptive behavior" means the effectiveness or degree with which
33 an individual meets the standards of personal independence and social
34 responsibility expected of that person's age, cultural group and community.

35 (b) "Affiliate" means an entity or person that meets standards set out
36 in rules and regulations adopted by the secretary relating to the provision
37 of services and that contracts with a community developmental disabilities
38 organization.

39 (c) "Community services" means services provided to meet the needs
40 of persons with developmental disabilities relating to work, living in the
41 community, and individualized supports and services.

42 (d) "Community developmental disability organization" means any
43 community ~~mental-retardation~~ *facility for people with intellectual*

1 *disability* that is organized pursuant to K.S.A. 19-4001 through 19-4015,
2 and amendments thereto.

3 (e) "Community service provider" means a community
4 developmental disability organization or affiliate thereof.

5 (f) "Developmental disability" means:

6 (1) ~~Mental retardation~~ *Intellectual disability*; or

7 (2) a severe, chronic disability, which:

8 (A) Is attributable to a mental or physical impairment, a combination
9 of mental and physical impairments or a condition which has received a
10 dual diagnosis of ~~mental retardation~~ *intellectual disability* and mental
11 illness;

12 (B) is manifest before 22 years of age;

13 (C) is likely to continue indefinitely;

14 (D) results, in the case of a person five years of age or older, in a
15 substantial limitation in three or more of the following areas of major life
16 functioning: Self-care, receptive and expressive language development and
17 use, learning and adapting, mobility, self-direction, capacity for
18 independent living and economic self-sufficiency;

19 (E) reflects a need for a combination and sequence of special
20 interdisciplinary or generic care, treatment or other services which are
21 lifelong, or extended in duration and are individually planned and
22 coordinated; and

23 (F) does not include individuals who are solely and severely
24 emotionally disturbed or seriously or persistently mentally ill or have
25 disabilities solely as a result of the infirmities of aging.

26 (g) "Institution" means state institution for ~~the mentally retarded~~
27 *people with intellectual disability* as defined by subsection (c) of K.S.A.
28 76-12b01, and amendments thereto, or intermediate care facility for ~~the~~
29 ~~mentally retarded~~ *people with intellectual disabilities* of nine beds or more
30 as defined by subsection (a) (4) of K.S.A. 39-923, and amendments
31 thereto.

32 (h) "~~Mental retardation~~ *Intellectual disability*" means substantial
33 limitations in present functioning that is manifested during the period from
34 birth to age 18 years and is characterized by significantly subaverage
35 intellectual functioning existing concurrently with deficits in adaptive
36 behavior including related limitations in two or more of the following
37 applicable adaptive skill areas: Communication, self-care, home living,
38 social skills, community use, self-direction, health and safety, functional
39 academics, leisure and work.

40 (i) "Secretary" means the secretary of social and rehabilitation
41 services.

42 Sec. 33. K.S.A. 2011 Supp. 40-3401 is hereby amended to read as
43 follows: 40-3401. As used in this act the following terms shall have the

1 meanings respectively ascribed to them herein.

2 (a) "Applicant" means any health care provider.

3 (b) "Basic coverage" means a policy of professional liability
4 insurance required to be maintained by each health care provider pursuant
5 to the provisions of subsection (a) or (b) of K.S.A. 40-3402, and
6 amendments thereto.

7 (c) "Commissioner" means the commissioner of insurance.

8 (d) "Fiscal year" means the year commencing on the effective date of
9 this act and each year, commencing on the first day of that month,
10 thereafter.

11 (e) "Fund" means the health care stabilization fund established
12 pursuant to subsection (a) of K.S.A. 40-3403, and amendments thereto.

13 (f) "Health care provider" means a person licensed to practice any
14 branch of the healing arts by the state board of healing arts with the
15 exception of physician assistants, a person who holds a temporary permit
16 to practice any branch of the healing arts issued by the state board of
17 healing arts, a person engaged in a postgraduate training program
18 approved by the state board of healing arts, a medical care facility licensed
19 by the department of health and environment, a health maintenance
20 organization issued a certificate of authority by the commissioner of
21 insurance, a podiatrist licensed by the state board of healing arts, an
22 optometrist licensed by the board of examiners in optometry, a pharmacist
23 licensed by the state board of pharmacy, a licensed professional nurse who
24 is authorized to practice as a registered nurse anesthetist, a licensed
25 professional nurse who has been granted a temporary authorization to
26 practice nurse anesthesia under K.S.A. 65-1153, and amendments thereto,
27 a professional corporation organized pursuant to the professional
28 corporation law of Kansas by persons who are authorized by such law to
29 form such a corporation and who are health care providers as defined by
30 this subsection, a Kansas limited liability company organized for the
31 purpose of rendering professional services by its members who are health
32 care providers as defined by this subsection and who are legally authorized
33 to render the professional services for which the limited liability company
34 is organized, a partnership of persons who are health care providers under
35 this subsection, a Kansas not-for-profit corporation organized for the
36 purpose of rendering professional services by persons who are health care
37 providers as defined by this subsection, a nonprofit corporation organized
38 to administer the graduate medical education programs of community
39 hospitals or medical care facilities affiliated with the university of Kansas
40 school of medicine, a dentist certified by the state board of healing arts to
41 administer anesthetics under K.S.A. 65-2899, and amendments thereto, a
42 psychiatric hospital licensed under K.S.A. 75-3307b, and amendments
43 thereto, or a mental health center or mental health clinic licensed by the

1 secretary of social and rehabilitation services, except that health care
2 provider does not include: (1) Any state institution for ~~the mentally~~
3 ~~retarded~~ *people with intellectual disability*; (2) any state psychiatric
4 hospital; (3) any person holding an exempt license issued by the state
5 board of healing arts; or (4) any person holding a visiting clinical
6 professor license from the state board of healing arts.

7 (g) "Inactive health care provider" means a person or other entity who
8 purchased basic coverage or qualified as a self-insurer on or subsequent to
9 the effective date of this act but who, at the time a claim is made for
10 personal injury or death arising out of the rendering of or the failure to
11 render professional services by such health care provider, does not have
12 basic coverage or self-insurance in effect solely because such person is no
13 longer engaged in rendering professional service as a health care provider.

14 (h) "Insurer" means any corporation, association, reciprocal
15 exchange, inter-insurer and any other legal entity authorized to write
16 bodily injury or property damage liability insurance in this state, including
17 workers compensation and automobile liability insurance, pursuant to the
18 provisions of the acts contained in article 9, 11, 12 or 16 of chapter 40 of
19 Kansas Statutes Annotated.

20 (i) "Plan" means the operating and administrative rules and
21 procedures developed by insurers and rating organizations or the
22 commissioner to make professional liability insurance available to health
23 care providers.

24 (j) "Professional liability insurance" means insurance providing
25 coverage for legal liability arising out of the performance of professional
26 services rendered or which should have been rendered by a health care
27 provider.

28 (k) "Rating organization" means a corporation, an unincorporated
29 association, a partnership or an individual licensed pursuant to K.S.A. 40-
30 956, and amendments thereto, to make rates for professional liability
31 insurance.

32 (l) "Self-insurer" means a health care provider who qualifies as a self-
33 insurer pursuant to K.S.A. 40-3414, and amendments thereto.

34 (m) "Medical care facility" means the same when used in the health
35 care provider insurance availability act as the meaning ascribed to that
36 term in K.S.A. 65-425, and amendments thereto, except that as used in the
37 health care provider insurance availability act such term, as it relates to
38 insurance coverage under the health care provider insurance availability
39 act, also includes any director, trustee, officer or administrator of a medical
40 care facility.

41 (n) "Mental health center" means a mental health center licensed by
42 the secretary of social and rehabilitation services under K.S.A. 75-3307b,
43 and amendments thereto, except that as used in the health care provider

1 insurance availability act such term, as it relates to insurance coverage
2 under the health care provider insurance availability act, also includes any
3 director, trustee, officer or administrator of a mental health center.

4 (o) "Mental health clinic" means a mental health clinic licensed by
5 the secretary of social and rehabilitation services under K.S.A. 75-3307b,
6 and amendments thereto, except that as used in the health care provider
7 insurance availability act such term, as it relates to insurance coverage
8 under the health care provider insurance availability act, also includes any
9 director, trustee, officer or administrator of a mental health clinic.

10 (p) "State institution for ~~the mentally retarded~~ *people with intellectual*
11 *disability*" means Winfield state hospital and training center, Parsons state
12 hospital and training center and the Kansas neurological institute.

13 (q) "State psychiatric hospital" means Larned state hospital,
14 Osawatomie state hospital and Rainbow mental health facility.

15 (r) "Person engaged in residency training" means:

16 (1) A person engaged in a postgraduate training program approved by
17 the state board of healing arts who is employed by and is studying at the
18 university of Kansas medical center only when such person is engaged in
19 medical activities which do not include extracurricular, extra-institutional
20 medical service for which such person receives extra compensation and
21 which have not been approved by the dean of the school of medicine and
22 the executive vice-chancellor of the university of Kansas medical center.
23 Persons engaged in residency training shall be considered resident health
24 care providers for purposes of K.S.A. 40-3401 *et seq.*, and amendments
25 thereto; and

26 (2) a person engaged in a postgraduate training program approved by
27 the state board of healing arts who is employed by a nonprofit corporation
28 organized to administer the graduate medical education programs of
29 community hospitals or medical care facilities affiliated with the university
30 of Kansas school of medicine or who is employed by an affiliate of the
31 university of Kansas school of medicine as defined in K.S.A. 76-367, and
32 amendments thereto, only when such person is engaged in medical
33 activities which do not include extracurricular, extra-institutional medical
34 service for which such person receives extra compensation and which have
35 not been approved by the chief operating officer of the nonprofit
36 corporation or the chief operating officer of the affiliate and the executive
37 vice-chancellor of the university of Kansas medical center.

38 (s) "Full-time physician faculty employed by the university of Kansas
39 medical center" means a person licensed to practice medicine and surgery
40 who holds a full-time appointment at the university of Kansas medical
41 center when such person is providing health care.

42 (t) "Sexual act" or "sexual activity" means that sexual conduct which
43 constitutes a criminal or tortious act under the laws of the state of Kansas.

1 Sec. 34. K.S.A. 2011 Supp. 50-676 is hereby amended to read as
2 follows: 50-676. As used in K.S.A. 50-676 through 50-679, and
3 amendments thereto:

4 (a) "Elder person" means a person who is 60 years of age or older.

5 (b) "Disabled person" means a person who has physical or mental
6 impairment, or both, which substantially limits one or more of such
7 person's major life activities.

8 (c) "Immediate family member" means parent, child, stepchild or
9 spouse.

10 (d) "Major life activities" includes functions such as caring for one's
11 self, performing manual tasks, walking, seeing, hearing, speaking,
12 breathing, learning and working.

13 (e) "Member of the military" means a member of the armed forces or
14 national guard on active duty or a member of an active reserve unit in the
15 armed forces or national guard.

16 (f) "Physical or mental impairment" means the following:

17 (1) Any physiological disorder or condition, cosmetic disfigurement
18 or anatomical loss substantially affecting one or more of the following
19 body systems: Neurological; musculoskeletal; special sense organs;
20 respiratory, including speech organs; cardiovascular; reproductive;
21 digestive; genitourinary; hemic and lymphatic; skin; or endocrine; or

22 (2) any mental or psychological disorder, such as ~~mental retardation~~
23 *intellectual disability*, organic brain syndrome, emotional or mental illness
24 and specific learning disabilities.

25 The term "physical or mental impairment" includes, but is not limited to,
26 such diseases and conditions as orthopedic, visual, speech and hearing
27 impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple
28 sclerosis, cancer, heart disease, diabetes, ~~mental retardation~~ *intellectual*
29 *disability* and emotional illness.

30 (g) "Protected consumer" means:

31 (1) An elder person;

32 (2) a disabled person;

33 (3) a veteran;

34 (4) the surviving spouse of a veteran; and

35 (5) an immediate family member of a member of the military.

36 (h) "Substantially limits" means:

37 (1) Unable to perform a major life activity that the average person in
38 the general population can perform; or

39 (2) significantly restricted as to the condition, manner or duration
40 under which an individual can perform a particular major life activity as
41 compared to the condition, manner or duration under which the average
42 person in the general population can perform that same major life activity.

43 Minor temporary ailments or injuries shall not be considered physical or

1 mental impairments which substantially limit a person's major life
2 activities. Minor temporary ailments include, but are not limited to, colds,
3 influenza or sprains or minor injuries.

4 (i) "Veteran" means a person who has served in the armed forces of
5 the United States of America and separated from the armed forces under
6 honorable conditions.

7 Sec. 35. K.S.A. 58-24a16 is hereby amended to read as follows: 58-
8 24a16. (a) Administrators, executors, conservators, trustees, insurance
9 companies and other financial institutions, charitable, educational,
10 eleemosynary corporations and organizations are authorized, in addition to
11 investments now authorized by law, to invest funds which they are
12 authorized by law to invest, in shares or savings deposits of federally
13 insured savings and loan associations or federally chartered savings banks
14 with main or branch offices, as defined in K.S.A. 12-1675a, and
15 amendments thereto, in the state of Kansas and in credit unions which are,
16 in whole or in part, insured with an insurer or guarantee corporation as
17 required under K.S.A. 17-2246, and amendments thereto, and such
18 investment shall be deemed and held to be legal investments for such
19 funds.

20 (b) The governing body of any municipal corporation or quasi-
21 municipal corporation, county, township, school district, area vocational-
22 technical school, community college, firemen's relief association,
23 community mental health center, community facility for ~~the mentally~~
24 ~~retarded~~ *people with intellectual disability* or any other governmental
25 entity, unit or division in the state of Kansas having authority to receive,
26 hold and expend public moneys or funds may invest the same subject to
27 and as provided by K.S.A. 9-1401, 9-1402, 9-1405, 9-1407, 12-1675 and
28 12-1676, and amendments thereto.

29 Sec. 36. K.S.A. 59-2946 is hereby amended to read as follows: 59-
30 2946. When used in the care and treatment act for mentally ill persons:

31 (a) "Discharge" means the final and complete release from treatment,
32 by either the head of a treatment facility acting pursuant to K.S.A. 59-
33 2950, and amendments thereto, or by an order of a court issued pursuant to
34 K.S.A. 59-2973, and amendments thereto.

35 (b) "Head of a treatment facility" means the administrative director of
36 a treatment facility or such person's designee.

37 (c) "Law enforcement officer" shall have the meaning ascribed to it in
38 K.S.A. 22-2202, and amendments thereto.

39 (d) (1) "Mental health center" means any community mental health
40 center organized pursuant to the provisions of K.S.A. 19-4001 through 19-
41 4015, and amendments thereto, or mental health clinic organized pursuant
42 to the provisions of K.S.A. 65-211 through 65-215, and amendments
43 thereto, or a mental health clinic organized as a not-for-profit or a for-

1 profit corporation pursuant to K.S.A. 17-1701 through 17-1775, and
2 amendments thereto or K.S.A. 17-6001 through 17-6010, and amendments
3 thereto, and licensed in accordance with the provisions of K.S.A. 75-
4 3307b, and amendments thereto.

5 (2) "Participating mental health center" means a mental health center
6 which has entered into a contract with the secretary of social and
7 rehabilitation services pursuant to the provisions of K.S.A. 39-1601
8 through 39-1612, and amendments thereto.

9 (e) "Mentally ill person" means any person who is suffering from a
10 mental disorder which is manifested by a clinically significant behavioral
11 or psychological syndrome or pattern and associated with either a painful
12 symptom or an impairment in one or more important areas of functioning,
13 and involving substantial behavioral, psychological or biological
14 dysfunction, to the extent that the person is in need of treatment.

15 (f) (1) "Mentally ill person subject to involuntary commitment for
16 care and treatment" means a mentally ill person, as defined in subsection
17 (e), who also lacks capacity to make an informed decision concerning
18 treatment, is likely to cause harm to self or others, and whose diagnosis is
19 not solely one of the following mental disorders: Alcohol or chemical
20 substance abuse; antisocial personality disorder; ~~mental retardation~~
21 *intellectual disability*; organic personality syndrome; or an organic mental
22 disorder.

23 (2) "Lacks capacity to make an informed decision concerning
24 treatment" means that the person, by reason of the person's mental
25 disorder, is unable, despite conscientious efforts at explanation, to
26 understand basically the nature and effects of hospitalization or treatment
27 or is unable to engage in a rational decision-making process regarding
28 hospitalization or treatment, as evidenced by an inability to weigh the
29 possible risks and benefits.

30 (3) "Likely to cause harm to self or others" means that the person, by
31 reason of the person's mental disorder: ~~(a)~~(A) Is likely, in the reasonably
32 foreseeable future, to cause substantial physical injury or physical abuse to
33 self or others or substantial damage to another's property, as evidenced by
34 behavior threatening, attempting or causing such injury, abuse or damage;
35 except that if the harm threatened, attempted or caused is only harm to the
36 property of another, the harm must be of such a value and extent that the
37 state's interest in protecting the property from such harm outweighs the
38 person's interest in personal liberty; or ~~(b)~~(B) is substantially unable,
39 except for reason of indigency, to provide for any of the person's basic
40 needs, such as food, clothing, shelter, health or safety, causing a substantial
41 deterioration of the person's ability to function on the person's own.

42 No person who is being treated by prayer in the practice of the religion
43 of any church which teaches reliance on spiritual means alone through

1 prayer for healing shall be determined to be a mentally ill person subject to
2 involuntary commitment for care and treatment under this act unless
3 substantial evidence is produced upon which the district court finds that
4 the proposed patient is likely in the reasonably foreseeable future to cause
5 substantial physical injury or physical abuse to self or others or substantial
6 damage to another's property, as evidenced by behavior threatening,
7 attempting or causing such injury, abuse or damage; except that if the harm
8 threatened, attempted or caused is only harm to the property of another, the
9 harm must be of such a value and extent that the state's interest in
10 protecting the property from such harm outweighs the person's interest in
11 personal liberty.

12 (g) "Patient" means a person who is a voluntary patient, a proposed
13 patient or an involuntary patient.

14 (1) "Voluntary patient" means a person who is receiving treatment at
15 a treatment facility pursuant to K.S.A. 59-2949, and amendments thereto.

16 (2) "Proposed patient" means a person for whom a petition pursuant
17 to K.S.A. 59-2952 or 59-2957, and amendments thereto, has been filed.

18 (3) "Involuntary patient" means a person who is receiving treatment
19 under order of a court or a person admitted and detained by a treatment
20 facility pursuant to an application filed pursuant to subsection (b) or (c) of
21 K.S.A. 59-2954, and amendments thereto.

22 (h) "Physician" means a person licensed to practice medicine and
23 surgery as provided for in the Kansas healing arts act or a person who is
24 employed by a state psychiatric hospital or by an agency of the United
25 States and who is authorized by law to practice medicine and surgery
26 within that hospital or agency.

27 (i) "Psychologist" means a licensed psychologist, as defined by
28 K.S.A. 74-5302, and amendments thereto.

29 (j) "Qualified mental health professional" means a physician or
30 psychologist who is employed by a participating mental health center or
31 who is providing services as a physician or psychologist under a contract
32 with a participating mental health center, a licensed masters level
33 psychologist, a licensed clinical psychotherapist, a licensed marriage and
34 family therapist, a licensed clinical marriage and family therapist, a
35 licensed professional counselor, a licensed clinical professional counselor,
36 a licensed specialist social worker or a licensed master social worker or a
37 registered nurse who has a specialty in psychiatric nursing, who is
38 employed by a participating mental health center and who is acting under
39 the direction of a physician or psychologist who is employed by, or under
40 contract with, a participating mental health center.

41 (1) "Direction" means monitoring and oversight including regular,
42 periodic evaluation of services.

43 (2) "Licensed master social worker" means a person licensed as a

1 master social worker by the behavioral sciences regulatory board under
2 K.S.A. 65-6301 through 65-6318, and amendments thereto.

3 (3) "Licensed specialist social worker" means a person licensed in a
4 social work practice specialty by the behavioral sciences regulatory board
5 under K.S.A. 65-6301 through 65-6318, and amendments thereto.

6 (4) "Licensed masters level psychologist" means a person licensed as
7 a licensed masters level psychologist by the behavioral sciences regulatory
8 board under K.S.A. 74-5361 through 74-5373, and amendments thereto.

9 (5) "Registered nurse" means a person licensed as a registered
10 professional nurse by the board of nursing under K.S.A. 65-1113 through
11 65-1164, and amendments thereto.

12 (k) "Secretary" means the secretary of social and rehabilitation
13 services.

14 (l) "State psychiatric hospital" means Larned state hospital,
15 Osawatomie state hospital, Rainbow mental health facility or Topeka state
16 hospital.

17 (m) "Treatment" means any service intended to promote the mental
18 health of the patient and rendered by a qualified professional, licensed or
19 certified by the state to provide such service as an independent practitioner
20 or under the supervision of such practitioner.

21 (n) "Treatment facility" means any mental health center or clinic,
22 psychiatric unit of a medical care facility, state psychiatric hospital,
23 psychologist, physician or other institution or person authorized or
24 licensed by law to provide either inpatient or outpatient treatment to any
25 patient.

26 (o) The terms defined in K.S.A. 59-3051, and amendments thereto,
27 shall have the meanings provided by that section.

28 Sec. 37. K.S.A. 59-2972 is hereby amended to read as follows: 59-
29 2972. (a) The secretary of social and rehabilitation services or the
30 secretary's designee may transfer any patient from any state psychiatric
31 hospital under the secretary's control to any other state psychiatric hospital
32 whenever the secretary or the secretary's designee considers it to be in the
33 best interests of the patient. Except in the case of an emergency, the
34 patient's spouse or nearest relative or legal guardian, if one has been
35 appointed, shall be notified of the transfer, and notice shall be sent to the
36 committing court not less than 14 days before the proposed transfer. The
37 notice shall name the hospital to which the patient is proposed to be
38 transferred to and state that, upon request of the spouse or nearest relative
39 or legal guardian, an opportunity for a hearing on the proposed transfer
40 will be provided by the secretary of social and rehabilitation services prior
41 to such transfer.

42 (b) The secretary of social and rehabilitation services or the designee
43 of the secretary may transfer any involuntary patient from any state

1 psychiatric hospital to any state institution for ~~the mentally retarded people~~
2 *with intellectual disability* whenever the secretary of social and
3 rehabilitation services or the designee of the secretary considers it to be in
4 the best interests of the patient. Any patient transferred as provided for in
5 this subsection shall remain subject to the same statutory provisions as
6 were applicable at the psychiatric hospital from which the patient was
7 transferred and in addition thereto shall abide by and be subject to all the
8 rules and regulations of the ~~retardation~~ institution *for people with*
9 *intellectual disability* to which the patient has been transferred. Except in
10 the case of an emergency, the patient's spouse or nearest relative or legal
11 guardian, if one has been appointed, shall be notified of the transfer, and
12 notice shall be sent to the committing court not less than 14 days before
13 the proposed transfer. The notice shall name the institution to which the
14 patient is proposed to be transferred to and state that, upon request of the
15 spouse or nearest relative or legal guardian, an opportunity for a hearing
16 on the proposed transfer will be provided by the secretary of social and
17 rehabilitation services prior to such transfer. No patient shall be transferred
18 from a state psychiatric hospital to a state institution for ~~the mentally~~
19 ~~retarded people with intellectual disability~~ unless the superintendent of the
20 receiving institution has found, pursuant to K.S.A. 76-12b01 through 76-
21 12b11, and amendments thereto, that the patient is ~~mentally retarded~~ *a*
22 *person with intellectual disability* and in need of care and training and that
23 placement in the institution is the least restrictive alternative available.
24 Nothing in this subsection shall prevent the secretary of social and
25 rehabilitation services or the designee of the secretary from allowing a
26 patient at a state psychiatric hospital to be admitted as a voluntary resident
27 to a state institution for ~~the mentally retarded people with intellectual~~
28 *disability*, or from then discharging such person from the state psychiatric
29 hospital pursuant to K.S.A. 59-2973, and amendments thereto, as may be
30 appropriate.

31 Sec. 38. K.S.A. 59-3077 is hereby amended to read as follows: 59-
32 3077. (a) At any time after the filing of the petition provided for in K.S.A.
33 59-3058, 59-3059, 59-3060 or 59-3061, and amendments thereto, any
34 person may file in addition to that original petition, or as a part thereof, or
35 at any time after the appointment of a temporary guardian as provided for
36 in K.S.A. 59-3073, and amendments thereto, or a guardian as provided for
37 in K.S.A. 59-3067, and amendments thereto, the temporary guardian or
38 guardian may file, a verified petition requesting that the court grant
39 authority to the temporary guardian or guardian to admit the proposed
40 ward or ward to a treatment facility, as defined in subsection (h), and to
41 consent to the care and treatment of the proposed ward or ward therein.
42 The petition shall include:

43 (1) The petitioner's name and address, and if the petitioner is the

1 proposed ward's or ward's court appointed temporary guardian or guardian,
2 that fact;

3 (2) the proposed ward's or ward's name, age, date of birth, address of
4 permanent residence, and present address or whereabouts, if different from
5 the proposed ward's or ward's permanent residence;

6 (3) the name and address of the proposed ward's or ward's court
7 appointed temporary guardian or guardian, if different from the petitioner;

8 (4) the factual basis upon which the petitioner alleges the need for the
9 proposed ward or ward to be admitted to and treated at a treatment facility,
10 or for the proposed ward or ward to continue to be treated at the treatment
11 facility to which the proposed ward or ward has already been admitted, or
12 for the guardian to have continuing authority to admit the ward for care
13 and treatment at a treatment facility pursuant to subsection (b)(3) of
14 K.S.A. 59-2949, or subsection (b)(3) of K.S.A. 59-29b49, and
15 amendments thereto;

16 (5) the names and addresses of witnesses by whom the truth of this
17 petition may be proved; and

18 (6) a request that the court find that the proposed ward or ward is in
19 need of being admitted to and treated at a treatment facility, and that the
20 court grant to the temporary guardian or guardian the authority to admit
21 the proposed ward or ward to a treatment facility and to consent to the care
22 and treatment of the proposed ward or ward therein.

23 (b) The petition may be accompanied by a report of an examination
24 and evaluation of the proposed ward or ward conducted by an
25 appropriately qualified professional, which shows that the criteria set out
26 in K.S.A. 39-1803, subsection (e) of K.S.A. 59-2946, subsection (f) of
27 K.S.A. 59-29b46 or K.S.A. 76-12b03, and amendments thereto, are met.

28 (c) Upon the filing of such a petition, the court shall issue the
29 following:

30 (1) An order fixing the date, time and place of a hearing on the
31 petition. Such hearing, in the court's discretion, may be conducted in a
32 courtroom, a treatment facility or at some other suitable place. The time
33 fixed in the order shall in no event be earlier than seven days or later than
34 21 days after the date of the filing of the petition. The court may
35 consolidate this hearing with the trial upon the original petition filed
36 pursuant to K.S.A. 59-3058, 59-3059, 59-3060 or 59-3061, and
37 amendments thereto, or with the trial provided for in the care and
38 treatment act for mentally ill persons or the care and treatment act for
39 persons with an alcohol or substance abuse problem, if the petition also
40 incorporates the allegations required by, and is filed in compliance with,
41 the provisions of either of those acts.

42 (2) An order requiring that the proposed ward or ward appear at the
43 time and place of the hearing on the petition unless the court makes a

1 finding prior to the hearing that the presence of the proposed ward or ward
2 will be injurious to the person's health or welfare, or that the proposed
3 ward's or ward's impairment is such that the person could not meaningfully
4 participate in the proceedings, or that the proposed ward or ward has filed
5 with the court a written waiver of such ward's right to appear in person. In
6 any such case, the court shall enter in the record of the proceedings the
7 facts upon which the court has found that the presence of the proposed
8 ward or ward at the hearing should be excused. Notwithstanding the
9 foregoing provisions of this subsection, if the proposed ward or ward files
10 with the court at least one day prior to the date of the hearing a written
11 notice stating the person's desire to be present at the hearing, the court
12 shall order that the person must be present at the hearing.

13 (3) An order appointing an attorney to represent the proposed ward or
14 ward. The court shall give preference, in the appointment of this attorney,
15 to any attorney who has represented the proposed ward or ward in other
16 matters, if the court has knowledge of that prior representation. The
17 proposed ward, or the ward with the consent of the ward's conservator, if
18 one has been appointed, shall have the right to engage an attorney of the
19 proposed ward's or ward's choice and, in such case, the attorney appointed
20 by the court shall be relieved of all duties by the court. Any appointment
21 made by the court shall terminate upon a final determination of the petition
22 and any appeal therefrom, unless the court continues the appointment by
23 further order.

24 (4) An order fixing the date, time and a place that is in the best
25 interest of the proposed ward or ward, at which the proposed ward or ward
26 shall have the opportunity to consult with such ward's attorney. This
27 consultation shall be scheduled to occur prior to the time at which the
28 examination and evaluation ordered pursuant to subsection (d)(1), if
29 ordered, is scheduled to occur.

30 (5) A notice similar to that provided for in K.S.A. 59-3066, and
31 amendments thereto.

32 (d) Upon the filing of such a petition, the court may issue the
33 following:

34 (1) An order for a psychological or other examination and evaluation
35 of the proposed ward or ward, as may be specified by the court. The court
36 may order the proposed ward or ward to submit to such an examination
37 and evaluation to be conducted through a general hospital, psychiatric
38 hospital, community mental health center, community developmental
39 disability organization, or by a private physician, psychiatrist, psychologist
40 or other person appointed by the court who is qualified to examine and
41 evaluate the proposed ward or ward. The costs of this examination and
42 evaluation shall be assessed as provided for in K.S.A. 59-3094, and
43 amendments thereto.

1 (2) If the petition is accompanied by a report of an examination and
2 evaluation of the proposed ward or ward as provided for in subsection (b),
3 an order granting temporary authority to the temporary guardian or
4 guardian to admit the proposed ward or ward to a treatment facility and to
5 consent to the care and treatment of the proposed ward or ward therein.
6 Any such order shall expire immediately after the hearing upon the
7 petition, or as the court may otherwise specify, or upon the discharge of
8 the proposed ward or ward by the head of the treatment facility, if the
9 proposed ward or ward is discharged prior to the time at which the order
10 would otherwise expire.

11 (3) For good cause shown, an order of continuance of the hearing.

12 (4) For good cause shown, an order of advancement of the hearing.

13 (5) For good cause shown, an order changing the place of the hearing.

14 (e) The hearing on the petition shall be held at the time and place
15 specified in the court's order issued pursuant to subsection (c), unless an
16 order of advancement, continuance, or a change of place of the hearing has
17 been issued pursuant to subsection (d). The petitioner and the proposed
18 ward or ward shall each be afforded an opportunity to appear at the
19 hearing, to testify and to present and cross-examine witnesses. If the
20 hearing has been consolidated with a trial being held pursuant to either the
21 care and treatment act for mentally ill persons or the care and treatment act
22 for persons with an alcohol or substance abuse problem, persons not
23 necessary for the conduct of the proceedings may be excluded as provided
24 for in those acts. The hearing shall be conducted in as informal a manner
25 as may be consistent with orderly procedure. The court shall have the
26 authority to receive all relevant and material evidence which may be
27 offered, including the testimony or written report, findings or
28 recommendations of any professional or other person who has examined
29 or evaluated the proposed ward or ward pursuant to any order issued by
30 the court pursuant to subsection (d). Such evidence shall not be privileged
31 for the purpose of this hearing.

32 (f) Upon completion of the hearing, if the court finds by clear and
33 convincing evidence that the criteria set out in K.S.A. 39-1803, subsection
34 (e) of K.S.A. 59-2946, subsection (f) of K.S.A. 59-29b46 or K.S.A. 76-
35 12b03, and amendments thereto, are met, and after a careful consideration
36 of reasonable alternatives to admission of the proposed ward or ward to a
37 treatment facility, the court may enter an order granting such authority to
38 the temporary guardian or guardian as is appropriate, including continuing
39 authority to the guardian to readmit the ward to an appropriate treatment
40 facility as may later become necessary. Any such grant of continuing
41 authority shall expire two years after the date of final discharge of the
42 ward from such a treatment facility if the ward has not had to be
43 readmitted to a treatment facility during that two-year period of time.

1 Thereafter, any such grant of continuing authority may be renewed only
2 after the filing of another petition seeking authority in compliance with the
3 provision of this section.

4 (g) Nothing herein shall be construed so as to prohibit the head of a
5 treatment facility from admitting a proposed ward or ward to that facility
6 as a voluntary patient if the head of the treatment facility is satisfied that
7 the proposed ward or ward at that time has the capacity to understand such
8 ward's illness and need for treatment, and to consent to such ward's
9 admission and treatment. Upon any such admission, the head of the
10 treatment facility shall give notice to the temporary guardian or guardian
11 as soon as possible of the ward's admission, and shall provide to the
12 temporary guardian or guardian copies of any consents the proposed ward
13 or ward has given. Thereafter, the temporary guardian or guardian shall
14 timely either seek to obtain proper authority pursuant to this section to
15 admit the proposed ward or ward to a treatment facility and to consent to
16 further care and treatment, or shall otherwise assume responsibility for the
17 care of the proposed ward or ward, consistent with the authority of the
18 temporary guardian or guardian, and may arrange for the discharge from
19 the facility of the proposed ward or ward, unless the head of the treatment
20 facility shall file a petition requesting the involuntary commitment of the
21 proposed ward or ward to that or some other facility.

22 (h) As used herein, "treatment facility" means the Kansas
23 neurological institute, Larned state hospital, Osawatomie state hospital,
24 Parsons state hospital and training center, the rainbow mental health
25 facility, any intermediate care facility for ~~the mentally retarded people~~
26 *with intellectual disability*, any psychiatric hospital licensed pursuant to
27 K.S.A. 75-3307b, and amendments thereto, and any other facility for
28 mentally ill persons or ~~mentally retarded or developmentally disabled~~
29 ~~persons~~ *people with intellectual or developmental disabilities* licensed
30 pursuant to K.S.A. 75-3307b, and amendments thereto, if the proposed
31 ward or ward is to be admitted as an inpatient or resident of that facility.

32 Sec. 39. K.S.A. 2011 Supp. 65-180 is hereby amended to read as
33 follows: 65-180. The secretary of health and environment shall:

34 (a) Institute and carry on an intensive educational program among
35 physicians, hospitals, public health nurses and the public concerning
36 congenital hypothyroidism, galactosemia, phenylketonuria and other
37 genetic diseases detectable with the same specimen. This educational
38 program shall include information about the nature of such conditions and
39 examinations for the detection thereof in early infancy in order that
40 measures may be taken to prevent ~~the mental retardation~~ *intellectual*
41 *disability* or morbidity resulting from such conditions.

42 (b) Provide recognized screening tests for phenylketonuria,
43 galactosemia, hypothyroidism and such other diseases as may be

1 appropriately detected with the same specimen. The initial laboratory
2 screening tests for these diseases shall be performed by the department of
3 health and environment or its designee for all infants born in the state.
4 Such services shall be performed without charge.

5 (c) Provide a follow-up program by providing test results and other
6 information to identified physicians; locate infants with abnormal newborn
7 screening test results; with parental consent, monitor infants to assure
8 appropriate testing to either confirm or not confirm the disease suggested
9 by the screening test results; with parental consent, monitor therapy and
10 treatment for infants with confirmed diagnosis of congenital
11 hypothyroidism, galactosemia, phenylketonuria or other genetic diseases
12 being screened under this statute; and establish ongoing education and
13 support activities for individuals with confirmed diagnosis of congenital
14 hypothyroidism, galactosemia, phenylketonuria and other genetic diseases
15 being screened under this statute and for the families of such individuals.

16 (d) Maintain a registry of cases including information of importance
17 for the purpose of follow-up services to prevent ~~mental retardation~~
18 *intellectual disability* or morbidity.

19 (e) Provide, within the limits of appropriations available therefor, the
20 necessary treatment product for diagnosed cases for as long as medically
21 indicated, when the product is not available through other state agencies.
22 In addition to diagnosed cases under this section, diagnosed cases of maple
23 syrup urine disease shall be included as a diagnosed case under this
24 subsection. Where the applicable income of the person or persons who
25 have legal responsibility for the diagnosed individual meets medicaid
26 eligibility, such individuals' needs shall be covered under the medicaid
27 state plan. Where the applicable income of the person or persons who have
28 legal responsibility for the diagnosed individual is not medicaid eligible,
29 but is below 300% of the federal poverty level established under the most
30 recent poverty guidelines issued by the United States department of health
31 and human services, the department of health and environment shall
32 provide reimbursement of between 50% to 100% of the product cost in
33 accordance with rules and regulations adopted by the secretary of health
34 and environment. Where the applicable income of the person or persons
35 who have legal responsibility for the diagnosed individual exceeds 300%
36 of the federal poverty level established under the most recent poverty
37 guidelines issued by the United States department of health and human
38 services, the department of health and environment shall provide
39 reimbursement of an amount not to exceed 50% of the product cost in
40 accordance with rules and regulations adopted by the secretary of health
41 and environment.

42 (f) Provide state assistance to an applicant pursuant to subsection (e)
43 only after it has been shown that the applicant has exhausted all benefits

1 from private third-party payers, medicare, medicaid and other government
2 assistance programs and after consideration of the applicant's income and
3 assets. The secretary of health and environment shall adopt rules and
4 regulations establishing standards for determining eligibility for state
5 assistance under this section.

6 (g) (1) Except for treatment products provided under subsection (e), if
7 the medically necessary food treatment product for diagnosed cases must
8 be purchased, the purchaser shall be reimbursed by the department of
9 health and environment for costs incurred up to \$1,500 per year per
10 diagnosed child age 18 or younger at 100% of the product cost upon
11 submission of a receipt of purchase identifying the company from which
12 the product was purchased. For a purchaser to be eligible for
13 reimbursement under this subsection ~~(g)(1)~~, the applicable income of the
14 person or persons who have legal responsibility for the diagnosed child
15 shall not exceed 300% of the poverty level established under the most
16 recent poverty guidelines issued by the federal department of health and
17 human services.

18 (2) As an option to reimbursement authorized under subsection (g)
19 (1), the department of health and environment may purchase food
20 treatment products for distribution to diagnosed children in an amount not
21 to exceed \$1,500 per year per diagnosed child age 18 or younger. For a
22 diagnosed child to be eligible for the distribution of food treatment
23 products under this subsection ~~(g)(2)~~, the applicable income of the person
24 or persons who have legal responsibility for the diagnosed child shall not
25 exceed 300% of the poverty level established under the most recent
26 poverty guidelines issued by the federal department of health and human
27 services.

28 (3) In addition to diagnosed cases under this section, diagnosed cases
29 of maple syrup urine disease shall be included as a diagnosed case under
30 this subsection (g).

31 (h) The department of health and environment shall continue to
32 receive orders for both necessary treatment products and necessary food
33 treatment products, purchase such products, and shall deliver the products
34 to an address prescribed by the diagnosed individual. The department of
35 health and environment shall bill the person or persons who have legal
36 responsibility for the diagnosed patient for a *pro-rata* share of the total
37 costs, in accordance with the rules and regulations adopted pursuant to this
38 section.

39 (i) Not later than July 1, 2008, the secretary of health and
40 environment shall adopt rules and regulations as needed to require, to the
41 extent of available funding, newborn screening tests to screen for treatable
42 disorders listed in the core uniform panel of newborn screening conditions
43 recommended in the 2005 report by the American college of medical

1 genetics entitled "Newborn Screening: Toward a Uniform Screening Panel
2 and System" or another report determined by the department of health and
3 environment to provide more appropriate newborn screening guidelines to
4 protect the health and welfare of newborns for treatable disorders.

5 (j) In performing the duties under subsection (i), the secretary of
6 health and environment shall appoint an advisory council to advise the
7 department of health and environment on implementation of subsection (i).

8 (k) The department of health and environment shall periodically
9 review the newborn screening program to determine the efficacy and cost
10 effectiveness of the program and determine whether adjustments to the
11 program are necessary to protect the health and welfare of newborns and
12 to maximize the number of newborn screenings that may be conducted
13 with the funding available for the screening program.

14 Sec. 40. K.S.A. 65-5a14 is hereby amended to read as follows: 65-
15 5a14. The secretary of health and environment shall adopt rules and
16 regulations establishing a system of priorities for providing services,
17 devices, equipment and supplies to children under the provisions of this
18 act which will give consideration to the medical needs of the patient and
19 the financial ability of the patient to pay the cost thereof and will insure
20 that available funds will be used where the need is greatest. Such system
21 of priorities shall provide care and treatment only for children having a
22 condition that can reasonably be expected to be aided or improved by
23 treatment and shall include but shall not be limited to:

- 24 (a) Congenital malformations requiring major surgical repair;
- 25 (b) catastrophic and chronic diseases of children (such as
26 hydronephrosis, and chronic nephritis);
- 27 (c) ~~mental retardation~~ *intellectual disability* or mental disability with
28 associated serious physical defects;
- 29 (d) orthopedic conditions (not including relaxed flat feet or treatment
30 or supportive devices therefor);
- 31 (e) burns requiring plastic surgery;
- 32 (f) cardiovascular (congenital and acquired heart disease or anomalies
33 of the major blood vessels); and
- 34 (g) malignant disease (such as leukemia, Wilm's tumor, osteogenic
35 sarcoma, etc., but not to include terminal care).

36 In adopting the rules and regulations, the secretary of health and
37 environment shall consult with and give consideration to the
38 recommendations of representatives of the Kansas medical society
39 designated or selected by the society for such purpose.

40 A child with special health care needs shall not be denied services
41 because the child is ~~mentally retarded~~ *a person with intellectual disability*.

42 Sec. 41. K.S.A. 2011 Supp. 65-1124 is hereby amended to read as
43 follows: 65-1124. No provisions of this law shall be construed as

1 prohibiting:

2 (a) Gratuitous nursing by friends or members of the family;

3 (b) the incidental care of the sick by domestic servants or persons
4 primarily employed as housekeepers;

5 (c) caring for the sick in accordance with tenets and practices of any
6 church or religious denomination which teaches reliance upon spiritual
7 means through prayer for healing;

8 (d) nursing assistance in the case of an emergency;

9 (e) the practice of nursing by students as part of a clinical course
10 offered through a school of professional or practical nursing or program of
11 advanced registered professional nursing approved in the United States or
12 its territories;

13 (f) the practice of nursing in this state by legally qualified nurses of
14 any of the other states as long as the engagement of any such nurse
15 requires the nurse to accompany and care for a patient temporarily residing
16 in this state during the period of one such engagement not to exceed six
17 months in length, and as long as such nurses do not represent or hold
18 themselves out as nurses licensed to practice in this state;

19 (g) the practice by any nurse who is employed by the United States
20 government or any bureau, division or agency thereof, while in the
21 discharge of official duties;

22 (h) auxiliary patient care services performed in medical care facilities,
23 adult care homes or elsewhere by persons under the direction of a person
24 licensed to practice medicine and surgery or a person licensed to practice
25 dentistry or the supervision of a registered professional nurse or a licensed
26 practical nurse;

27 (i) the administration of medications to residents of adult care homes
28 or to patients in hospital-based long-term care units, including state
29 operated institutions for ~~the mentally retarded~~ *people with intellectual*
30 *disability*, by an unlicensed person who has been certified as having
31 satisfactorily completed a training program in medication administration
32 approved by the secretary of health and environment and has completed
33 the program on continuing education adopted by the secretary, or by an
34 unlicensed person while engaged in and as a part of such training program
35 in medication administration;

36 (j) the practice of mental health technology by licensed mental health
37 technicians as authorized under the mental health technicians' licensure
38 act;

39 (k) performance in the school setting of nursing procedures when
40 delegated by a licensed professional nurse in accordance with the rules and
41 regulations of the board;

42 (l) performance of attendant care services directed by or on behalf of
43 an individual in need of in-home care as the terms "attendant care

1 services" and "individual in need of in-home care" are defined under
2 K.S.A. 65-6201, and amendments thereto;

3 (m) performance of a nursing procedure by a person when that
4 procedure is delegated by a licensed nurse, within the reasonable exercise
5 of independent nursing judgment and is performed with reasonable skill
6 and safety by that person under the supervision of a registered professional
7 nurse or a licensed practical nurse;

8 (n) the practice of nursing by an applicant for Kansas nurse licensure
9 in the supervised clinical portion of a refresher course; or

10 (o) the teaching of the nursing process in this state by legally
11 qualified nurses of any of the other states while in consultation with a
12 licensed Kansas nurse as long as such individuals do not represent or hold
13 themselves out as nurses licensed to practice in this state.

14 Sec. 42. K.S.A. 2011 Supp. 65-1626 is hereby amended to read as
15 follows: 65-1626. For the purposes of this act:

16 (a) "Administer" means the direct application of a drug, whether by
17 injection, inhalation, ingestion or any other means, to the body of a patient
18 or research subject by:

19 (1) A practitioner or pursuant to the lawful direction of a practitioner;

20 (2) the patient or research subject at the direction and in the presence
21 of the practitioner; or

22 (3) a pharmacist as authorized in K.S.A. 65-1635a, and amendments
23 thereto.

24 (b) "Agent" means an authorized person who acts on behalf of or at
25 the direction of a manufacturer, distributor or dispenser but shall not
26 include a common carrier, public warehouseman or employee of the carrier
27 or warehouseman when acting in the usual and lawful course of the
28 carrier's or warehouseman's business.

29 (c) "Authorized distributor of record" means a wholesale distributor
30 with whom a manufacturer has established an ongoing relationship to
31 distribute the manufacturer's prescription drug. An ongoing relationship is
32 deemed to exist between such wholesale distributor and a manufacturer
33 when the wholesale distributor, including any affiliated group of the
34 wholesale distributor, as defined in section 1504 of the internal revenue
35 code, complies with any one of the following: (1) The wholesale
36 distributor has a written agreement currently in effect with the
37 manufacturer evidencing such ongoing relationship; and (2) the wholesale
38 distributor is listed on the manufacturer's current list of authorized
39 distributors of record, which is updated by the manufacturer on no less
40 than a monthly basis.

41 (d) "Board" means the state board of pharmacy created by K.S.A. 74-
42 1603, and amendments thereto.

43 (e) "Brand exchange" means the dispensing of a different drug

1 product of the same dosage form and strength and of the same generic
2 name as the brand name drug product prescribed.

3 (f) "Brand name" means the registered trademark name given to a
4 drug product by its manufacturer, labeler or distributor.

5 (g) "Chain pharmacy warehouse" means a permanent physical
6 location for drugs or devices, or both, that acts as a central warehouse and
7 performs intracompany sales or transfers of prescription drugs or devices
8 to chain pharmacies that have the same ownership or control. Chain
9 pharmacy warehouses must be registered as wholesale distributors.

10 (h) "Co-licensee" means a pharmaceutical manufacturer that has
11 entered into an agreement with another pharmaceutical manufacturer to
12 engage in a business activity or occupation related to the manufacture or
13 distribution of a prescription drug and the national drug code on the drug
14 product label shall be used to determine the identity of the drug
15 manufacturer.

16 (i) "Deliver" or "delivery" means the actual, constructive or attempted
17 transfer from one person to another of any drug whether or not an agency
18 relationship exists.

19 (j) "Direct supervision" means the process by which the responsible
20 pharmacist shall observe and direct the activities of a pharmacy student or
21 pharmacy technician to a sufficient degree to assure that all such activities
22 are performed accurately, safely and without risk or harm to patients, and
23 complete the final check before dispensing.

24 (k) "Dispense" means to deliver prescription medication to the
25 ultimate user or research subject by or pursuant to the lawful order of a
26 practitioner or pursuant to the prescription of a mid-level practitioner.

27 (l) "Dispenser" means a practitioner or pharmacist who dispenses
28 prescription medication.

29 (m) "Distribute" means to deliver, other than by administering or
30 dispensing, any drug.

31 (n) "Distributor" means a person who distributes a drug.

32 (o) "Drop shipment" means the sale, by a manufacturer, that
33 manufacturer's co-licensee, that manufacturer's third party logistics
34 provider, or that manufacturer's exclusive distributor, of the manufacturer's
35 prescription drug, to a wholesale distributor whereby the wholesale
36 distributor takes title but not possession of such prescription drug and the
37 wholesale distributor invoices the pharmacy, the chain pharmacy
38 warehouse, or other designated person authorized by law to dispense or
39 administer such prescription drug, and the pharmacy, the chain pharmacy
40 warehouse, or other designated person authorized by law to dispense or
41 administer such prescription drug receives delivery of the prescription
42 drug directly from the manufacturer, that manufacturer's co-licensee, that
43 manufacturer's third party logistics provider, or that manufacturer's

1 exclusive distributor, of such prescription drug. Drop shipment shall be
2 part of the "normal distribution channel."

3 (p) "Drug" means: (1) Articles recognized in the official United States
4 pharmacopoeia, or other such official compendiums of the United States,
5 or official national formulary, or any supplement of any of them; (2)
6 articles intended for use in the diagnosis, cure, mitigation, treatment or
7 prevention of disease in man or other animals; (3) articles, other than food,
8 intended to affect the structure or any function of the body of man or other
9 animals; and (4) articles intended for use as a component of any articles
10 specified in clause (1), (2) or (3) of this subsection; but does not include
11 devices or their components, parts or accessories, except that the term
12 "drug" shall not include amygdalin (laetrile) or any livestock remedy, if
13 such livestock remedy had been registered in accordance with the
14 provisions of article 5 of chapter 47 of the Kansas Statutes Annotated prior
15 to its repeal.

16 (q) "Durable medical equipment" means technologically sophisticated
17 medical devices that may be used in a residence, including the following:
18 (1) Oxygen and oxygen delivery system; (2) ventilators; (3) respiratory
19 disease management devices; (4) continuous positive airway pressure
20 (CPAP) devices; (5) electronic and computerized wheelchairs and seating
21 systems; (6) apnea monitors; (7) transcutaneous electrical nerve stimulator
22 (TENS) units; (8) low air loss cutaneous pressure management devices; (9)
23 sequential compression devices; (10) feeding pumps; (11) home
24 phototherapy devices; (12) infusion delivery devices; (13) distribution of
25 medical gases to end users for human consumption; (14) hospital beds;
26 (15) nebulizers; (16) other similar equipment determined by the board in
27 rules and regulations adopted by the board.

28 (r) "Exclusive distributor" means any entity that: (1) Contracts with a
29 manufacturer to provide or coordinate warehousing, wholesale distribution
30 or other services on behalf of a manufacturer and who takes title to that
31 manufacturer's prescription drug, but who does not have general
32 responsibility to direct the sale or disposition of the manufacturer's
33 prescription drug; (2) is registered as a wholesale distributor under the
34 pharmacy act of the state of Kansas; and (3) to be considered part of the
35 normal distribution channel, must be an authorized distributor of record.

36 (s) "Electronic transmission" means transmission of information in
37 electronic form or the transmission of the exact visual image of a
38 document by way of electronic equipment.

39 (t) "Generic name" means the established chemical name or official
40 name of a drug or drug product.

41 (u) (1) "Institutional drug room" means any location where
42 prescription-only drugs are stored and from which prescription-only drugs
43 are administered or dispensed and which is maintained or operated for the

1 purpose of providing the drug needs of:

2 (A) Inmates of a jail or correctional institution or facility;

3 (B) residents of a juvenile detention facility, as defined by the revised
4 Kansas code for care of children and the revised Kansas juvenile justice
5 code;

6 (C) students of a public or private university or college, a community
7 college or any other institution of higher learning which is located in
8 Kansas;

9 (D) employees of a business or other employer; or

10 (E) persons receiving inpatient hospice services.

11 (2) "Institutional drug room" does not include:

12 (A) Any registered pharmacy;

13 (B) any office of a practitioner; or

14 (C) a location where no prescription-only drugs are dispensed and no
15 prescription-only drugs other than individual prescriptions are stored or
16 administered.

17 (v) "Intracompany transaction" means any transaction or transfer
18 between any division, subsidiary, parent or affiliated or related company
19 under common ownership or control of a corporate entity, or any
20 transaction or transfer between co-licensees of a co-licensed product.

21 (w) "Medical care facility" shall have the meaning provided in K.S.A.
22 65-425, and amendments thereto, except that the term shall also include
23 facilities licensed under the provisions of K.S.A. 75-3307b, and
24 amendments thereto, except community mental health centers and
25 facilities for ~~the mentally-retarded~~ *people with intellectual disability*.

26 (x) "Manufacture" means the production, preparation, propagation,
27 compounding, conversion or processing of a drug either directly or
28 indirectly by extraction from substances of natural origin, independently
29 by means of chemical synthesis or by a combination of extraction and
30 chemical synthesis and includes any packaging or repackaging of the drug
31 or labeling or relabeling of its container, except that this term shall not
32 include the preparation or compounding of a drug by an individual for the
33 individual's own use or the preparation, compounding, packaging or
34 labeling of a drug by:

35 (1) A practitioner or a practitioner's authorized agent incident to such
36 practitioner's administering or dispensing of a drug in the course of the
37 practitioner's professional practice;

38 (2) a practitioner, by a practitioner's authorized agent or under a
39 practitioner's supervision for the purpose of, or as an incident to, research,
40 teaching or chemical analysis and not for sale; or

41 (3) a pharmacist or the pharmacist's authorized agent acting under the
42 direct supervision of the pharmacist for the purpose of, or incident to, the
43 dispensing of a drug by the pharmacist.

1 (y) "Manufacturer" means a person licensed or approved by the FDA
2 to engage in the manufacture of drugs and devices.

3 (z) "Normal distribution channel" means a chain of custody for a
4 prescription-only drug that goes from a manufacturer of the prescription-
5 only drug, from that manufacturer to that manufacturer's co-licensed
6 partner, from that manufacturer to that manufacturer's third-party logistics
7 provider, or from that manufacturer to that manufacturer's exclusive
8 distributor, directly or by drop shipment, to:

9 (1) A pharmacy to a patient or to other designated persons authorized
10 by law to dispense or administer such drug to a patient;

11 (2) a wholesale distributor to a pharmacy to a patient or other
12 designated persons authorized by law to dispense or administer such drug
13 to a patient;

14 (3) a wholesale distributor to a chain pharmacy warehouse to that
15 chain pharmacy warehouse's intracompany pharmacy to a patient or other
16 designated persons authorized by law to dispense or administer such drug
17 to a patient; or

18 (4) a chain pharmacy warehouse to the chain pharmacy warehouse's
19 intracompany pharmacy to a patient or other designated persons authorized
20 by law to dispense or administer such drug to a patient.

21 (aa) "Person" means individual, corporation, government,
22 governmental subdivision or agency, partnership, association or any other
23 legal entity.

24 (bb) "Pharmacist" means any natural person licensed under this act to
25 practice pharmacy.

26 (cc) "Pharmacist in charge" means the pharmacist who is responsible
27 to the board for a registered establishment's compliance with the laws and
28 regulations of this state pertaining to the practice of pharmacy,
29 manufacturing of drugs and the distribution of drugs. The pharmacist in
30 charge shall supervise such establishment on a full-time or a part-time
31 basis and perform such other duties relating to supervision of a registered
32 establishment as may be prescribed by the board by rules and regulations.
33 Nothing in this definition shall relieve other pharmacists or persons from
34 their responsibility to comply with state and federal laws and regulations.

35 (dd) "Pharmacy," "drug store" or "apothecary" means premises,
36 laboratory, area or other place: (1) Where drugs are offered for sale where
37 the profession of pharmacy is practiced and where prescriptions are
38 compounded and dispensed; or (2) which has displayed upon it or within it
39 the words "pharmacist," "pharmaceutical chemist," "pharmacy,"
40 "apothecary," "drugstore," "druggist," "drugs," "drug sundries" or any of
41 these words or combinations of these words or words of similar import
42 either in English or any sign containing any of these words; or (3) where
43 the characteristic symbols of pharmacy or the characteristic prescription

1 sign "Rx" may be exhibited. As used in this subsection, premises refers
2 only to the portion of any building or structure leased, used or controlled
3 by the licensee in the conduct of the business registered by the board at the
4 address for which the registration was issued.

5 (ee) "Pharmacy student" means an individual, registered with the
6 board of pharmacy, enrolled in an accredited school of pharmacy.

7 (ff) "Pharmacy technician" means an individual who, under the direct
8 supervision and control of a pharmacist, may perform packaging,
9 manipulative, repetitive or other nondiscretionary tasks related to the
10 processing of a prescription or medication order and who assists the
11 pharmacist in the performance of pharmacy related duties, but who does
12 not perform duties restricted to a pharmacist.

13 (gg) "Practitioner" means a person licensed to practice medicine and
14 surgery, dentist, podiatrist, veterinarian, optometrist or scientific
15 investigator or other person authorized by law to use a prescription-only
16 drug in teaching or chemical analysis or to conduct research with respect
17 to a prescription-only drug.

18 (hh) "Preceptor" means a licensed pharmacist who possesses at least
19 two years' experience as a pharmacist and who supervises students
20 obtaining the pharmaceutical experience required by law as a condition to
21 taking the examination for licensure as a pharmacist.

22 (ii) "Prescription" means, according to the context, either a
23 prescription order or a prescription medication.

24 (jj) "Prescription medication" means any drug, including label and
25 container according to context, which is dispensed pursuant to a
26 prescription order.

27 (kk) "Prescription-only drug" means any drug whether intended for
28 use by man or animal, required by federal or state law (including 21
29 U.S.C. § 353, as amended), to be dispensed only pursuant to a written or
30 oral prescription or order of a practitioner or is restricted to use by
31 practitioners only.

32 (ll) "Prescription order" means: (1) An order to be filled by a
33 pharmacist for prescription medication issued and signed by a practitioner
34 or a mid-level practitioner in the authorized course of professional
35 practice; or (2) an order transmitted to a pharmacist through word of
36 mouth, note, telephone or other means of communication directed by such
37 practitioner or mid-level practitioner.

38 (mm) "Probation" means the practice or operation under a temporary
39 license, registration or permit or a conditional license, registration or
40 permit of a business or profession for which a license, registration or
41 permit is granted by the board under the provisions of the pharmacy act of
42 the state of Kansas requiring certain actions to be accomplished or certain
43 actions not to occur before a regular license, registration or permit is

1 issued.

2 (nn) "Professional incompetency" means:

3 (1) One or more instances involving failure to adhere to the
4 applicable standard of pharmaceutical care to a degree which constitutes
5 gross negligence, as determined by the board;

6 (2) repeated instances involving failure to adhere to the applicable
7 standard of pharmaceutical care to a degree which constitutes ordinary
8 negligence, as determined by the board; or

9 (3) a pattern of pharmacy practice or other behavior which
10 demonstrates a manifest incapacity or incompetence to practice pharmacy.

11 (oo) "Retail dealer" means a person selling at retail nonprescription
12 drugs which are prepackaged, fully prepared by the manufacturer or
13 distributor for use by the consumer and labeled in accordance with the
14 requirements of the state and federal food, drug and cosmetic acts. Such
15 nonprescription drugs shall not include: (1) A controlled substance; (2) a
16 prescription-only drug; or (3) a drug intended for human use by
17 hypodermic injection.

18 (pp) "Secretary" means the executive secretary of the board.

19 (qq) "Third party logistics provider" means an entity that: (1)
20 Provides or coordinates warehousing, distribution or other services on
21 behalf of a manufacturer, but does not take title to the prescription drug or
22 have general responsibility to direct the prescription drug's sale or
23 disposition; (2) is registered as a wholesale distributor under the pharmacy
24 act of the state of Kansas; and (3) to be considered part of the normal
25 distribution channel, must also be an authorized distributor of record.

26 (rr) "Unprofessional conduct" means:

27 (1) Fraud in securing a registration or permit;

28 (2) intentional adulteration or mislabeling of any drug, medicine,
29 chemical or poison;

30 (3) causing any drug, medicine, chemical or poison to be adulterated
31 or mislabeled, knowing the same to be adulterated or mislabeled;

32 (4) intentionally falsifying or altering records or prescriptions;

33 (5) unlawful possession of drugs and unlawful diversion of drugs to
34 others;

35 (6) willful betrayal of confidential information under K.S.A. 65-1654,
36 and amendments thereto;

37 (7) conduct likely to deceive, defraud or harm the public;

38 (8) making a false or misleading statement regarding the licensee's
39 professional practice or the efficacy or value of a drug;

40 (9) commission of any act of sexual abuse, misconduct or
41 exploitation related to the licensee's professional practice; or

42 (10) performing unnecessary tests, examinations or services which
43 have no legitimate pharmaceutical purpose.

1 (ss) "Mid-level practitioner" means an advanced practice registered
2 nurse issued a license pursuant to K.S.A. 65-1131, and amendments
3 thereto, who has authority to prescribe drugs pursuant to a written protocol
4 with a responsible physician under K.S.A. 65-1130, and amendments
5 thereto, or a physician assistant licensed pursuant to the physician assistant
6 licensure act who has authority to prescribe drugs pursuant to a written
7 protocol with a responsible physician under K.S.A. 65-28a08, and
8 amendments thereto.

9 (tt) "Vaccination protocol" means a written protocol, agreed to by a
10 pharmacist and a person licensed to practice medicine and surgery by the
11 state board of healing arts, which establishes procedures and
12 recordkeeping and reporting requirements for administering a vaccine by
13 the pharmacist for a period of time specified therein, not to exceed two
14 years.

15 (uu) "Veterinary medical teaching hospital pharmacy" means any
16 location where prescription-only drugs are stored as part of an accredited
17 college of veterinary medicine and from which prescription-only drugs are
18 distributed for use in treatment of or administration to a nonhuman.

19 (vv) "Wholesale distributor" means any person engaged in wholesale
20 distribution of prescription drugs or devices in or into the state, including,
21 but not limited to, manufacturers, repackagers, own-label distributors,
22 private-label distributors, jobbers, brokers, warehouses, including
23 manufacturers' and distributors' warehouses, co-licensees, exclusive
24 distributors, third party logistics providers, chain pharmacy warehouses
25 that conduct wholesale distributions, and wholesale drug warehouses,
26 independent wholesale drug traders and retail pharmacies that conduct
27 wholesale distributions. Wholesale distributor shall not include persons
28 engaged in the sale of durable medical equipment to consumers or
29 patients.

30 (ww) "Wholesale distribution" means the distribution of prescription
31 drugs or devices by wholesale distributors to persons other than consumers
32 or patients, and includes the transfer of prescription drugs by a pharmacy
33 to another pharmacy if the total number of units of transferred drugs
34 during a twelve-month period does not exceed 5% of the total number of
35 all units dispensed by the pharmacy during the immediately preceding
36 twelve-month period. Wholesale distribution does not include: (1) The
37 sale, purchase or trade of a prescription drug or device, an offer to sell,
38 purchase or trade a prescription drug or device or the dispensing of a
39 prescription drug or device pursuant to a prescription; (2) the sale,
40 purchase or trade of a prescription drug or device or an offer to sell,
41 purchase or trade a prescription drug or device for emergency medical
42 reasons; (3) intracompany transactions, as defined in this section, unless in
43 violation of own use provisions; (4) the sale, purchase or trade of a

1 prescription drug or device or an offer to sell, purchase or trade a
2 prescription drug or device among hospitals, chain pharmacy warehouses,
3 pharmacies or other health care entities that are under common control; (5)
4 the sale, purchase or trade of a prescription drug or device or the offer to
5 sell, purchase or trade a prescription drug or device by a charitable
6 organization described in 503(c)(3) of the internal revenue code of 1954 to
7 a nonprofit affiliate of the organization to the extent otherwise permitted
8 by law; (6) the purchase or other acquisition by a hospital or other similar
9 health care entity that is a member of a group purchasing organization of a
10 prescription drug or device for its own use from the group purchasing
11 organization or from other hospitals or similar health care entities that are
12 members of these organizations; (7) the transfer of prescription drugs or
13 devices between pharmacies pursuant to a centralized prescription
14 processing agreement; (8) the sale, purchase or trade of blood and blood
15 components intended for transfusion; (9) the return of recalled, expired,
16 damaged or otherwise non-salable prescription drugs, when conducted by
17 a hospital, health care entity, pharmacy, chain pharmacy warehouse or
18 charitable institution in accordance with the board's rules and regulations;
19 (10) the sale, transfer, merger or consolidation of all or part of the business
20 of a retail pharmacy or pharmacies from or with another retail pharmacy or
21 pharmacies, whether accomplished as a purchase and sale of stock or
22 business assets, in accordance with the board's rules and regulations; (11)
23 the distribution of drug samples by manufacturers' and authorized
24 distributors' representatives; (12) the sale of minimal quantities of drugs by
25 retail pharmacies to licensed practitioners for office use; or (13) the sale or
26 transfer from a retail pharmacy or chain pharmacy warehouse of expired,
27 damaged, returned or recalled prescription drugs to the original
28 manufacturer, originating wholesale distributor or to a third party returns
29 processor in accordance with the board's rules and regulations.

30 Sec. 43. K.S.A. 65-3501 is hereby amended to read as follows: 65-
31 3501. As used in this act, ~~or the act of which this section is amendatory,~~
32 the following words and phrases shall have the meanings respectively
33 ascribed to them in this section:

34 (a) "Adult care home" means nursing facility, nursing facilities for
35 mental health, intermediate care facilities for ~~the mentally retarded people~~
36 *with intellectual disability*, assisted living facility licensed for more than
37 60 residents and residential health care facility licensed for more than 60
38 residents as defined by K.S.A. 39-923, and amendments thereto, or by the
39 rules and regulations of the licensing agency adopted pursuant to such
40 section for which a license is required under article 9 of chapter 39 of the
41 Kansas Statutes Annotated, ~~or acts amendatory thereof or supplemental~~
42 *and amendments* thereto, except that the term "adult care home" shall not
43 include a facility that is operated exclusively for the care and treatment of

1 ~~the mentally retarded~~ *people with intellectual disability* and is licensed for
2 16 or fewer beds.

3 (b) "Board" means the board of adult care home administrators
4 established by K.S.A. 65-3506, and amendments thereto.

5 (c) "Administrator" means the individual directly responsible for
6 planning, organizing, directing and controlling the operation of an adult
7 care home.

8 (d) "Person" means an individual and does not include the term firm,
9 corporation, association, partnership, institution, public body, joint stock
10 association or any group of individuals.

11 (e) "Sponsor" means entities approved by the board to provide
12 continuing education programs or courses on an ongoing basis under this
13 act and in accordance with any rules and regulations promulgated by the
14 board in accordance with this act.

15 Sec. 44. K.S.A. 65-4202 is hereby amended to read as follows: 65-
16 4202. As used in this act: (a) "Board" means the state board of nursing.

17 (b) The "practice of mental health technology" means the
18 performance, under the direction of a physician licensed to practice
19 medicine and surgery or registered professional nurse, of services in caring
20 for and treatment of the mentally ill, emotionally disturbed, or ~~mentally~~
21 ~~retarded~~ *people with intellectual disability* for compensation or personal
22 profit, which services:

23 (1) Involve responsible nursing and therapeutic procedures for
24 ~~mentally ill or mentally retarded~~ patients *with mental illness or intellectual*
25 *disability* requiring interpersonal and technical skills in the observations
26 and recognition of symptoms and reactions of such patients, the accurate
27 recording of such symptoms and reactions and the carrying out of
28 treatments and medications as prescribed by a licensed physician or a mid-
29 level practitioner as defined in subsection (ii) of K.S.A. 65-1626, and
30 amendments thereto; and

31 (2) require an application of techniques and procedures that involve
32 understanding of cause and effect and the safeguarding of life and health
33 of the patient and others; and

34 (3) require the performance of duties that are necessary to facilitate
35 rehabilitation of the patient or are necessary in the physical, therapeutic
36 and psychiatric care of the patient and require close work with persons
37 licensed to practice medicine and surgery, psychiatrists, psychologists,
38 rehabilitation therapists, social workers, registered nurses, and other
39 professional personnel.

40 (c) A "licensed mental health technician" means a person who
41 lawfully practices mental health technology as defined in this act.

42 (d) An "approved course in mental health technology" means a
43 program of training and study including a basic curriculum which shall be

1 prescribed and approved by the board in accordance with the standards
2 prescribed herein, the successful completion of which shall be required
3 before licensure as a mental health technician, except as hereinafter
4 provided.

5 Sec. 45. K.S.A. 65-4212 is hereby amended to read as follows: 65-
6 4212. The provisions of this act shall not be construed as prohibiting: (a)
7 Gratuitous care of the mentally ill, emotionally disturbed or ~~mentally~~
8 ~~retarded~~ *people with intellectual disability* by friends or members of the
9 family;

10 (b) The practice of mental health technology by students enrolled in
11 approved courses of mental health technology;

12 (c) The practice of mental health technology by graduates of an
13 approved course in mental health technology who are practicing as mental
14 health technicians pending the results of the first licensing examination
15 scheduled by the board following graduation;

16 (d) Practice by short-term trainees exploring the practice of mental
17 health technology as a prospective vocation;

18 (e) Service conducted in accordance with the practice of the tenets of
19 any religious denomination in which persons of good faith rely solely upon
20 spiritual means or prayer in the exercise of their religion to prevent or cure
21 disease;

22 (f) The practice of any legally qualified mental health technician of
23 this state or another who is employed by the United States government of
24 any bureau, division or agency thereof, while in the discharge of official
25 duties;

26 (g) Temporary assistance in the therapeutic care of patients where
27 adequate medical, nursing, and/or other supervision is provided;

28 (h) Subsidiary workers in hospitals or related institutions from
29 assisting in the nursing care of patients where adequate medical and
30 nursing supervision is provided; and

31 (i) The employment of psychiatric aides who have received at least
32 three months instruction in an approved basic aide training program and
33 who work under the supervision of licensed personnel.

34 Sec. 46. K.S.A. 65-4411 is hereby amended to read as follows: 65-
35 4411. K.S.A. 65-4411 to 65-4415, inclusive, and amendments thereto,
36 shall be known and may be cited as the Kansas community ~~mental~~
37 ~~retardation~~ *facilities for people with intellectual disability* assistance act.

38 Sec. 47. K.S.A. 65-4412 is hereby amended to read as follows: 65-
39 4412. (a) "Community ~~mental-retardation~~ *facilities for people with*
40 *intellectual disability*" means: (1) Any community facility for ~~the mentally~~
41 ~~retarded~~ *people with intellectual disability* organized pursuant to the
42 provisions of K.S.A. 19-4001 to 19-4015, inclusive, and amendments
43 thereto, and licensed in accordance with the provisions of K.S.A. 75-

1 3307b, and amendments thereto; or (2) any ~~mental-retardation~~ *intellectual*
2 *disability* governing board which contracts with a nonprofit corporation to
3 provide services for ~~the mentally-retarded~~ *people with intellectual*
4 *disability*.

5 (b) "Secretary" means secretary of social and rehabilitation services.

6 Sec. 48. K.S.A. 65-4413 is hereby amended to read as follows: 65-
7 4413. (a) For the purpose of insuring that adequate community ~~mental-~~
8 ~~retardation~~ *intellectual disability* services are available to all inhabitants of
9 Kansas, the state shall participate in the financing of community ~~mental-~~
10 ~~retardation~~ facilities *for people with intellectual disability* in the manner
11 provided by this section.

12 (b) Subject to the provisions of appropriations acts and the provisions
13 of K.S.A. 65-4414, and amendments thereto, the secretary shall make
14 grants to community ~~mental-retardation~~ facilities *for people with*
15 *intellectual disability* based on full-time equivalent clients served and *per*
16 *diem* amounts per client as provided in this section. The secretary, in
17 accordance with the provisions of this section, shall adopt rules and
18 regulations (1) defining full-time equivalent clients and prescribing the
19 method of computing full-time equivalent clients and (2) establishing
20 statewide *per diem* amounts per client for the purposes of determining
21 grants to community ~~mental-retardation~~-facilities *for people with*
22 *intellectual disability*. A client accepted for a program by a facility ~~on and~~
23 ~~after July 1, 1987,~~ shall constitute a full-time equivalent client only if
24 the client was accepted by the facility on a first-come, first-serve basis in order
25 of the time at which an application for admission was made to such facility
26 on behalf of the client, except that a client accepted for a program by a
27 facility on other than a first-come, first-serve basis because of a family
28 crisis occasioned by family circumstances shall constitute a full-time
29 equivalent client. The secretary shall adopt rules and regulations to define
30 the parameters for agency boards of directors to follow in identifying
31 "family crisis occasioned by family circumstances." Such rules and
32 regulations shall require that each agency board of directors establish
33 standards and guidelines, within parameters defined by the rules and
34 regulations, which are consistent with the needs of clients and their
35 families. The standards and guidelines established by the agency board of
36 directors shall specify to the extent known the types of family crises most
37 likely to necessitate admission to a facility and shall establish criteria for
38 determining the appropriateness of such admission. In addition the rules
39 and regulations shall establish procedures for review by the secretary of
40 the appropriateness of any such admission.

41 (c) The secretary shall make grant payments each calendar quarter.
42 Subject to the provisions of K.S.A. 65-4414, and amendments thereto: (1)
43 The first year of *per diem* payments made under this section shall be based

1 on the number of clients served during the base calendar year 1983; and
2 (2) payments in subsequent years shall be based on actual clients served
3 during the calendar year immediately preceding the year in which such
4 grant payments are to be made. In the event that sufficient moneys to pay
5 to all community ~~mental-retardation~~ facilities *for people with intellectual*
6 *disability*, the full amount of grant payments determined in accordance
7 with the number of actual clients served thereby and the current *per diem*
8 amounts per client for any calendar quarter have not been appropriated or
9 are not available, the entire amount available such calendar quarter for
10 grant payments shall be prorated by the secretary among all the
11 community ~~mental-retardation~~ facilities *for people with intellectual*
12 *disability* applying for such grant payments in proportion to the amount
13 each such community ~~mental-retardation~~ facility *for people with*
14 *intellectual disability* would have received if sufficient moneys had been
15 appropriated and available therefor, subject to the provisions of K.S.A. 65-
16 4414, and amendments thereto. A client funded by special state funding
17 shall not constitute a client for purposes of *per diem* funding under this
18 section.

19 (d) The secretary shall adopt rules and regulations for the
20 administration of the provisions of the Kansas community ~~mental-~~
21 ~~retardation~~ facilities *for people with intellectual disability* assistance act.

22 Sec. 49. K.S.A. 65-4414 is hereby amended to read as follows: 65-
23 4414. During each fiscal year commencing after June 30, 1986, each
24 community ~~mental-retardation~~ facility *for people with intellectual*
25 *disability* which was eligible for grant payments under K.S.A. 65-4413,
26 *and amendments thereto*, and which received assistance under the
27 provisions of K.S.A. 65-4401 to 65-4408, inclusive, *and amendments*
28 *thereto*, for the fiscal year ending June 30, 1986, shall receive a total
29 amount of grant payments under K.S.A. 65-4413, *and amendments*
30 *thereto*, for such fiscal year in an amount which is not less than the total
31 amount of assistance earned by such community ~~mental-retardation~~ facility
32 *for people with intellectual disability* under the provisions of K.S.A. 65-
33 4401 to 65-4408, inclusive, *and amendments thereto*, for the fiscal year
34 ending June 30, 1986. In the event that sufficient funds are not
35 appropriated to pay all such community ~~mental-retardation~~ facilities *for*
36 *people with intellectual disability*, which are applying for grants, the
37 minimum amounts which such facilities are eligible to receive under this
38 section, the secretary shall prorate the entire amount appropriated for
39 grants among those community ~~mental-retardation~~ facilities *for people*
40 *with intellectual disability* which are applying for grants and which are
41 eligible under this section, in proportion to the amount each such
42 community ~~mental-retardation~~ facility *for people with intellectual*
43 *disability* received during the base year ending June 30, 1986.

1 Sec. 50. K.S.A. 65-4415 is hereby amended to read as follows: 65-
2 4415. (a) The secretary upon determination that a program included in the
3 proposed budget of a community ~~mental-retardation~~ facility *for people*
4 *with intellectual disability*: (1) Is a new program not included in previous
5 budgets of such community ~~mental-retardation~~ center *for people with*
6 *intellectual disability*; and (2) duplicates an existing program which is
7 adequately serving the geographic area served by such community ~~mental-~~
8 ~~retardation~~ facility *for people with intellectual disability*, may subtract the
9 full-time equivalent clients served by the program from the total full-time
10 equivalent computation for purposes of granting financial assistance under
11 the Kansas community ~~mental-retardation~~ facilities *for people with*
12 *intellectual disability* assistance act or may require such community
13 ~~mental-retardation~~ facility *for people with intellectual disability* to
14 purchase the service from or otherwise cooperate with such other program.

15 (b) The secretary shall administer the provisions of the Kansas
16 community ~~mental-retardation~~ facilities *for people with intellectual*
17 *disability* assistance act. In administering the provisions of the Kansas
18 community ~~mental-retardation~~ facilities *for people with intellectual*
19 *disability* assistance act, the secretary shall review the budgets and
20 expenditures of the facilities, from time to time during the fiscal year, and
21 may withdraw funds from any facility which is not being administered
22 substantially in accordance with the provisions of the annual budget
23 submitted to the secretary.

24 (c) The secretary shall provide consultative staff service to
25 community ~~mental-retardation~~ facilities *for people with intellectual*
26 *disability* to assist in ascertaining local needs, in obtaining federal funds
27 and assistance and in the delivery of ~~mental-retardation~~ services *for people*
28 *with intellectual disability* at the local level.

29 (d) In the event any community ~~mental-retardation~~ facility *for people*
30 *with intellectual disability* is paid more than it is entitled to receive under
31 any distribution made under the Kansas community ~~mental-retardation-~~
32 ~~facilities~~ *for people with intellectual disability* assistance act, the secretary
33 shall notify the governing board of the community ~~mental-retardation-~~
34 ~~facility~~ *for people with intellectual disability* of the amount of such
35 overpayment, and such governing board shall remit the same to the
36 secretary. The secretary shall remit any moneys so received to the state
37 treasurer in accordance with the provisions of K.S.A. 75-4215, and
38 amendments thereto. Upon receipt of each such remittance, the state
39 treasurer shall deposit the entire amount in the state treasury to the credit
40 of the state general fund. If any such governing board fails so to remit, the
41 secretary shall deduct the excess amount so paid from future payments
42 becoming due to such community ~~mental-retardation~~ facility *for people*
43 *with intellectual disability*.

1 (e) In the event any community ~~mental-retardation~~ facility *for people*
2 *with intellectual disability* is paid less than the amount to which it is
3 entitled under any distribution made under the Kansas community ~~mental~~
4 ~~retardation~~ facilities *for people with intellectual disability* assistance act,
5 the secretary shall pay the additional amount due at any time within the
6 fiscal year in which the underpayment was made or within 60 days after
7 the end of such year.

8 Sec. 51. K.S.A. 2011 Supp. 65-4915 is hereby amended to read as
9 follows: 65-4915. (a) As used in this section:

10 (1) "Health care provider" means: (A) Those persons and entities
11 defined as a health care provider under K.S.A. 40-3401, and amendments
12 thereto; and (B) a dentist licensed by the Kansas dental board, a dental
13 hygienist licensed by the Kansas dental board, a professional nurse
14 licensed by the board of nursing, a practical nurse licensed by the board of
15 nursing, a mental health technician licensed by the board of nursing, a
16 physical therapist licensed by the state board of healing arts, a physical
17 therapist assistant certified by the state board of healing arts, an
18 occupational therapist licensed by the state board of healing arts, an
19 occupational therapy assistant licensed by the state board of healing arts, a
20 respiratory therapist licensed by the state board of healing arts, a physician
21 assistant licensed by the state board of healing arts and attendants and
22 ambulance services certified by the emergency medical services board.

23 (2) "Health care provider group" means:

24 (A) A state or local association of health care providers or one or
25 more committees thereof;

26 (B) the board of governors created under K.S.A. 40-3403, and
27 amendments thereto;

28 (C) an organization of health care providers formed pursuant to state
29 or federal law and authorized to evaluate medical and health care services;

30 (D) a review committee operating pursuant to K.S.A. 65-2840c, and
31 amendments thereto;

32 (E) an organized medical staff of a licensed medical care facility as
33 defined by K.S.A. 65-425, and amendments thereto, an organized medical
34 staff of a private psychiatric hospital licensed under K.S.A. 75-3307b, and
35 amendments thereto, or an organized medical staff of a state psychiatric
36 hospital or state institution for ~~the mentally-retarded~~ *people with*
37 *intellectual disability*, as follows: Larned state hospital, Osawatomie state
38 hospital, Rainbow mental health facility, Kansas neurological institute and
39 Parsons state hospital and training center;

40 (F) a health care provider;

41 (G) a professional society of health care providers or one or more
42 committees thereof;

43 (H) a Kansas corporation whose stockholders or members are health

1 care providers or an association of health care providers, which
2 corporation evaluates medical and health care services; or

3 (I) an insurance company, health maintenance organization or
4 administrator of a health benefits plan which engages in any of the
5 functions defined as peer review under this section.

6 (3) "Peer review" means any of the following functions:

7 (A) Evaluate and improve the quality of health care services rendered
8 by health care providers;

9 (B) determine that health services rendered were professionally
10 indicated or were performed in compliance with the applicable standard of
11 care;

12 (C) determine that the cost of health care rendered was considered
13 reasonable by the providers of professional health services in this area;

14 (D) evaluate the qualifications, competence and performance of the
15 providers of health care or to act upon matters relating to the discipline of
16 any individual provider of health care;

17 (E) reduce morbidity or mortality;

18 (F) establish and enforce guidelines designed to keep within
19 reasonable bounds the cost of health care;

20 (G) conduct of research;

21 (H) determine if a hospital's facilities are being properly utilized;

22 (I) supervise, discipline, admit, determine privileges or control
23 members of a hospital's medical staff;

24 (J) review the professional qualifications or activities of health care
25 providers;

26 (K) evaluate the quantity, quality and timeliness of health care
27 services rendered to patients in the facility;

28 (L) evaluate, review or improve methods, procedures or treatments
29 being utilized by the medical care facility or by health care providers in a
30 facility rendering health care.

31 (4) "Peer review officer or committee" means:

32 (A) An individual employed, designated or appointed by, or a
33 committee of or employed, designated or appointed by, a health care
34 provider group and authorized to perform peer review; or

35 (B) a health care provider monitoring the delivery of health care at
36 correctional institutions under the jurisdiction of the secretary of
37 corrections.

38 (b) Except as provided by K.S.A. 60-437, and amendments thereto,
39 and by subsections (c) and (d), the reports, statements, memoranda,
40 proceedings, findings and other records submitted to or generated by peer
41 review committees or officers shall be privileged and shall not be subject
42 to discovery, subpoena or other means of legal compulsion for their release
43 to any person or entity or be admissible in evidence in any judicial or

1 administrative proceeding. Information contained in such records shall not
2 be discoverable or admissible at trial in the form of testimony by an
3 individual who participated in the peer review process. The peer review
4 officer or committee creating or initially receiving the record is the holder
5 of the privilege established by this section. This privilege may be claimed
6 by the legal entity creating the peer review committee or officer, or by the
7 commissioner of insurance for any records or proceedings of the board of
8 governors.

9 (c) Subsection (b) shall not apply to proceedings in which a health
10 care provider contests the revocation, denial, restriction or termination of
11 staff privileges or the license, registration, certification or other
12 authorization to practice of the health care provider. A licensing agency in
13 conducting a disciplinary proceeding in which admission of any peer
14 review committee report, record or testimony is proposed shall hold the
15 hearing in closed session when any such report, record or testimony is
16 disclosed. Unless otherwise provided by law, a licensing agency
17 conducting a disciplinary proceeding may close only that portion of the
18 hearing in which disclosure of a report or record privileged under this
19 section is proposed. In closing a portion of a hearing as provided by this
20 section, the presiding officer may exclude any person from the hearing
21 location except the licensee, the licensee's attorney, the agency's attorney,
22 the witness, the court reporter and appropriate staff support for either
23 counsel. The licensing agency shall make the portions of the agency record
24 in which such report or record is disclosed subject to a protective order
25 prohibiting further disclosure of such report or record. Such report or
26 record shall not be subject to discovery, subpoena or other means of legal
27 compulsion for their release to any person or entity. No person in
28 attendance at a closed portion of a disciplinary proceeding shall at a
29 subsequent civil, criminal or administrative hearing, be required to testify
30 regarding the existence or content of a report or record privileged under
31 this section which was disclosed in a closed portion of a hearing, nor shall
32 such testimony be admitted into evidence in any subsequent civil, criminal
33 or administrative hearing. A licensing agency conducting a disciplinary
34 proceeding may review peer review committee records, testimony or
35 reports but must prove its findings with independently obtained testimony
36 or records which shall be presented as part of the disciplinary proceeding
37 in open meeting of the licensing agency. Offering such testimony or
38 records in an open public hearing shall not be deemed a waiver of the peer
39 review privilege relating to any peer review committee testimony, records
40 or report.

41 (d) Nothing in this section shall limit the authority, which may
42 otherwise be provided by law, of the commissioner of insurance, the state
43 board of healing arts or other health care provider licensing or disciplinary

1 boards of this state to require a peer review committee or officer to report
2 to it any disciplinary action or recommendation of such committee or
3 officer; to transfer to it records of such committee's or officer's
4 proceedings or actions to restrict or revoke the license, registration,
5 certification or other authorization to practice of a health care provider; or
6 to terminate the liability of the fund for all claims against a specific health
7 care provider for damages for death or personal injury pursuant to
8 subsection (i) of K.S.A. 40-3403, and amendments thereto. Reports and
9 records so furnished shall not be subject to discovery, subpoena or other
10 means of legal compulsion for their release to any person or entity and
11 shall not be admissible in evidence in any judicial or administrative
12 proceeding other than a disciplinary proceeding by the state board of
13 healing arts or other health care provider licensing or disciplinary boards
14 of this state.

15 (e) A peer review committee or officer may report to and discuss its
16 activities, information and findings to other peer review committees or
17 officers or to a board of directors or an administrative officer of a health
18 care provider without waiver of the privilege provided by subsection (b)
19 and the records of all such committees or officers relating to such report
20 shall be privileged as provided by subsection (b).

21 (f) Nothing in this section shall be construed to prevent an insured
22 from obtaining information pertaining to payment of benefits under a
23 contract with an insurance company, a health maintenance organization or
24 an administrator of a health benefits plan.

25 Sec. 52. K.S.A. 2011 Supp. 65-4921 is hereby amended to read as
26 follows: 65-4921. As used in K.S.A. 65-4921 through 65-4930, and
27 amendments thereto:

28 (a) "Appropriate licensing agency" means the agency that issued the
29 license to the individual or health care provider who is the subject of a
30 report under this act.

31 (b) "Department" means the department of health and environment.

32 (c) "Health care provider" means: (1) Those persons and entities
33 defined as a health care provider under K.S.A. 40-3401, and amendments
34 thereto; and (2) a dentist licensed by the Kansas dental board, a dental
35 hygienist licensed by the Kansas dental board, a professional nurse
36 licensed by the board of nursing, a practical nurse licensed by the board of
37 nursing, a mental health technician licensed by the board of nursing, a
38 physical therapist licensed by the state board of healing arts, a physical
39 therapist assistant certified by the state board of healing arts, an
40 occupational therapist licensed by the state board of healing arts, an
41 occupational therapy assistant licensed by the state board of healing arts
42 and a respiratory therapist licensed by the state board of healing arts.

43 (d) "License," "licensee" and "licensing" include comparable terms

1 which relate to regulation similar to licensure, such as registration.

2 (e) "Medical care facility" means: (1) A medical care facility licensed
3 under K.S.A. 65-425 *et seq.*, and amendments thereto; (2) a private
4 psychiatric hospital licensed under K.S.A. 75-3307b, and amendments
5 thereto; and (3) state psychiatric hospitals and state institutions for ~~the~~
6 ~~mentally-retarded~~ *people with intellectual disability*, as follows: Larned
7 state hospital, Osawatomic state hospital, Rainbow mental health facility,
8 Kansas neurological institute and Parsons state hospital and training
9 center.

10 (f) "Reportable incident" means an act by a health care provider
11 which: (1) Is or may be below the applicable standard of care and has a
12 reasonable probability of causing injury to a patient; or (2) may be grounds
13 for disciplinary action by the appropriate licensing agency.

14 (g) "Risk manager" means the individual designated by a medical
15 care facility to administer its internal risk management program and to
16 receive reports of reportable incidents within the facility.

17 (h) "Secretary" means the secretary of health and environment.

18 Sec. 53. K.S.A. 65-5601 is hereby amended to read as follows: 65-
19 5601. As used in K.S.A. 65-5601 to 65-5605, inclusive, *and amendments*
20 *thereto*:

21 (a) "Patient" means a person who consults or is examined or
22 interviewed by treatment personnel.

23 (b) "Treatment personnel" means any employee of a treatment facility
24 who receives a confidential communication from a patient while engaged
25 in the diagnosis or treatment of a mental, alcoholic, drug dependency or
26 emotional condition, if such communication was not intended to be
27 disclosed to third persons.

28 (c) "Ancillary personnel" means any employee of a treatment facility
29 who is not included in the definition of treatment personnel.

30 (d) "Treatment facility" means a community mental health center,
31 community service provider, psychiatric hospital and state institution for
32 ~~the mentally-retarded~~ *people with intellectual disability*.

33 (e) "Head of the treatment facility" means the administrative director
34 of a treatment facility or the designee of the administrative director.

35 (f) "Community mental health center" means a mental health clinic or
36 community mental health center licensed under K.S.A. 75-3307b, and
37 amendments thereto.

38 (g) "Psychiatric hospital" means Larned state hospital, Osawatomic
39 state hospital, Rainbow mental health facility, Topeka state hospital and
40 hospitals licensed under K.S.A. 75-3307b, and amendments thereto.

41 (h) "State institution for ~~the mentally-retarded~~ *people with intellectual*
42 *disability*" means Winfield state hospital and training center, Parsons state
43 hospital and training center and the Kansas neurological institute.

1 (i) "Community service provider" means: (1) A community facility
2 for ~~the mentally-retarded~~ *people with intellectual disability* organized
3 pursuant to the provisions of K.S.A. 19-4001 through 19-4015, and
4 amendments thereto, and licensed in accordance with the provisions of
5 K.S.A. 75-3307b, and amendments thereto; (2) community service
6 provider as provided in the developmental disabilities reform act; or (3) a
7 nonprofit corporation which provides services for ~~the mentally-retarded~~
8 *people with intellectual disability* pursuant to a contract with a ~~mental-~~
9 ~~retardation~~ *an intellectual disability* governing board.

10 Sec. 54. K.S.A. 2011 Supp. 65-6805 is hereby amended to read as
11 follows: 65-6805. Each medical care facility as defined by subsection (h)
12 of K.S.A. 65-425, and amendments thereto; health care provider as defined
13 in K.S.A. 40-3401, and amendments thereto; providers of health care as
14 defined in subsection (f) of K.S.A. 65-5001, and amendments thereto;
15 health care personnel as defined in subsection (e) of K.S.A. 65-5001, and
16 amendments thereto; home health agency as defined by subsection (b) of
17 K.S.A. 65-5101, and amendments thereto; psychiatric hospitals licensed
18 under K.S.A. 75-3307b, and amendments thereto; state institutions for ~~the~~
19 ~~mentally-retarded~~ *people with intellectual disability*; community ~~mental-~~
20 ~~retardation~~ *facilities for people with intellectual disability* as defined under
21 K.S.A. 65-4412, and amendments thereto; community mental health center
22 as defined under K.S.A. 65-4432, and amendments thereto; adult care
23 homes as defined by K.S.A. 39-923, and amendments thereto; laboratories
24 described in K.S.A. 65-1,107, and amendments thereto; pharmacies; board
25 of nursing; Kansas dental board; board of examiners in optometry; state
26 board of pharmacy; state board of healing arts and third-party payors,
27 including, but not limited to, licensed insurers, medical and hospital
28 service corporations, health maintenance organizations, fiscal
29 intermediaries for government-funded programs and self-funded employee
30 health plans, shall file health care data with the Kansas health policy
31 authority as prescribed by the authority. The provisions of this section shall
32 not apply to any individual, facility or other entity under this section which
33 uses spiritual means through prayer alone in accordance with the tenets
34 and practices of a recognized church or religious denomination for the
35 treatment or cure of disease.

36 Sec. 55. K.S.A. 2011 Supp. 72-962 is hereby amended to read as
37 follows: 72-962. As used in this act:

- 38 (a) "School district" means any public school district.
39 (b) "Board" means the board of education of any school district.
40 (c) "State board" means the state board of education.
41 (d) "Department" means the state department of education.
42 (e) "State institution" means any institution under the jurisdiction of a
43 state agency.

- 1 (f) "State agency" means the department of social and rehabilitation
2 services, the department of corrections and the juvenile justice authority.
- 3 (g) "Exceptional children" means persons who are children with
4 disabilities or gifted children and are school age, to be determined in
5 accordance with rules and regulations adopted by the state board, which
6 age may differ from the ages of children required to attend school under
7 the provisions of K.S.A. 72-1111, and amendments thereto.
- 8 (h) "Gifted children" means exceptional children who are determined
9 to be within the gifted category of exceptionality as such category is
10 defined by the state board.
- 11 (i) "Special education" means specially designed instruction provided
12 at no cost to parents to meet the unique needs of an exceptional child,
13 including:
- 14 (1) Instruction conducted in the classroom, in the home, in hospitals
15 and institutions, and in other settings; and
- 16 (2) instruction in physical education.
- 17 (j) "Special teacher" means a person, employed by or under contract
18 with a school district or a state institution to provide special education or
19 related services, who is: (1) Qualified to provide special education or
20 related services to exceptional children as determined pursuant to
21 standards established by the state board; or (2) qualified to assist in the
22 provision of special education or related services to exceptional children as
23 determined pursuant to standards established by the state board.
- 24 (k) "State plan" means the state plan for special education and related
25 services authorized by this act.
- 26 (l) "Agency" means boards and the state agencies.
- 27 (m) "Parent" means: (1) A natural parent; (2) an adoptive parent; (3) a
28 person acting as parent; (4) a legal guardian; (5) an education advocate; or
29 (6) a foster parent, if the foster parent has been appointed the education
30 advocate of an exceptional child.
- 31 (n) "Person acting as parent" means a person such as a grandparent,
32 stepparent or other relative with whom a child lives or a person other than
33 a parent who is legally responsible for the welfare of a child.
- 34 (o) "Education advocate" means a person appointed by the state board
35 in accordance with the provisions of K.S.A. 2011 Supp. 38-2218, and
36 amendments thereto. A person appointed as an education advocate for a
37 child shall not be: (1) An employee of the agency which is required by law
38 to provide special education or related services for the child; (2) an
39 employee of the state board, the department, or any agency which is
40 directly involved in providing educational services for the child; or (3) any
41 person having a professional or personal interest which would conflict
42 with the interests of the child.
- 43 (p) "Free appropriate public education" means special education and

1 related services that: (1) Are provided at public expense, under public
2 supervision and direction, and without charge; (2) meet the standards of
3 the state board; (3) include an appropriate preschool, elementary, or
4 secondary school education; and (4) are provided in conformity with an
5 individualized education program.

6 (q) "Federal law" means the individuals with disabilities education
7 act, as amended.

8 (r) "Individualized education program" or "IEP" means a written
9 statement for each exceptional child that is developed, reviewed, and
10 revised in accordance with the provisions of K.S.A. 72-987, and
11 amendments thereto.

12 (s) (1) "Related services" means transportation, and such
13 developmental, corrective, and other supportive services, including
14 speech-language pathology and audiology services, interpreting services,
15 psychological services, physical and occupational therapy, recreation,
16 including therapeutic recreation, social work services, school nurse
17 services designed to enable a child with a disability to receive a free
18 appropriate public education as described in the child's IEP, counseling
19 services, including rehabilitation counseling, orientation and mobility
20 services, and medical services, except that such medical services shall be
21 for diagnostic and evaluation purposes only, as may be required to assist
22 an exceptional child to benefit from special education, and includes the
23 early identification and assessment of disabling conditions in children.

24 (2) "Related services" shall not mean any medical device that is
25 surgically implanted or the replacement of any such device.

26 (t) "Supplementary aids and services" means aids, services, and other
27 supports that are provided in regular education classes or other education-
28 related settings to enable children with disabilities to be educated with
29 nondisabled children to the maximum extent appropriate.

30 (u) "Individualized education program team" or "IEP team" means a
31 group of individuals composed of: (1) The parents of a child; (2) at least
32 one regular education teacher of the child, if the child is, or may be,
33 participating in the regular education environment; (3) at least one special
34 education teacher or, where appropriate, at least one special education
35 provider of the child; (4) a representative of the agency directly involved
36 in providing educational services for the child who: (A) Is qualified to
37 provide, or supervise the provision of, specially designed instruction to
38 meet the unique needs of exceptional children; (B) is knowledgeable about
39 the general curriculum; and (C) is knowledgeable about the availability of
40 resources of the agency; (5) an individual who can interpret the
41 instructional implications of evaluation results; (6) at the discretion of the
42 parent or the agency, other individuals who have knowledge or special
43 expertise regarding the child, including related services personnel as

1 appropriate; and (7) whenever appropriate, the child.

2 (v) "Evaluation" means a multisourced and multidisciplinary
3 examination, conducted in accordance with the provisions of K.S.A. 72-
4 986, and amendments thereto, to determine whether a child is an
5 exceptional child.

6 (w) "Independent educational evaluation" means an examination
7 which is obtained by the parent of an exceptional child and performed by
8 an individual or group of individuals who meet state and local standards to
9 conduct such an examination.

10 (x) "Elementary school" means any nonprofit institutional day or
11 residential school that offers instruction in any or all of the grades
12 kindergarten through nine.

13 (y) "Secondary school" means any nonprofit institutional day or
14 residential school that offers instruction in any or all of the grades nine
15 through 12.

16 (z) "Children with disabilities" means: (1) Children with ~~mental-~~
17 ~~retardation~~ *intellectual disability*, hearing impairments including deafness,
18 speech or language impairments, visual impairments including blindness,
19 emotional disturbance, orthopedic impairments, autism, traumatic brain
20 injury, other health impairments, or specific learning disabilities and who,
21 by reason thereof, need special education and related services; and (2)
22 children experiencing one or more developmental delays and, by reason
23 thereof, need special education and related services if such children are
24 ages three through nine.

25 (aa) "Substantial change in placement" means the movement of an
26 exceptional child, for more than 25% of the child's school day, from a less
27 restrictive environment to a more restrictive environment or from a more
28 restrictive environment to a less restrictive environment.

29 (bb) "Material change in services" means an increase or decrease of
30 25% or more of the duration or frequency of a special education service, a
31 related service or a supplementary aid or a service specified on the IEP of
32 an exceptional child.

33 (cc) "Developmental delay" means such a deviation from average
34 development in one or more of the following developmental areas, as
35 determined by appropriate diagnostic instruments and procedures, as
36 indicates that special education and related services are required: (1)
37 Physical; (2) cognitive; (3) adaptive behavior; (4) communication; or (5)
38 social or emotional development.

39 (dd) "Homeless children" means "homeless children and youths" as
40 defined in the federal McKinney-Vento homeless assistance act, 42 U.S.C.
41 § 11434a.

42 (ee) "Limited English proficient" means an individual who meets the
43 qualifications specified in section 9101 of the federal elementary and

1 secondary education act of 1965, as amended.

2 Sec. 56. K.S.A. 72-6203 is hereby amended to read as follows: 72-
3 6203. (a) It is hereby declared to be a policy of the state of Kansas to
4 cooperate with the federal government in doing research in the field of
5 special education within this state to determine the needs of educable
6 ~~mentally-retarded~~ children *with intellectual disability* in areas where
7 population is not sufficiently large to make possible the organization of
8 day school special classes in centers within travel distance for children.

9 (b) The state board of education is designated the "educational
10 agency" responsible for carrying out the purposes of this act, and is
11 authorized to make and file applications for federal funds as provided in
12 the federal act of July 26, 1954 (68 Stat. 533). The state board of education
13 is authorized and empowered to receive from the federal government, or
14 any of its agencies, any funds made available under existing law, rules or
15 regulations, or that may hereafter be made available for expenses of doing
16 research, and such board may expend the same for ~~said~~ *such* purposes in
17 accordance with the rules, regulations and requirements under which such
18 funds are made available.

19 (c) The state board of education is authorized and directed to require
20 such reports, make such inspections and investigations, and prescribe such
21 regulations, as it deems necessary in carrying out the provisions of this act,
22 and shall make such reports to federal agencies as may be required by such
23 agencies in granting federal funds.

24 (d) The state treasurer is designated the custodian of all funds made
25 available for the purposes of this act. The state board of education shall
26 deposit all such funds received from the federal government in the state
27 treasury, and the treasurer of the state shall credit same to the proper
28 accounts. The director of accounts and reports is hereby authorized to draw
29 his warrants upon the treasurer of state against such accounts upon duly
30 authorized vouchers approved by the state board of education as provided
31 by law.

32 Sec. 57. K.S.A. 2011 Supp. 74-5344 is hereby amended to read as
33 follows: 74-5344. Nothing contained in the licensure of psychologists act
34 of the state of Kansas shall be construed: (a) To prevent qualified members
35 of other professional groups such as, but not limited to, ministers,
36 Christian Science practitioners, social workers and sociologists from doing
37 work of a psychological nature consistent with their training and consistent
38 with any code of ethics of their respective professions so long as they do
39 not hold themselves out to the public by any title or description of services
40 incorporating the words "psychologic," "psychological," "psychologist" or
41 "psychology";

42 (b) in any way to restrict any person from carrying on any of the
43 aforesaid activities in the free expression or exchange of ideas concerning

1 the practice of psychology, the application of its principles, the teaching of
2 such subject matter and the conducting of research on problems relating to
3 human behavior if such person does not represent such person or such
4 person's services in any manner prohibited by such act;

5 (c) to limit the practice of psychology of a licensed masters level
6 psychologist or a person who holds a temporary license to practice as a
7 licensed masters level psychologist insofar as such practice is a part of the
8 duties of any such person's salaried position, and insofar as such practice is
9 performed solely on behalf of such person's employer or insofar as such
10 person is engaged in public speaking with or without remuneration;

11 (d) to limit the practice of psychology or services of a student, intern
12 or resident in psychology pursuing a degree in psychology in a school,
13 college, university or other institution, with educational standards
14 consistent with those of the state universities of Kansas if such practice or
15 services are supervised as a part of such person's degree program. Nothing
16 contained in this section shall be construed as permitting such persons to
17 offer their services as psychologists to any other person and to accept
18 remuneration for such psychological services other than as specifically
19 excepted herein, unless they have been licensed under the provisions of the
20 licensure of psychologists act of the state of Kansas, registered under the
21 provisions of K.S.A. 74-5361 to 74-5371, inclusive, and amendments
22 thereto, or granted a temporary license under the provisions of K.S.A. 74-
23 5367, and amendments thereto;

24 (e) to prevent the employment, by a person, association, partnership
25 or a corporation furnishing psychological services for remuneration, of
26 persons licensed as psychologists under the provisions of the licensure of
27 psychologists act of the state of Kansas;

28 (f) to restrict the use of tools, tests, instruments or techniques usually
29 denominated "psychological" so long as the user does not represent oneself
30 to be a licensed psychologist or a licensed masters level psychologist;

31 (g) to permit persons licensed as psychologists to engage in the
32 practice of medicine as defined in the laws of this state, nor to require such
33 licensed psychologists to comply with the Kansas healing arts act;

34 (h) to restrict the use of the term "social psychologist" by any person
35 who has received a doctoral degree in sociology or social psychology from
36 an institution whose credits in sociology or social psychology are
37 acceptable by a school or college as defined in the licensure of
38 psychologists act of the state of Kansas, and who has passed
39 comprehensive examination in the field of social psychology as a part of
40 the requirements for the doctoral degree or has had equivalent specialized
41 training in social psychology;

42 (i) to restrict the practice of psychology by a person who is certified
43 as a school psychologist by the state department of education so long as

1 such practice is conducted as a part of the duties of employment by a
2 unified school district or as part of an independent evaluation conducted in
3 accordance with K.S.A. 72-963, and amendments thereto, including the
4 use of the term "school psychologist" by such person in conjunction with
5 such practice; or

6 (j) to restrict the use of the term psychologist or the practice of
7 psychology by psychologists not licensed under the licensure of
8 psychologists act of the state of Kansas in institutions for ~~the mentally~~
9 ~~retarded~~ *people with intellectual disability*, in a juvenile correctional
10 facility, as defined in K.S.A. 2011 Supp. 38-2302, and amendments
11 thereto, or in institutions within the department of corrections insofar as
12 such term is used or such practice of psychology is performed solely in
13 conjunction with such person's employment by any such institution or
14 juvenile correctional facility.

15 (k) Any person not licensed as a psychologist but who immediately
16 prior to the effective date of this act was engaged in the practice of
17 psychology in accordance with subsection (e) as it existed immediately
18 prior to the effective date of this act under the supervision of a licensed
19 psychologist may continue on and after the effective date of this act to
20 engage in such practice in the manner authorized by subsection (e) as it
21 existed immediately prior to the effective date of this act.

22 Sec. 58. K.S.A. 74-8917 is hereby amended to read as follows: 74-
23 8917. The provisions of subsection (a) of K.S.A. 74-8905, and
24 amendments thereto, shall not prohibit the issuance of bonds by the
25 Kansas development finance authority for the purpose of making loans to
26 organizations which provide community mental health, ~~mental~~
27 ~~retardation~~ *intellectual disability* and drug and alcohol abuse services to the
28 Kansas department of social and rehabilitation services and any such
29 issuance of bonds is exempt from the provisions of subsection (a) of
30 K.S.A. 74-8905, and amendments thereto.

31 Sec. 59. K.S.A. 2011 Supp. 75-4265 is hereby amended to read as
32 follows: 75-4265. (a) The secretary of social and rehabilitation services
33 and the secretary of aging shall take necessary actions to establish an
34 intergovernmental transfer program as a part of the nursing facility
35 services payment program within the medicaid state plan.

36 (b) In implementing the intergovernmental transfer program, the
37 secretary of aging shall disburse moneys received from the federal
38 government for the intergovernmental transfer program and moneys
39 transferred from the state general fund to the intergovernmental transfer
40 fund for the program to units of government which have entered into
41 participation agreements with the secretary of aging and the secretary of
42 social and rehabilitation services. The amount of moneys disbursed to the
43 units of government from moneys transferred from the state general fund

1 to the intergovernmental transfer fund for the program shall not exceed the
2 amount necessary to match federal funds available to the state under the
3 intergovernmental transfer program. The secretary of aging shall
4 periodically calculate the amount of federal funds available under the
5 program according to the methodology prescribed for the
6 intergovernmental transfer program in the medicaid state plan.

7 (c) The secretary of social and rehabilitation services and the
8 secretary of aging are authorized to enter into intergovernmental transfer
9 program participation agreements with units of government which own
10 and operate nursing facilities. The participation agreements may permit the
11 units of government to retain a participation fee specified by the secretary
12 of aging from moneys received under the intergovernmental transfer
13 program which are otherwise required to be transferred back to the
14 secretary of aging.

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

34 (2) Each unit of government receiving a disbursement under the
35 intergovernmental transfer program shall reimburse the amount of money
36 received, less the amount of the participation fee, to the secretary of aging.
37 Upon receipt of each amount of moneys from participating units of
38 government under the intergovernmental transfer program, the secretary of
39 aging shall deposit the entire amount in the state treasury to the credit of
40 the intergovernmental transfer fund. The secretary of aging shall determine
41 the amount of each such deposit that was transferred from the state general
42 fund to match medicaid federal funds under the intergovernmental transfer
43 program and shall certify such amount to the director of accounts and

1 reports. Upon receipt of each such certification, the director of accounts
2 and reports shall retransfer the amount certified from the
3 intergovernmental transfer fund to the state general fund.

4 (e) There is hereby established the intergovernmental transfer
5 administration fund in the state treasury which shall be administered by the
6 secretary of aging in accordance with this act. All expenditures from the
7 intergovernmental transfer administration fund shall be to pay the costs of
8 administering the intergovernmental transfer program and shall be made in
9 accordance with appropriation acts upon warrants of the director of
10 accounts and reports issued pursuant to vouchers approved by the
11 secretary of aging or the secretary's designee. The secretary of aging shall
12 recover the costs of administering the intergovernmental transfer program
13 from the intergovernmental transfer fund by certifying the amount of such
14 costs to the director of accounts and reports each calendar quarter. Upon
15 receipt of each certification of costs from the secretary of aging under this
16 subsection, the director of accounts and reports shall transfer the amount
17 certified from the intergovernmental transfer fund to the intergovernmental
18 transfer administration fund.

19 (f) After each amount of moneys is credited to the intergovernmental
20 transfer fund and the amount of the state match that had been transferred
21 from the state general fund has been transferred back to the state general
22 fund pursuant to subsection (d)(2), and after the transfer of the amount
23 certified by the secretary of aging to the intergovernmental transfer
24 administration fund pursuant to subsection (e), if any, the director of
25 accounts and reports shall transfer the remaining amount in the
26 intergovernmental transfer fund as follows:

27 ~~(1) During the period from the effective date of this act through June~~
28 ~~30, 2001, 60% of such amount shall be transferred to the senior services~~
29 ~~trust fund established by K.S.A. 2011 Supp. 75-4266 and amendments~~
30 ~~thereto, 9.7% of such amount shall be transferred to the state medicaid~~
31 ~~match fund -- department on aging established by subsection (o)(1), 15.3%~~
32 ~~of such amount shall be transferred to the state medicaid match fund --~~
33 ~~SRS established by subsection (o)(2), 10% of such amount shall be~~
34 ~~transferred to the long-term care loan and grant fund established by~~
35 ~~subsection (h) and 5% of such amount shall be transferred to the HCBS-~~
36 ~~programs fund established by subsection (p); and~~

37 (2) after June 30, 2001, *Seventy percent* of such amount shall be
38 transferred to the senior services trust fund, 5% of such amount shall be
39 transferred to the long-term care loan and grant fund and 25% of such
40 amount shall be transferred to the following special revenue funds in an
41 amount specified by appropriation acts of the legislature for each such
42 fund: State medicaid match – fund – department on aging and the state
43 medicaid match fund – SRS.

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

17 (h) There is hereby established the long-term care loan and grant fund
18 in the state treasury which shall be administered by the secretary of aging
19 in accordance with this act. All expenditures from the long-term care loan
20 and grant fund shall be made in accordance with appropriation acts upon
21 warrants of the director of accounts and reports issued pursuant to
22 vouchers approved by the secretary of aging or the secretary's designee.
23 Moneys in the long-term care loan and grant fund shall be used to make
24 loans under the long-term care loan program developed by the secretary of
25 aging in accordance with this section and grants under the long-term grant
26 program developed by the secretary of aging in accordance with this
27 section.

28 (i) The secretary of aging is hereby authorized to develop and
29 implement a long-term care loan program in accordance with this section.
30 Subject to the provisions of this section and the provisions of appropriation
31 acts, the secretary of aging may enter into loan agreements for market-rate,
32 low-interest or no-interest, fully or partially secured or unsecured loans
33 with repayment provisions and other terms and conditions as may be
34 prescribed by the secretary under such program. Loans under the long-
35 term care loan program may be made for the following:

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

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

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

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

1 (5) rural hospitals contracting for physician, physician assistant or
2 licensed professional nurse services; or

3 (6) building congregate housing for seniors in Kansas cities with
4 populations of 2,500 or less.

5 (j) The secretary of aging may consider the following factors to
6 prioritize and select loans under the long-term care loan program, grants
7 under the long-term care grant program and projects financed from the
8 senior services fund:

9 (1) Type of loan – higher interest is preferable to lower interest and
10 more secured is preferable to less secured;

11 (2) size of facility – facilities having less than 60 beds are preferable
12 to facilities having 60 beds or more;

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

15 (4) type of facility owner or borrower – unit of government, not-for-
16 profit organizations, for-profit organizations, and individuals, in that order
17 of preference; and

18 (5) type of research project organization – geriatric schools or
19 programs in Kansas colleges or universities, Kansas colleges or
20 universities, educational foundations, foreign colleges or universities,
21 Kansas not-for-profit organizations, Kansas for-profit organizations,
22 foreign not-for-profit organizations, foreign for-profit organizations, and
23 individuals, in that order of preference.

24 (k) All moneys received from repayments of principal and interest of
25 any loan made under this act shall be deposited in the state treasury and
26 credited to the long-term care loan and grant fund within the state treasury
27 and used to make new loans or grants under this section. The repayment of
28 a loan or of a senior services fund project contract or grant may not be
29 forgiven, in whole or in part, except as authorized by law.

30 (l) The secretary of aging is hereby authorized to develop and
31 implement a long-term care grant program in accordance with this section.
32 Subject to the provisions of this section and the provisions of appropriation
33 acts, the secretary of aging may make competitive matching grants under
34 such terms and conditions as may be prescribed by the secretary under
35 such program. Grants under the long-term care grant program may be
36 made only from the amount of moneys received for interest payments
37 under loan agreements under the long-term care loan program and credited
38 to the long-term care loan and grant fund. Grants under the long-term care
39 grant program may be made for the following:

40 (1) Grants for improvements in the quality of case management
41 services under home and community-based services (HCBS) programs and
42 for improvements for adult care homes; and

43 (2) financial assurance grants for community service providers under

1 home and community-based services (HCBS) programs.

2 (m) For purposes of this section, "units of government" and "units of
3 government which own and operate nursing facilities" which are eligible
4 to enter into intergovernmental transfer program participation agreements
5 shall be limited to cities of the first class, cities of the second class,
6 counties, hospital districts, or health care facilities and services hospital
7 districts which hold legal title to and are actively involved in the day-to-
8 day operations of any of the following:

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

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

17 (3) medicaid-certified long-term care facilities operated under
18 authority of K.S.A. 80-2550 *et seq.*, and amendments thereto.

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

21 (1) Licensed adult care homes, excluding nursing facilities for mental
22 health and intermediate care facilities for ~~the mentally retarded~~ *people*
23 *with intellectual disability*, as defined in K.S.A. 39-923, and amendments
24 thereto;

25 (2) medicaid-certified licensed hospitals and medicaid-certified long-
26 term care facilities based in or operated in connection with licensed
27 hospitals as defined in K.S.A. 65-425, and amendments thereto;

28 (3) private residences which the owners will contract to convert into
29 licensed homes plus facilities, as defined in K.S.A. 39-923, and
30 amendments thereto, and in which the owners will reside after the
31 conversion and licensure; or

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

34 (o) (1) There is hereby established the state medicaid match fund –
35 department on aging in the state treasury which shall be administered by
36 the secretary of aging in accordance with this act. All expenditures from
37 the state medicaid match fund – department on aging shall be made in
38 accordance with appropriation acts upon warrants of the director of
39 accounts and reports issued pursuant to vouchers approved by the
40 secretary of aging or the secretary's designee. Moneys in the state
41 medicaid match fund – department on aging shall be used to match
42 moneys for federal medicaid programs which are the most cost efficient in
43 providing services.

1 (2) There is hereby established the state medicaid match fund – SRS
2 in the state treasury which shall be administered as provided by law and in
3 accordance with this act. All expenditures from the state medicaid match
4 fund – SRS shall be made in accordance with appropriation acts upon
5 warrants of the director of accounts and reports issued pursuant to
6 vouchers approved as provided by law. Moneys in the state medicaid
7 match fund – SRS shall be used to match moneys for federal medicaid
8 programs which are the most cost efficient in providing services.

9 (p) There is hereby established the HCBS programs fund in the state
10 treasury which shall be administered by the secretary of social and
11 rehabilitation services. All moneys in the HCBS programs fund shall be
12 used for programs and services under the home and community-based
13 services (HCBS) programs and as otherwise provided by law. All
14 expenditures from the HCBS programs fund shall be made in accordance
15 with appropriation acts upon warrants of the director of accounts and
16 reports issued pursuant to vouchers approved by the secretary of social and
17 rehabilitation services or the secretary's designee.

18 Sec. 60. K.S.A. 75-4375 is hereby amended to read as follows: 75-
19 4375. (a) Each state officer or employee (1) who is employed by an
20 institution that is closed or abolished or otherwise ceases operations or that
21 is scheduled for such closure, abolition or cessation of operations and has a
22 budget reduction imposed that is associated with such closure, abolition or
23 cessation of operations, and (2) who is a direct care employee as defined
24 by this section, and (3) who is laid off from employment with such
25 institution for the reason of such closure, abolition, or cessation of
26 operations or such imposition of a budget reduction, and (4) who remains
27 in such employment until the date the employee is laid off, shall receive
28 compensation from the department of social and rehabilitation services for
29 the following:

30 (A) Forty hours of pay at the state officer or employee's regular
31 hourly rate of pay on the date the employee is laid off if such employee
32 has completed one full year of service but less than two full years of
33 service on the layoff date;

34 (B) eighty hours of pay at the state officer or employee's regular
35 hourly rate of pay on the date the employee is laid off if such employee
36 has completed two full years of service but less than three full years of
37 service on the layoff date;

38 (C) one hundred twenty hours of pay at the state officer or employee's
39 regular hourly rate of pay on the date the employee is laid off if such
40 employee has completed three full years of service but less than four full
41 years of service on the layoff date; or

42 (D) one hundred sixty hours of pay at the state officer or employee's
43 regular hourly rate of pay on the date the employee is laid off if the

1 employee has completed four full years of service or more on the layoff
2 date.

3 (b) As used in this section, "direct care employee" means state
4 officers or employees in the classified service under the Kansas civil
5 service act who: (1) Are exempt from the provisions of K.S.A. 75-6801,
6 and amendments thereto, as prescribed in policies and procedures
7 prescribed by the secretary of administration, including, but not limited to,
8 state officers and employees whose positions are in the following job class
9 series: (A) Activity therapist, (B) activity therapy technician, (C) licensed
10 mental health technician, (D) licensed mental health technician specialist,
11 (E) licensed practical nurse, (F) licensed practical nurse, senior, (G) mental
12 health aide, (H) radiologic technologist, (I) registered nurse, (J) activity
13 specialist, (K) ~~mental-retardation~~ *intellectual disability* specialist, (L)
14 ~~mental-retardation~~ *intellectual disability* technician, and (M) ~~mental-~~
15 ~~retardation~~ *intellectual disability* trainee; or

16 (2) are in positions that are assigned to job classes or job class series
17 that are designated as direct care employee job classes or job class series
18 by the secretary of social and rehabilitation services for purposes of this
19 section, except that no such designation shall be effective until the
20 secretary of social and rehabilitation services has presented such
21 designation to the SRS transition oversight committee created by K.S.A.
22 ~~1997 Supp.~~ 46-2701, and amendments thereto.

23 Sec. 61. K.S.A. 2011 Supp. 75-5321a is hereby amended to read as
24 follows: 75-5321a. The secretary of social and rehabilitation services shall
25 take necessary actions to transfer the administration of certain long-term
26 care programs and services to the secretary of aging. The programs shall
27 include the nursing facility services payment program, the home and
28 community based services for the frail elderly waiver program, the case
29 management for the frail elderly program and the income eligible (home
30 care) program. Excluding nursing facility programs, the programs to be
31 transferred shall not include long-term care programs for individuals under
32 the age of 65 with mental illness, ~~mental-retardation~~ *intellectual disability*,
33 other mental disabilities or physical disabilities. All such transfers shall be
34 made only in accordance with federal grant requirements related to such
35 programs.

36 Sec. 62. K.S.A. 75-5399 is hereby amended to read as follows: 75-
37 5399. When used in this act:

38 (a) "Individuals with disabilities" means individuals with ~~mental-~~
39 ~~retardation~~ *intellectual disability*, hearing impairments including deafness,
40 speech or language impairments, visual impairments including blindness,
41 serious emotional disturbance, orthopedic impairments, autism, traumatic
42 brain injury, other health impairments or specific learning disabilities.

43 (b) "Transition services" means a coordinated set of activities for a

1 student, designed within an outcome-oriented process, which promotes
2 movement from school to post-school activities, including post-secondary
3 education, vocational training, integrated employment (including
4 supported employment), continuing and adult education, adult services,
5 independent living or community participation. The coordinated set of
6 activities shall be based upon the individual student's needs, taking into
7 account the student's preferences and interests, and shall include
8 instruction, community experiences, the development of employment and
9 other post-school adult living objectives and, when appropriate,
10 acquisition of daily living skills and functional vocational evaluation.

11 (c) "Transition planning services" means rehabilitation counseling,
12 information and referral to community services for students age 16 and
13 older in secondary special education programs.

14 (d) "Local education authority" means the special education interlocal
15 or cooperative or school district responsible for the local special education
16 program.

17 (e) "Special education program" means services that are provided
18 pursuant to public law 94-142 (the education of all handicapped children's
19 act) as implemented in Kansas through K.S.A. 72-961 *et seq.*, and
20 amendments thereto, and public law 101-476 (the individuals with
21 disabilities education act).

22 (f) "Secretary" means the secretary of social and rehabilitation
23 services or the designee of the secretary.

24 (g) "Local transition council" means a representative group of
25 persons with disabilities and their families, school personnel, adult service
26 agency personnel and members of the general public such as employers
27 which develops an annual plan to improve secondary special education,
28 transition and transition planning services.

29 Sec. 63. K.S.A. 2011 Supp. 75-6506 is hereby amended to read as
30 follows: 75-6506. (a) The participation of a person qualified to participate
31 in the state health care benefits program shall be voluntary, and the cost of
32 the state health care benefits program for such person shall be established
33 by the Kansas state employees health care commission.

34 (b) Periodic deductions from state payrolls may be made in
35 accordance with procedures prescribed by the secretary of administration
36 to cover the costs of the state health care benefits program payable by
37 persons who are on the state payroll when authorized by such persons. Any
38 such periodic payroll deductions in effect on an implementation date for
39 biweekly payroll periods shall be collected in the manner prescribed by the
40 secretary of administration.

41 (c) In the event that the Kansas state employees health care
42 commission designates by rules and regulations a group of persons on the
43 payroll of a county, township, city, special district or other local

1 governmental entity, public school district, licensed child care facility
2 operated by a not-for-profit corporation providing residential group foster
3 care for children and receiving reimbursement for all or part of such care
4 from the department of social and rehabilitation services, nonprofit
5 community mental health center, as provided in K.S.A. 19-4001 *et seq.*,
6 and amendments thereto, nonprofit community facility for ~~the mentally~~
7 ~~retarded~~ *people with intellectual disability*, as provided in K.S.A. 19-4001
8 *et seq.*, and amendments thereto, or nonprofit independent living agency,
9 as defined in K.S.A. 65-5101, and amendments thereto, as qualified to
10 participate in the state health care benefits program, periodic deductions
11 from payrolls of the local governmental entity, public school district,
12 licensed child care facility operated by a not-for-profit corporation
13 providing residential group foster care for children and receiving
14 reimbursement for all or part of such care from the department of social
15 and rehabilitation services, nonprofit community mental health center, as
16 provided in K.S.A. 19-4001 *et seq.*, and amendments thereto, nonprofit
17 community facility for ~~the mentally~~ ~~retarded~~ *people with intellectual*
18 *disability*, as provided in K.S.A. 19-4001 *et seq.* and amendments thereto,
19 or nonprofit independent living agency, as defined in K.S.A. 65-5101 and
20 amendments thereto, may be made to cover the costs of the state health
21 care benefits program payable by such persons when authorized by such
22 persons. All such moneys deducted from payrolls shall be remitted to the
23 Kansas state employees health care commission in accordance with the
24 directions of the commission.

25 (d) ~~On and after July 1, 2002,~~ Whenever the Kansas state employees
26 health care commission designates any entity listed in subsection (c) as
27 qualified to participate in the state health care benefits program, such
28 entity's participation shall be conditioned upon the following:

29 (1) At least 70% of such entity's employees shall participate in the
30 state health care plan;

31 (2) except as provided by paragraph (6) of this subsection, the rate of
32 the premium paid by the entity as the employer's share of the total amount
33 of premium paid shall be at least equal to the rate paid by the state of
34 Kansas for its employees;

35 (3) the entity shall not create, maintain or permit any exemption from
36 participation in the state health care plan for such entity's employees;

37 (4) the rate charged to such entity shall be sufficient to pay for any
38 administrative or underwriting costs incurred by the state employees health
39 care commission;

40 (5) the rate charged to such entity shall not increase the rate of
41 premium paid by the state of Kansas for its employees;

42 (6) the entity shall elect to participate for a minimum of three
43 consecutive years in the state health care benefits program; and

1 (7) the commission may authorize an entity to pay less than the state
2 rate for the employee coverage for no more than three years and no more
3 than five years for dependent coverage on the condition that the entity
4 elects to participate for at least three consecutive years after first paying
5 the state rate for employee coverage.

6 Sec. 64. K.S.A. 75-6508 is hereby amended to read as follows: 75-
7 6508. (a) (1) Each state agency which has on its payroll persons
8 participating in the state health care benefits program shall pay from any
9 moneys available to the agency for such purpose an amount specified by
10 the Kansas state employees health care commission, including any
11 amounts prescribed under a cafeteria plan established under K.S.A. 75-
12 6512, and amendments thereto. All such payments shall continue on the
13 behalf of employees otherwise eligible for participation in the state health
14 care benefits program in accordance with the continuation provisions of
15 the federal family and medical leave act of 1993, P.L. 103-03, 107 Stat. 6.
16 The commission may charge each state agency a uniform amount per
17 person as the cost to the agency for the state's contribution for persons
18 participating in the state health care benefits program. Such amounts may
19 include the costs of administering the program.

20 (2) In the event that the Kansas state employees health care
21 commission designates by rules and regulations a group of persons on the
22 payroll of a county, township, city, special district or other local
23 governmental entity, public school district, licensed child care facility
24 operated by a not-for-profit corporation providing residential group foster
25 care for children and receiving reimbursement for all or part of such care
26 from the department of social and rehabilitation services, nonprofit
27 community mental health center, as provided in K.S.A. 19-4001 *et seq.*,
28 and amendments thereto, nonprofit community facility for ~~the mentally~~
29 ~~retarded~~ *people with intellectual disability*, as provided in K.S.A. 19-4001
30 *et seq.*, and amendments thereto, or nonprofit independent living agency,
31 as defined in K.S.A. 65-5101, and amendments thereto, as qualified to
32 participate in the state health care benefits program, each local
33 governmental entity, public school district, licensed child care facility
34 operated by a not-for-profit corporation providing residential group foster
35 care for children and receiving reimbursement for all or part of such care
36 from the department of social and rehabilitation services, nonprofit
37 community mental health center, as provided in K.S.A. 19-4001 *et seq.*,
38 and amendments thereto, nonprofit community facility for ~~the mentally~~
39 ~~retarded~~ *people with intellectual disability*, as provided in K.S.A. 19-4001
40 *et seq.*, and amendments thereto, or nonprofit independent living agency,
41 as defined in K.S.A. 65-5101, and amendments thereto, which has on its
42 payroll persons participating in the state health care benefits program shall
43 pay from any moneys available to the local governmental entity, public

1 school district, licensed child care facility operated by a not-for-profit
2 corporation providing residential group foster care for children and
3 receiving reimbursement for all or part of such care from the department
4 of social and rehabilitation services, nonprofit community mental health
5 center, as provided in K.S.A. 19-4001 *et seq.*, and amendments thereto,
6 nonprofit community facility for ~~the mentally retarded~~ *people with*
7 *intellectual disability*, as provided in K.S.A. 19-4001 *et seq.*, and
8 amendments thereto, or nonprofit independent living agency, as defined in
9 K.S.A. 65-5101, and amendments thereto, for such purpose an amount
10 specified by the commission. The commission may charge each local
11 governmental entity, public school district, licensed child care facility
12 operated by a not-for-profit corporation providing residential group foster
13 care for children and receiving reimbursement for all or part of such care
14 from the department of social and rehabilitation services, nonprofit
15 community mental health center, as provided in K.S.A. 19-4001 *et seq.*,
16 and amendments thereto, nonprofit community facility for ~~the mentally~~
17 ~~retarded~~ *people with intellectual disability*, as provided in K.S.A. 19-4001
18 *et seq.*, and amendments thereto, or nonprofit independent living agency,
19 as defined in K.S.A. 65-5101, and amendments thereto, a uniform amount
20 per person as the cost to the local governmental entity, public school
21 district, licensed child care facility operated by a not-for-profit corporation
22 providing residential group foster care for children and receiving
23 reimbursement for all or part of such care from the department of social
24 and rehabilitation services, nonprofit community mental health center, as
25 provided in K.S.A. 19-4001 *et seq.*, and amendments thereto, nonprofit
26 community facility for ~~the mentally retarded~~ *people with intellectual*
27 *disability*, as provided in K.S.A. 19-4001 *et seq.*, and amendments thereto,
28 or nonprofit independent living agency, as defined in K.S.A. 65-5101, and
29 amendments thereto, for the contribution of the local governmental entity,
30 public school district, licensed child care facility operated by a not-for-
31 profit corporation providing residential group foster care for children and
32 receiving reimbursement for all or part of such care from the department
33 of social and rehabilitation services, nonprofit community mental health
34 center, as provided in K.S.A. 19-4001 *et seq.*, and amendments thereto,
35 nonprofit community facility for ~~the mentally retarded~~ *people with*
36 *intellectual disability*, as provided in K.S.A. 19-4001 *et seq.*, and
37 amendments thereto, or nonprofit independent living agency, as defined in
38 K.S.A. 65-5101, and amendments thereto, for persons participating in the
39 state health care benefits program. Such amounts may include the costs of
40 administering the program.

41 (b) Payments from public funds for coverage under the state health
42 care benefits program for persons participating in that program shall not be
43 deemed a payment or supplement of wages of such person notwithstanding

1 any other provision of law or rules and regulations relating to wages of any
2 such person.

3 Sec. 65. K.S.A. 2011 Supp. 75-6609 is hereby amended to read as
4 follows: 75-6609. (a) When used in this section, "surplus real estate"
5 means real estate which is no longer needed by the state agency which
6 owns such real estate as determined in accordance with this section.

7 (b) (1) The secretary of administration shall develop criteria for the
8 identification of surplus real estate, including but not limited to, a review
9 of any legal restrictions associated with the real estate and the reasons for
10 the state agency to keep the real estate. In accordance with such criteria,
11 the secretary shall assist state agencies in the identification of surplus real
12 estate. The secretary of administration shall periodically review the status
13 of all real estate of state agencies subject to this section to determine if any
14 of the real estate owned by state agencies is potentially surplus real estate.
15 If any real estate owned by a state agency is determined by the secretary of
16 administration, in consultation with the head of the state agency, to be
17 surplus real estate in accordance with the criteria developed under
18 subsection (a), then the secretary of administration shall recommend to the
19 governor that such real estate be sold under the procedures prescribed by
20 this section.

21 (2) The secretary of administration shall develop guidelines for the
22 sale of surplus real estate. In accordance with such guidelines and upon the
23 approval of the governor, after consultation with the head of the state
24 agency which owns such surplus real estate, after consultation with the
25 joint committee on state building construction and after approval by the
26 state finance council under subsection (c), the secretary may offer such
27 property for sale by one of the following means: (A) Public auction; (B) by
28 listing the surplus property with a licensed real estate broker or
29 salesperson; or (C) by sealed bid. Subject to the approval of the state
30 finance council as required by subsection (c), the secretary of
31 administration may sell surplus real estate and any improvements thereon
32 on behalf of the state agency which owns such property.

33 (c) Prior to the sale of any surplus real estate under subsection (b), the
34 state finance council shall approve the sale, which is hereby characterized
35 as a matter of legislative delegation and subject to the guidelines
36 prescribed in subsection (c) of K.S.A. 75-3711, and amendments thereto.
37 The matter may be submitted to the state finance council for approval at
38 any time, including periods of time during which the legislature is in
39 session.

40 (d) Prior to offering any real estate for sale, such property shall be
41 appraised pursuant to K.S.A. 75-3043a, and amendments thereto, unless
42 the appraisal is waived as provided in this subsection. The secretary of
43 administration may waive the requirement for appraisal for any parcel of

1 surplus real estate that is to be sold at public auction under this section if
2 the secretary of administration determines that it is in the best interests of
3 the state to waive the requirement for appraisal for such parcel of surplus
4 real estate. The costs of any such appraisal may be paid from the proceeds
5 of the sale.

6 (e) Conveyance of title in surplus real estate offered for sale by the
7 secretary of administration shall be executed on behalf of the state agency
8 by the secretary of administration. The deed for the conveyance may be by
9 warranty deed or by quitclaim deed as determined to be in the best
10 interests of the state by the secretary of administration in consultation with
11 the head of the state agency which owns the surplus real estate.

12 (f) (1) Any proceeds from the sale of surplus real estate and any
13 improvements thereon, after deduction of the expenses of such sale and
14 any cost of appraisal of the surplus real estate, shall be deposited in the
15 state treasury as prescribed by this subsection, unless otherwise authorized
16 by law. On and after the effective date of this act, 20% of the proceeds
17 from each such sale deposited in the state treasury shall be credited to the
18 surplus real estate fund or another appropriate special revenue fund of the
19 state agency which owned the surplus real estate, as is prescribed by law
20 or as may be determined by the state agency, unless otherwise required by
21 state or federal law or by the limitations or restrictions of the state's title to
22 the real estate being sold. In the case of proceeds from the sale of surplus
23 real estate at a state mental health institution or a state ~~mental-retardation~~
24 institution *for people with intellectual disability*, such portion of the
25 proceeds shall be credited to the client benefit fund of such institution or to
26 another special revenue fund of such institution for (A) rehabilitation and
27 repair or other capital improvements for such institution, or (B) one-time
28 expenditures for community mental health organizations if the real estate
29 sold was at a state mental health institution or for community
30 developmental disabilities organizations if the real estate sold was at a
31 state ~~mental-retardation~~ institution *for people with intellectual disability*,
32 and, in any such case, shall be expended in accordance with the provisions
33 of appropriation acts. The remaining 80% of the proceeds from each such
34 sale deposited in the state treasury shall be credited to the state general
35 fund.

36 (2) The amount of expenses and the cost of appraisal for each sale of
37 surplus real estate pursuant to this section shall be transferred and credited
38 to the property contingency fund created under K.S.A. 75-3652, and
39 amendments thereto, and may be expended for any operations of the
40 department of administration.

41 (3) Any state agency owning real estate may apply to the director of
42 accounts and reports to establish a surplus real estate special revenue fund
43 in the state treasury. Subject to the provisions of appropriation acts,

1 moneys in a surplus real estate special revenue fund may be expended for
2 the operating expenditures of the state agency.

3 (g) Any sale of property by the secretary of transportation pursuant to
4 K.S.A. 68-413, and amendments thereto, shall not be subject to the
5 provisions of this section. The provisions of this section shall not be
6 applicable to real estate given as an endowment, bequest, or gift to a state
7 educational institution as defined in K.S.A. 72-4412, and amendments
8 thereto, or to the university of Kansas medical center.

9 (h) Sale of the Olathe travel information center shall not be subject to
10 the provisions of this section.

11 Sec. 66. K.S.A. 2011 Supp. 75-6610 is hereby amended to read as
12 follows: 75-6610. If a mental health institution or ~~mental-retardation-~~
13 ~~institution~~ *an institution for people with intellectual disability* is closed
14 and all or part of the real estate of such institution is sold, the proceeds
15 from the sale of such real estate, after deduction of the costs of the sale and
16 any costs of appraisal of such surplus real estate, shall be deposited in the
17 state treasury to the credit of a new or existing special revenue fund. All
18 expenditures of such moneys in any such special revenue fund shall be in
19 accordance with the provisions of appropriation acts and shall be used (a)
20 for capital improvement or operating expenditures for another state
21 institution providing either mental health services or ~~mental-retardation-~~
22 ~~services for people with intellectual disability~~, whichever were provided
23 by the closed institution or (b) to provide either mental health services or
24 ~~mental-retardation~~ services *for people with intellectual disability*,
25 whichever was provided by the closed institution, through community
26 organizations in communities.

27 Sec. 67. K.S.A. 2011 Supp. 75-7303 is hereby amended to read as
28 follows: 75-7303. As used in the long-term care ombudsman act:

29 (a) "Ombudsman" means the state long-term care ombudsman, any
30 regional long-term care ombudsman or any individual designated as an
31 ombudsman under subsection (h) of K.S.A. 2011 Supp. 75-7306, and
32 amendments thereto, who has received the training required under
33 subsection (f) of K.S.A. 2011 Supp. 75-7306, and amendments thereto,
34 and who has been designated by the state long-term care ombudsman to
35 carry out the powers, duties and functions of the office of the state long-
36 term care ombudsman.

37 (b) "Volunteer ombudsman" means an individual who has
38 satisfactorily completed the training prescribed by the state long-term care
39 ombudsman under subsection (f) of K.S.A. 2011 Supp. 75-7306, and
40 amendments thereto, who is a volunteer assisting in providing ombudsman
41 services and who receives no payment for such service other than
42 reimbursement for expenses incurred in accordance with guidelines
43 adopted therefor by the state long-term care ombudsman.

1 (c) "Facility" means an adult care home as such term is defined in
2 K.S.A. 39-923, and amendments thereto, except that facility does not
3 include any nursing facility for mental health or any intermediate care
4 facility for ~~the mentally retarded~~ *people with intellectual disability*, as such
5 terms are defined in K.S.A. 39-923, and amendments thereto.

6 (d) "Resident" means a resident as such term is defined in K.S.A. 39-
7 923, and amendments thereto.

8 (e) "State long-term care ombudsman" means the individual
9 appointed by the governor to administer the office of the state long-term
10 care ombudsman.

11 (f) "Regional long-term care ombudsman" means an individual
12 appointed by the state long-term care ombudsman under K.S.A. 2011
13 Supp. 75-7304, and amendments thereto.

14 (g) "Office" means the office of the state long-term care ombudsman.

15 (h) "Conflict of interest" means (1) having a pecuniary or other
16 interest in a facility, but not including interests that result only from having
17 a relative who is a resident or from being the guardian of a resident, (2)
18 being actively employed or otherwise having active involvement in
19 representation of or advocacy for any facility or group of facilities,
20 whether or not such representation or advocacy is individual or through an
21 association or other entity, but not including any such active involvement
22 that results only from having a relative who is a resident or from being the
23 guardian of a resident, or (3) being employed by or having an active
24 association with any entity that represents any resident or group of
25 residents, including any area agency on aging, but not including any such
26 active association that results only from having a relative who is a resident
27 or from being the guardian of a resident.

28 Sec. 68. K.S.A. 76-12b01 is hereby amended to read as follows: 76-
29 12b01. When used in this act:

30 (a) "Adaptive behavior" means the effectiveness or degree with which
31 an individual meets the standards of personal independence and social
32 responsibility expected of that person's age, cultural group and community.

33 (b) "Care" means supportive services, including, but not limited to,
34 provision of room and board, supervision, protection, assistance in
35 bathing, dressing, grooming, eating and other activities of daily living.

36 (c) "Institution" means a state institution for ~~the mentally retarded~~
37 *people with intellectual disability* including the following institutions:
38 Kansas neurological institute, Parsons state hospital and training center
39 and Winfield state hospital and training center.

40 (d) ~~"Mental retardation"~~ *Intellectual disability* means significantly
41 subaverage general intellectual functioning existing concurrently with
42 deficits in adaptive behavior and manifested during the period from birth
43 to age 18.

1 (e) "Respite care" means temporary, short-term care not exceeding 90
2 days per calendar year to provide relief from the daily pressures involved
3 in caring for a ~~mentally-retarded~~ person *with intellectual disability*.

4 (f) "Restraint" means the use of a totally enclosed crib or any material
5 to restrict or inhibit the free movement of one or more limbs of a person
6 except medical devices which limit movement for examination, treatment
7 or to insure the healing process.

8 (g) "Seclusion" means being placed alone in a locked room where the
9 individual's freedom to leave is thereby restricted and where such
10 placement is not under continuous observation.

11 (h) "Secretary" means the secretary of social and rehabilitation
12 services or the designee of the secretary.

13 (i) "Significantly subaverage general intellectual functioning" means
14 performance which is two or more standard deviations from the mean
15 score on a standardized intelligence test specified by the secretary.

16 (j) "Superintendent" means the chief administrative officer of the
17 institution or the designee of the chief administrative officer.

18 (k) "Training" means the provision of specific environmental,
19 physical, mental, social and educational interventions and therapies for the
20 purpose of halting, controlling or reversing processes that cause, aggravate
21 or complicate malfunctions or dysfunctions of development.

22 Sec. 69. K.S.A. 76-12b02 is hereby amended to read as follows: 76-
23 12b02. The admission of a ~~mentally-retarded~~ person *with intellectual*
24 *disability* to an institution shall be at the discretion of the secretary.

25 Sec. 70. K.S.A. 76-12b03 is hereby amended to read as follows: 76-
26 12b03. No person shall be admitted to an institution except for the purpose
27 of diagnosis and evaluation unless the superintendent has found such
28 person to be ~~mentally-retarded~~ *a person with intellectual disability*, in need
29 of care and training and that placement in the institution is the least
30 restrictive alternative available. An admission for respite care shall not
31 require a finding that a person is in need of training.

32 Sec. 71. K.S.A. 76-12b07 is hereby amended to read as follows: 76-
33 12b07. The secretary may transfer a person from one institution to another
34 institution whenever the secretary is of the opinion that the transfer is in
35 the best interests of the person. The secretary may transfer temporarily a
36 person to any other institution under the jurisdiction of the secretary for a
37 period not to exceed 90 days to obtain treatment not available in an
38 institution for ~~the mentally-retarded~~ *people with intellectual disability*. The
39 secretary shall consult with the person, natural guardian or guardian prior
40 to any transfer under this section.

41 Sec. 72. K.S.A. 76-12b11 is hereby amended to read as follows: 76-
42 12b11. (a) The records of any proposed resident, resident or former
43 resident of a state institution for ~~the mentally-retarded~~ *people with*

1 *intellectual disability* that are in the possession of the institution shall be
2 privileged and shall not be disclosed except under any of the following
3 conditions:

4 (1) Upon the written consent of: (A) The proposed resident, resident
5 or former resident, if an adult who has no guardian; (B) the proposed
6 resident's, resident's or former resident's guardian, if any; or (C) a parent, if
7 the proposed resident, resident or former resident is under 18 years of age.
8 The superintendent of the institution which has the records may refuse to
9 disclose portions of such records if the superintendent states, in writing,
10 that the disclosure will be injurious to the welfare of the proposed resident,
11 resident or former resident.

12 (2) Upon the sole consent of the superintendent of the institution
13 which has the records after a written statement by the superintendent that
14 the disclosure is necessary for the care, training or treatment of the
15 proposed resident, resident or former resident. The superintendent may
16 make the disclosure to the proposed resident, resident or former resident,
17 the person's next of kin, any state or national accreditation agency or any
18 scholarly investigator without making that determination, but, before the
19 disclosure is made, the superintendent shall require a pledge from any state
20 or national accreditation agency or scholarly investigator that such agency
21 or investigator will not disclose the name of any proposed resident,
22 resident or former resident to any person not otherwise authorized by law
23 to receive that information.

24 (3) Upon the order of any court of record after a determination by the
25 court that the records are necessary for the conduct of proceedings before
26 it and are otherwise admissible as evidence.

27 (4) To any other person if such disclosure is required by federal law
28 or regulation implementing a federal grant-in-aid program in which the
29 state is participating.

30 (5) As provided in K.S.A. 74-5515, and amendments thereto.

31 (b) For the purposes of promoting the continuity of care between
32 services provided in an institution and by a community provider, either in
33 arranging admission to an institution, in making the determinations
34 required as a function of the periodic reviews required by K.S.A. 76-
35 12b05, and amendments thereto, or in planning for the discharge of a
36 person from an institution to community care, the consent of a resident,
37 former resident or proposed resident, or of the person's guardian, if one has
38 been appointed, or of their parent, if the person is a minor, shall not be
39 required for the release of records or exchange of information concerning
40 that person between a state institution and any community developmental
41 disability organization, as defined in K.S.A. 39-1803, and amendments
42 thereto.

43 (c) Except as provided in subsections (a) or (b), to the extent the

1 provisions of K.S.A. 65-5601 to 65-5605, inclusive, and amendments
2 thereto, are applicable to the records of any proposed resident, resident or
3 former resident of a state institution for ~~the mentally-retarded~~ *people with*
4 *intellectual disability* that are in the possession of the institution, the
5 provisions of K.S.A. 65-5601 to 65-5605, inclusive, and amendments
6 thereto, shall control the disposition of information contained in such
7 records.

8 Sec. 73. K.S.A. 76-17c01 is hereby amended to read as follows: 76-
9 17c01. There is hereby continued in existence an institution for ~~mentally~~
10 ~~retarded persons~~ *people with intellectual disability* known as the Kansas
11 neurological institute. The object of said neurological institute shall be to
12 provide for the evaluation, treatment and care of ~~the mentally-retarded~~
13 *people with intellectual disability*, training of personnel, and for research
14 into the causes and prevention and proper methods of treatment and
15 training of ~~mentally-retarded persons~~ *people with intellectual disability*.

16 Sec. 74. K.S.A. 2011 Supp. 79-3606 is hereby amended to read as
17 follows: 79-3606. The following shall be exempt from the tax imposed by
18 this act:

19 (a) All sales of motor-vehicle fuel or other articles upon which a sales
20 or excise tax has been paid, not subject to refund, under the laws of this
21 state except cigarettes as defined by K.S.A. 79-3301, and amendments
22 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-
23 3817, and amendments thereto, including wort, liquid malt, malt syrup and
24 malt extract, which is not subject to taxation under the provisions of
25 K.S.A. 79-41a02, and amendments thereto, motor vehicles taxed pursuant
26 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A.
27 65-3424d, and amendments thereto, drycleaning and laundry services
28 taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and gross
29 receipts from regulated sports contests taxed pursuant to the Kansas
30 professional regulated sports act, and amendments thereto;

31 (b) all sales of tangible personal property or service, including the
32 renting and leasing of tangible personal property, purchased directly by the
33 state of Kansas, a political subdivision thereof, other than a school or
34 educational institution, or purchased by a public or private nonprofit
35 hospital or public hospital authority or nonprofit blood, tissue or organ
36 bank and used exclusively for state, political subdivision, hospital or
37 public hospital authority or nonprofit blood, tissue or organ bank purposes,
38 except when: (1) Such state, hospital or public hospital authority is
39 engaged or proposes to engage in any business specifically taxable under
40 the provisions of this act and such items of tangible personal property or
41 service are used or proposed to be used in such business, or (2) such
42 political subdivision is engaged or proposes to engage in the business of
43 furnishing gas, electricity or heat to others and such items of personal

1 property or service are used or proposed to be used in such business;

2 (c) all sales of tangible personal property or services, including the
3 renting and leasing of tangible personal property, purchased directly by a
4 public or private elementary or secondary school or public or private
5 nonprofit educational institution and used primarily by such school or
6 institution for nonsectarian programs and activities provided or sponsored
7 by such school or institution or in the erection, repair or enlargement of
8 buildings to be used for such purposes. The exemption herein provided
9 shall not apply to erection, construction, repair, enlargement or equipment
10 of buildings used primarily for human habitation;

11 (d) all sales of tangible personal property or services purchased by a
12 contractor for the purpose of constructing, equipping, reconstructing,
13 maintaining, repairing, enlarging, furnishing or remodeling facilities for
14 any public or private nonprofit hospital or public hospital authority, public
15 or private elementary or secondary school, a public or private nonprofit
16 educational institution, state correctional institution including a privately
17 constructed correctional institution contracted for state use and ownership,
18 which would be exempt from taxation under the provisions of this act if
19 purchased directly by such hospital or public hospital authority, school,
20 educational institution or a state correctional institution; and all sales of
21 tangible personal property or services purchased by a contractor for the
22 purpose of constructing, equipping, reconstructing, maintaining, repairing,
23 enlarging, furnishing or remodeling facilities for any political subdivision
24 of the state or district described in subsection (s), the total cost of which is
25 paid from funds of such political subdivision or district and which would
26 be exempt from taxation under the provisions of this act if purchased
27 directly by such political subdivision or district. Nothing in this subsection
28 or in the provisions of K.S.A. 12-3418, and amendments thereto, shall be
29 deemed to exempt the purchase of any construction machinery, equipment
30 or tools used in the constructing, equipping, reconstructing, maintaining,
31 repairing, enlarging, furnishing or remodeling facilities for any political
32 subdivision of the state or any such district. As used in this subsection,
33 K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a
34 political subdivision" shall mean general tax revenues, the proceeds of any
35 bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the
36 purpose of constructing, equipping, reconstructing, repairing, enlarging,
37 furnishing or remodeling facilities which are to be leased to the donor.
38 When any political subdivision of the state, district described in subsection
39 (s), public or private nonprofit hospital or public hospital authority, public
40 or private elementary or secondary school, public or private nonprofit
41 educational institution, state correctional institution including a privately
42 constructed correctional institution contracted for state use and ownership
43 shall contract for the purpose of constructing, equipping, reconstructing,

1 maintaining, repairing, enlarging, furnishing or remodeling facilities, it
2 shall obtain from the state and furnish to the contractor an exemption
3 certificate for the project involved, and the contractor may purchase
4 materials for incorporation in such project. The contractor shall furnish the
5 number of such certificate to all suppliers from whom such purchases are
6 made, and such suppliers shall execute invoices covering the same bearing
7 the number of such certificate. Upon completion of the project the
8 contractor shall furnish to the political subdivision, district described in
9 subsection (s), hospital or public hospital authority, school, educational
10 institution or department of corrections concerned a sworn statement, on a
11 form to be provided by the director of taxation, that all purchases so made
12 were entitled to exemption under this subsection. As an alternative to the
13 foregoing procedure, any such contracting entity may apply to the
14 secretary of revenue for agent status for the sole purpose of issuing and
15 furnishing project exemption certificates to contractors pursuant to rules
16 and regulations adopted by the secretary establishing conditions and
17 standards for the granting and maintaining of such status. All invoices
18 shall be held by the contractor for a period of five years and shall be
19 subject to audit by the director of taxation. If any materials purchased
20 under such a certificate are found not to have been incorporated in the
21 building or other project or not to have been returned for credit or the sales
22 or compensating tax otherwise imposed upon such materials which will
23 not be so incorporated in the building or other project reported and paid by
24 such contractor to the director of taxation not later than the 20th day of the
25 month following the close of the month in which it shall be determined
26 that such materials will not be used for the purpose for which such
27 certificate was issued, the political subdivision, district described in
28 subsection (s), hospital or public hospital authority, school, educational
29 institution or the contractor contracting with the department of corrections
30 for a correctional institution concerned shall be liable for tax on all
31 materials purchased for the project, and upon payment thereof it may
32 recover the same from the contractor together with reasonable attorney
33 fees. Any contractor or any agent, employee or subcontractor thereof, who
34 shall use or otherwise dispose of any materials purchased under such a
35 certificate for any purpose other than that for which such a certificate is
36 issued without the payment of the sales or compensating tax otherwise
37 imposed upon such materials, shall be guilty of a misdemeanor and, upon
38 conviction therefor, shall be subject to the penalties provided for in
39 subsection (g) of K.S.A. 79-3615, and amendments thereto;

40 (e) all sales of tangible personal property or services purchased by a
41 contractor for the erection, repair or enlargement of buildings or other
42 projects for the government of the United States, its agencies or
43 instrumentalities, which would be exempt from taxation if purchased

1 directly by the government of the United States, its agencies or
2 instrumentalities. When the government of the United States, its agencies
3 or instrumentalities shall contract for the erection, repair, or enlargement
4 of any building or other project, it shall obtain from the state and furnish to
5 the contractor an exemption certificate for the project involved, and the
6 contractor may purchase materials for incorporation in such project. The
7 contractor shall furnish the number of such certificates to all suppliers
8 from whom such purchases are made, and such suppliers shall execute
9 invoices covering the same bearing the number of such certificate. Upon
10 completion of the project the contractor shall furnish to the government of
11 the United States, its agencies or instrumentalities concerned a sworn
12 statement, on a form to be provided by the director of taxation, that all
13 purchases so made were entitled to exemption under this subsection. As an
14 alternative to the foregoing procedure, any such contracting entity may
15 apply to the secretary of revenue for agent status for the sole purpose of
16 issuing and furnishing project exemption certificates to contractors
17 pursuant to rules and regulations adopted by the secretary establishing
18 conditions and standards for the granting and maintaining of such status.
19 All invoices shall be held by the contractor for a period of five years and
20 shall be subject to audit by the director of taxation. Any contractor or any
21 agent, employee or subcontractor thereof, who shall use or otherwise
22 dispose of any materials purchased under such a certificate for any purpose
23 other than that for which such a certificate is issued without the payment
24 of the sales or compensating tax otherwise imposed upon such materials,
25 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
26 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
27 and amendments thereto;

28 (f) tangible personal property purchased by a railroad or public utility
29 for consumption or movement directly and immediately in interstate
30 commerce;

31 (g) sales of aircraft including remanufactured and modified aircraft
32 sold to persons using directly or through an authorized agent such aircraft
33 as certified or licensed carriers of persons or property in interstate or
34 foreign commerce under authority of the laws of the United States or any
35 foreign government or sold to any foreign government or agency or
36 instrumentality of such foreign government and all sales of aircraft for use
37 outside of the United States and sales of aircraft repair, modification and
38 replacement parts and sales of services employed in the remanufacture,
39 modification and repair of aircraft;

40 (h) all rentals of nonsectarian textbooks by public or private
41 elementary or secondary schools;

42 (i) the lease or rental of all films, records, tapes, or any type of sound
43 or picture transcriptions used by motion picture exhibitors;

1 (j) meals served without charge or food used in the preparation of
2 such meals to employees of any restaurant, eating house, dining car, hotel,
3 drugstore or other place where meals or drinks are regularly sold to the
4 public if such employees' duties are related to the furnishing or sale of
5 such meals or drinks;

6 (k) any motor vehicle, semitrailer or pole trailer, as such terms are
7 defined by K.S.A. 8-126, and amendments thereto, or aircraft sold and
8 delivered in this state to a bona fide resident of another state, which motor
9 vehicle, semitrailer, pole trailer or aircraft is not to be registered or based
10 in this state and which vehicle, semitrailer, pole trailer or aircraft will not
11 remain in this state more than 10 days;

12 (l) all isolated or occasional sales of tangible personal property,
13 services, substances or things, except isolated or occasional sale of motor
14 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
15 79-3603, and amendments thereto;

16 (m) all sales of tangible personal property which become an
17 ingredient or component part of tangible personal property or services
18 produced, manufactured or compounded for ultimate sale at retail within
19 or without the state of Kansas; and any such producer, manufacturer or
20 compounder may obtain from the director of taxation and furnish to the
21 supplier an exemption certificate number for tangible personal property for
22 use as an ingredient or component part of the property or services
23 produced, manufactured or compounded;

24 (n) all sales of tangible personal property which is consumed in the
25 production, manufacture, processing, mining, drilling, refining or
26 compounding of tangible personal property, the treating of by-products or
27 wastes derived from any such production process, the providing of
28 services or the irrigation of crops for ultimate sale at retail within or
29 without the state of Kansas; and any purchaser of such property may
30 obtain from the director of taxation and furnish to the supplier an
31 exemption certificate number for tangible personal property for
32 consumption in such production, manufacture, processing, mining,
33 drilling, refining, compounding, treating, irrigation and in providing such
34 services;

35 (o) all sales of animals, fowl and aquatic plants and animals, the
36 primary purpose of which is use in agriculture or aquaculture, as defined in
37 K.S.A. 47-1901, and amendments thereto, the production of food for
38 human consumption, the production of animal, dairy, poultry or aquatic
39 plant and animal products, fiber or fur, or the production of offspring for
40 use for any such purpose or purposes;

41 (p) all sales of drugs dispensed pursuant to a prescription order by a
42 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
43 1626, and amendments thereto. As used in this subsection, "drug" means a

1 compound, substance or preparation and any component of a compound,
2 substance or preparation, other than food and food ingredients, dietary
3 supplements or alcoholic beverages, recognized in the official United
4 States pharmacopoeia, official homeopathic pharmacopoeia of the United
5 States or official national formulary, and supplement to any of them,
6 intended for use in the diagnosis, cure, mitigation, treatment or prevention
7 of disease or intended to affect the structure or any function of the body;

8 (q) all sales of insulin dispensed by a person licensed by the state
9 board of pharmacy to a person for treatment of diabetes at the direction of
10 a person licensed to practice medicine by the board of healing arts;

11 (r) all sales of oxygen delivery equipment, kidney dialysis equipment,
12 enteral feeding systems, prosthetic devices and mobility enhancing
13 equipment prescribed in writing by a person licensed to practice the
14 healing arts, dentistry or optometry, and in addition to such sales, all sales
15 of hearing aids, as defined by subsection (c) of K.S.A. 74-5807, and
16 amendments thereto, and repair and replacement parts therefor, including
17 batteries, by a person licensed in the practice of dispensing and fitting
18 hearing aids pursuant to the provisions of K.S.A. 74-5808, and
19 amendments thereto. For the purposes of this subsection: (1) "Mobility
20 enhancing equipment" means equipment including repair and replacement
21 parts to same, but does not include durable medical equipment, which is
22 primarily and customarily used to provide or increase the ability to move
23 from one place to another and which is appropriate for use either in a
24 home or a motor vehicle; is not generally used by persons with normal
25 mobility; and does not include any motor vehicle or equipment on a motor
26 vehicle normally provided by a motor vehicle manufacturer; and (2)
27 "prosthetic device" means a replacement, corrective or supportive device
28 including repair and replacement parts for same worn on or in the body to
29 artificially replace a missing portion of the body, prevent or correct
30 physical deformity or malfunction or support a weak or deformed portion
31 of the body;

32 (s) except as provided in K.S.A. 2011 Supp. 82a-2101, and
33 amendments thereto, all sales of tangible personal property or services
34 purchased directly or indirectly by a groundwater management district
35 organized or operating under the authority of K.S.A. 82a-1020 *et seq.*, and
36 amendments thereto, by a rural water district organized or operating under
37 the authority of K.S.A. 82a-612, and amendments thereto, or by a water
38 supply district organized or operating under the authority of K.S.A. 19-
39 3501 *et seq.*, 19-3522 *et seq.*, or 19-3545, and amendments thereto, which
40 property or services are used in the construction activities, operation or
41 maintenance of the district;

42 (t) all sales of farm machinery and equipment or aquaculture
43 machinery and equipment, repair and replacement parts therefor and

1 services performed in the repair and maintenance of such machinery and
2 equipment. For the purposes of this subsection the term "farm machinery
3 and equipment or aquaculture machinery and equipment" shall include a
4 work-site utility vehicle, as defined in K.S.A. 8-126, and amendments
5 thereto, and is equipped with a bed or cargo box for hauling materials, and
6 shall also include machinery and equipment used in the operation of
7 Christmas tree farming but shall not include any passenger vehicle, truck,
8 truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as
9 such terms are defined by K.S.A. 8-126, and amendments thereto. "Farm
10 machinery and equipment" includes precision farming equipment that is
11 portable or is installed or purchased to be installed on farm machinery and
12 equipment. "Precision farming equipment" includes the following items
13 used only in computer-assisted farming, ranching or aquaculture
14 production operations: Soil testing sensors, yield monitors, computers,
15 monitors, software, global positioning and mapping systems, guiding
16 systems, modems, data communications equipment and any necessary
17 mounting hardware, wiring and antennas. Each purchaser of farm
18 machinery and equipment or aquaculture machinery and equipment
19 exempted herein must certify in writing on the copy of the invoice or sales
20 ticket to be retained by the seller that the farm machinery and equipment
21 or aquaculture machinery and equipment purchased will be used only in
22 farming, ranching or aquaculture production. Farming or ranching shall
23 include the operation of a feedlot and farm and ranch work for hire and the
24 operation of a nursery;

25 (u) all leases or rentals of tangible personal property used as a
26 dwelling if such tangible personal property is leased or rented for a period
27 of more than 28 consecutive days;

28 (v) all sales of tangible personal property to any contractor for use in
29 preparing meals for delivery to homebound elderly persons over 60 years
30 of age and to homebound disabled persons or to be served at a group-
31 sitting at a location outside of the home to otherwise homebound elderly
32 persons over 60 years of age and to otherwise homebound disabled
33 persons, as all or part of any food service project funded in whole or in
34 part by government or as part of a private nonprofit food service project
35 available to all such elderly or disabled persons residing within an area of
36 service designated by the private nonprofit organization, and all sales of
37 tangible personal property for use in preparing meals for consumption by
38 indigent or homeless individuals whether or not such meals are consumed
39 at a place designated for such purpose, and all sales of food products by or
40 on behalf of any such contractor or organization for any such purpose;

41 (w) all sales of natural gas, electricity, heat and water delivered
42 through mains, lines or pipes: (1) To residential premises for
43 noncommercial use by the occupant of such premises; (2) for agricultural

1 use and also, for such use, all sales of propane gas; (3) for use in the
2 severing of oil; and (4) to any property which is exempt from property
3 taxation pursuant to K.S.A. 79-201b, *Second* through *Sixth*. As used in this
4 paragraph, "severing" shall have the meaning ascribed thereto by
5 subsection (k) of K.S.A. 79-4216, and amendments thereto. For all sales of
6 natural gas, electricity and heat delivered through mains, lines or pipes
7 pursuant to the provisions of subsection (w)(1) and (w)(2), the provisions
8 of this subsection shall expire on December 31, 2005;

9 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources
10 for the production of heat or lighting for noncommercial use of an
11 occupant of residential premises occurring prior to January 1, 2006;

12 (y) all sales of materials and services used in the repairing, servicing,
13 altering, maintaining, manufacturing, remanufacturing, or modification of
14 railroad rolling stock for use in interstate or foreign commerce under
15 authority of the laws of the United States;

16 (z) all sales of tangible personal property and services purchased
17 directly by a port authority or by a contractor therefor as provided by the
18 provisions of K.S.A. 12-3418, and amendments thereto;

19 (aa) all sales of materials and services applied to equipment which is
20 transported into the state from without the state for repair, service,
21 alteration, maintenance, remanufacture or modification and which is
22 subsequently transported outside the state for use in the transmission of
23 liquids or natural gas by means of pipeline in interstate or foreign
24 commerce under authority of the laws of the United States;

25 (bb) all sales of used mobile homes or manufactured homes. As used
26 in this subsection: (1) "Mobile homes" and "manufactured homes" shall
27 have the meanings ascribed thereto by K.S.A. 58-4202, and amendments
28 thereto; and (2) "sales of used mobile homes or manufactured homes"
29 means sales other than the original retail sale thereof;

30 (cc) all sales of tangible personal property or services purchased prior
31 to January 1, 2012, except as otherwise provided, for the purpose of and in
32 conjunction with constructing, reconstructing, enlarging or remodeling a
33 business or retail business which meets the requirements established in
34 K.S.A. 74-50,115, and amendments thereto, and the sale and installation of
35 machinery and equipment purchased for installation at any such business
36 or retail business, and all sales of tangible personal property or services
37 purchased on or after January 1, 2012, for the purpose of and in
38 conjunction with constructing, reconstructing, enlarging or remodeling a
39 business which meets the requirements established in K.S.A. 74-50,115(e),
40 and amendments thereto, and the sale and installation of machinery and
41 equipment purchased for installation at any such business. When a person
42 shall contract for the construction, reconstruction, enlargement or
43 remodeling of any such business or retail business, such person shall

1 obtain from the state and furnish to the contractor an exemption certificate
2 for the project involved, and the contractor may purchase materials,
3 machinery and equipment for incorporation in such project. The contractor
4 shall furnish the number of such certificates to all suppliers from whom
5 such purchases are made, and such suppliers shall execute invoices
6 covering the same bearing the number of such certificate. Upon
7 completion of the project the contractor shall furnish to the owner of the
8 business or retail business a sworn statement, on a form to be provided by
9 the director of taxation, that all purchases so made were entitled to
10 exemption under this subsection. All invoices shall be held by the
11 contractor for a period of five years and shall be subject to audit by the
12 director of taxation. Any contractor or any agent, employee or
13 subcontractor thereof, who shall use or otherwise dispose of any materials,
14 machinery or equipment purchased under such a certificate for any
15 purpose other than that for which such a certificate is issued without the
16 payment of the sales or compensating tax otherwise imposed thereon, shall
17 be guilty of a misdemeanor and, upon conviction therefor, shall be subject
18 to the penalties provided for in subsection (g) of K.S.A. 79-3615, and
19 amendments thereto. As used in this subsection, "business" and "retail
20 business" have the meanings respectively ascribed thereto by K.S.A. 74-
21 50,114, and amendments thereto. Project exemption certificates that have
22 been previously issued under this subsection by the department of revenue
23 pursuant to K.S.A. 74-50,115, and amendments thereto, but not including
24 K.S.A. 74-50,115(e), and amendments thereto, prior to January 1, 2012,
25 and have not expired will be effective for the term of the project or two
26 years from the effective date of the certificate, whichever occurs earlier.
27 Project exemption certificates that are submitted to the department of
28 revenue prior to January 1, 2012, and are found to qualify will be issued a
29 project exemption certificate that will be effective for a two-year period or
30 for the term of the project, whichever occurs earlier;

31 (dd) all sales of tangible personal property purchased with food
32 stamps issued by the United States department of agriculture;

33 (ee) all sales of lottery tickets and shares made as part of a lottery
34 operated by the state of Kansas;

35 (ff) on and after July 1, 1988, all sales of new mobile homes or
36 manufactured homes to the extent of 40% of the gross receipts, determined
37 without regard to any trade-in allowance, received from such sale. As used
38 in this subsection, "mobile homes" and "manufactured homes" shall have
39 the meanings ascribed thereto by K.S.A. 58-4202, and amendments
40 thereto;

41 (gg) all sales of tangible personal property purchased in accordance
42 with vouchers issued pursuant to the federal special supplemental food
43 program for women, infants and children;

1 (hh) all sales of medical supplies and equipment, including durable
2 medical equipment, purchased directly by a nonprofit skilled nursing home
3 or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923,
4 and amendments thereto, for the purpose of providing medical services to
5 residents thereof. This exemption shall not apply to tangible personal
6 property customarily used for human habitation purposes. As used in this
7 subsection, "durable medical equipment" means equipment including
8 repair and replacement parts for such equipment, which can withstand
9 repeated use, is primarily and customarily used to serve a medical purpose,
10 generally is not useful to a person in the absence of illness or injury and is
11 not worn in or on the body, but does not include mobility enhancing
12 equipment as defined in subsection (r), oxygen delivery equipment, kidney
13 dialysis equipment or enteral feeding systems;

14 (ii) all sales of tangible personal property purchased directly by a
15 nonprofit organization for nonsectarian comprehensive multidiscipline
16 youth development programs and activities provided or sponsored by such
17 organization, and all sales of tangible personal property by or on behalf of
18 any such organization. This exemption shall not apply to tangible personal
19 property customarily used for human habitation purposes;

20 (jj) all sales of tangible personal property or services, including the
21 renting and leasing of tangible personal property, purchased directly on
22 behalf of a community-based ~~mental-retardation~~ facility *for people with*
23 *intellectual disability* or mental health center organized pursuant to K.S.A.
24 19-4001 *et seq.*, and amendments thereto, and licensed in accordance with
25 the provisions of K.S.A. 75-3307b, and amendments thereto, and all sales
26 of tangible personal property or services purchased by contractors during
27 the time period from July, 2003, through June, 2006, for the purpose of
28 constructing, equipping, maintaining or furnishing a new facility for a
29 community-based ~~mental-retardation~~ facility *for people with intellectual*
30 *disability* or mental health center located in Riverton, Cherokee County,
31 Kansas, which would have been eligible for sales tax exemption pursuant
32 to this subsection if purchased directly by such facility or center. This
33 exemption shall not apply to tangible personal property customarily used
34 for human habitation purposes;

35 (kk) (1) (A) all sales of machinery and equipment which are used in
36 this state as an integral or essential part of an integrated production
37 operation by a manufacturing or processing plant or facility;

38 (B) all sales of installation, repair and maintenance services
39 performed on such machinery and equipment; and

40 (C) all sales of repair and replacement parts and accessories
41 purchased for such machinery and equipment.

42 (2) For purposes of this subsection:

43 (A) "Integrated production operation" means an integrated series of

1 operations engaged in at a manufacturing or processing plant or facility to
2 process, transform or convert tangible personal property by physical,
3 chemical or other means into a different form, composition or character
4 from that in which it originally existed. Integrated production operations
5 shall include: (i) Production line operations, including packaging
6 operations; (ii) preproduction operations to handle, store and treat raw
7 materials; (iii) post production handling, storage, warehousing and
8 distribution operations; and (iv) waste, pollution and environmental
9 control operations, if any;

10 (B) "production line" means the assemblage of machinery and
11 equipment at a manufacturing or processing plant or facility where the
12 actual transformation or processing of tangible personal property occurs;

13 (C) "manufacturing or processing plant or facility" means a single,
14 fixed location owned or controlled by a manufacturing or processing
15 business that consists of one or more structures or buildings in a
16 contiguous area where integrated production operations are conducted to
17 manufacture or process tangible personal property to be ultimately sold at
18 retail. Such term shall not include any facility primarily operated for the
19 purpose of conveying or assisting in the conveyance of natural gas,
20 electricity, oil or water. A business may operate one or more manufacturing
21 or processing plants or facilities at different locations to manufacture or
22 process a single product of tangible personal property to be ultimately sold
23 at retail;

24 (D) "manufacturing or processing business" means a business that
25 utilizes an integrated production operation to manufacture, process,
26 fabricate, finish, or assemble items for wholesale and retail distribution as
27 part of what is commonly regarded by the general public as an industrial
28 manufacturing or processing operation or an agricultural commodity
29 processing operation. (i) Industrial manufacturing or processing operations
30 include, by way of illustration but not of limitation, the fabrication of
31 automobiles, airplanes, machinery or transportation equipment, the
32 fabrication of metal, plastic, wood, or paper products, electricity power
33 generation, water treatment, petroleum refining, chemical production,
34 wholesale bottling, newspaper printing, ready mixed concrete production,
35 and the remanufacturing of used parts for wholesale or retail sale. Such
36 processing operations shall include operations at an oil well, gas well,
37 mine or other excavation site where the oil, gas, minerals, coal, clay, stone,
38 sand or gravel that has been extracted from the earth is cleaned, separated,
39 crushed, ground, milled, screened, washed, or otherwise treated or
40 prepared before its transmission to a refinery or before any other wholesale
41 or retail distribution. (ii) Agricultural commodity processing operations
42 include, by way of illustration but not of limitation, meat packing, poultry
43 slaughtering and dressing, processing and packaging farm and dairy

1 products in sealed containers for wholesale and retail distribution, feed
2 grinding, grain milling, frozen food processing, and grain handling,
3 cleaning, blending, fumigation, drying and aeration operations engaged in
4 by grain elevators or other grain storage facilities. (iii) Manufacturing or
5 processing businesses do not include, by way of illustration but not of
6 limitation, nonindustrial businesses whose operations are primarily retail
7 and that produce or process tangible personal property as an incidental part
8 of conducting the retail business, such as retailers who bake, cook or
9 prepare food products in the regular course of their retail trade, grocery
10 stores, meat lockers and meat markets that butcher or dress livestock or
11 poultry in the regular course of their retail trade, contractors who alter,
12 service, repair or improve real property, and retail businesses that clean,
13 service or refurbish and repair tangible personal property for its owner;

14 (E) "repair and replacement parts and accessories" means all parts
15 and accessories for exempt machinery and equipment, including, but not
16 limited to, dies, jigs, molds, patterns and safety devices that are attached to
17 exempt machinery or that are otherwise used in production, and parts and
18 accessories that require periodic replacement such as belts, drill bits,
19 grinding wheels, grinding balls, cutting bars, saws, refractory brick and
20 other refractory items for exempt kiln equipment used in production
21 operations;

22 (F) "primary" or "primarily" mean more than 50% of the time.

23 (3) For purposes of this subsection, machinery and equipment shall
24 be deemed to be used as an integral or essential part of an integrated
25 production operation when used:

26 (A) To receive, transport, convey, handle, treat or store raw materials
27 in preparation of its placement on the production line;

28 (B) to transport, convey, handle or store the property undergoing
29 manufacturing or processing at any point from the beginning of the
30 production line through any warehousing or distribution operation of the
31 final product that occurs at the plant or facility;

32 (C) to act upon, effect, promote or otherwise facilitate a physical
33 change to the property undergoing manufacturing or processing;

34 (D) to guide, control or direct the movement of property undergoing
35 manufacturing or processing;

36 (E) to test or measure raw materials, the property undergoing
37 manufacturing or processing or the finished product, as a necessary part of
38 the manufacturer's integrated production operations;

39 (F) to plan, manage, control or record the receipt and flow of
40 inventories of raw materials, consumables and component parts, the flow
41 of the property undergoing manufacturing or processing and the
42 management of inventories of the finished product;

43 (G) to produce energy for, lubricate, control the operating of or

1 otherwise enable the functioning of other production machinery and
2 equipment and the continuation of production operations;

3 (H) to package the property being manufactured or processed in a
4 container or wrapping in which such property is normally sold or
5 transported;

6 (I) to transmit or transport electricity, coke, gas, water, steam or
7 similar substances used in production operations from the point of
8 generation, if produced by the manufacturer or processor at the plant site,
9 to that manufacturer's production operation; or, if purchased or delivered
10 from offsite, from the point where the substance enters the site of the plant
11 or facility to that manufacturer's production operations;

12 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil,
13 solvents or other substances that are used in production operations;

14 (K) to provide and control an environment required to maintain
15 certain levels of air quality, humidity or temperature in special and limited
16 areas of the plant or facility, where such regulation of temperature or
17 humidity is part of and essential to the production process;

18 (L) to treat, transport or store waste or other byproducts of production
19 operations at the plant or facility; or

20 (M) to control pollution at the plant or facility where the pollution is
21 produced by the manufacturing or processing operation.

22 (4) The following machinery, equipment and materials shall be
23 deemed to be exempt even though it may not otherwise qualify as
24 machinery and equipment used as an integral or essential part of an
25 integrated production operation: (A) Computers and related peripheral
26 equipment that are utilized by a manufacturing or processing business for
27 engineering of the finished product or for research and development or
28 product design; (B) machinery and equipment that is utilized by a
29 manufacturing or processing business to manufacture or rebuild tangible
30 personal property that is used in manufacturing or processing operations,
31 including tools, dies, molds, forms and other parts of qualifying machinery
32 and equipment; (C) portable plants for aggregate concrete, bulk cement
33 and asphalt including cement mixing drums to be attached to a motor
34 vehicle; (D) industrial fixtures, devices, support facilities and special
35 foundations necessary for manufacturing and production operations, and
36 materials and other tangible personal property sold for the purpose of
37 fabricating such fixtures, devices, facilities and foundations. An exemption
38 certificate for such purchases shall be signed by the manufacturer or
39 processor. If the fabricator purchases such material, the fabricator shall
40 also sign the exemption certificate; and (E) a manufacturing or processing
41 business' laboratory equipment that is not located at the plant or facility,
42 but that would otherwise qualify for exemption under subsection (3)(E).

43 (5) "Machinery and equipment used as an integral or essential part of

1 an integrated production operation" shall not include:

2 (A) Machinery and equipment used for nonproduction purposes,
3 including, but not limited to, machinery and equipment used for plant
4 security, fire prevention, first aid, accounting, administration, record
5 keeping, advertising, marketing, sales or other related activities, plant
6 cleaning, plant communications, and employee work scheduling;

7 (B) machinery, equipment and tools used primarily in maintaining
8 and repairing any type of machinery and equipment or the building and
9 plant;

10 (C) transportation, transmission and distribution equipment not
11 primarily used in a production, warehousing or material handling
12 operation at the plant or facility, including the means of conveyance of
13 natural gas, electricity, oil or water, and equipment related thereto, located
14 outside the plant or facility;

15 (D) office machines and equipment including computers and related
16 peripheral equipment not used directly and primarily to control or measure
17 the manufacturing process;

18 (E) furniture and other furnishings;

19 (F) buildings, other than exempt machinery and equipment that is
20 permanently affixed to or becomes a physical part of the building, and any
21 other part of real estate that is not otherwise exempt;

22 (G) building fixtures that are not integral to the manufacturing
23 operation, such as utility systems for heating, ventilation, air conditioning,
24 communications, plumbing or electrical;

25 (H) machinery and equipment used for general plant heating, cooling
26 and lighting;

27 (I) motor vehicles that are registered for operation on public
28 highways; or

29 (J) employee apparel, except safety and protective apparel that is
30 purchased by an employer and furnished gratuitously to employees who
31 are involved in production or research activities.

32 (6) Subsections (3) and (5) shall not be construed as exclusive listings
33 of the machinery and equipment that qualify or do not qualify as an
34 integral or essential part of an integrated production operation. When
35 machinery or equipment is used as an integral or essential part of
36 production operations part of the time and for nonproduction purpose at
37 other times, the primary use of the machinery or equipment shall
38 determine whether or not such machinery or equipment qualifies for
39 exemption.

40 (7) The secretary of revenue shall adopt rules and regulations
41 necessary to administer the provisions of this subsection;

42 (II) all sales of educational materials purchased for distribution to the
43 public at no charge by a nonprofit corporation organized for the purpose of

1 encouraging, fostering and conducting programs for the improvement of
2 public health;

3 (mm) all sales of seeds and tree seedlings; fertilizers, insecticides,
4 herbicides, germicides, pesticides and fungicides; and services, purchased
5 and used for the purpose of producing plants in order to prevent soil
6 erosion on land devoted to agricultural use;

7 (nn) except as otherwise provided in this act, all sales of services
8 rendered by an advertising agency or licensed broadcast station or any
9 member, agent or employee thereof;

10 (oo) all sales of tangible personal property purchased by a community
11 action group or agency for the exclusive purpose of repairing or
12 weatherizing housing occupied by low income individuals;

13 (pp) all sales of drill bits and explosives actually utilized in the
14 exploration and production of oil or gas;

15 (qq) all sales of tangible personal property and services purchased by
16 a nonprofit museum or historical society or any combination thereof,
17 including a nonprofit organization which is organized for the purpose of
18 stimulating public interest in the exploration of space by providing
19 educational information, exhibits and experiences, which is exempt from
20 federal income taxation pursuant to section 501(c)(3) of the federal
21 internal revenue code of 1986;

22 (rr) all sales of tangible personal property which will admit the
23 purchaser thereof to any annual event sponsored by a nonprofit
24 organization which is exempt from federal income taxation pursuant to
25 section 501(c)(3) of the federal internal revenue code of 1986;

26 (ss) all sales of tangible personal property and services purchased by
27 a public broadcasting station licensed by the federal communications
28 commission as a noncommercial educational television or radio station;

29 (tt) all sales of tangible personal property and services purchased by
30 or on behalf of a not-for-profit corporation which is exempt from federal
31 income taxation pursuant to section 501(c)(3) of the federal internal
32 revenue code of 1986, for the sole purpose of constructing a Kansas
33 Korean War memorial;

34 (uu) all sales of tangible personal property and services purchased by
35 or on behalf of any rural volunteer fire-fighting organization for use
36 exclusively in the performance of its duties and functions;

37 (vv) all sales of tangible personal property purchased by any of the
38 following organizations which are exempt from federal income taxation
39 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
40 for the following purposes, and all sales of any such property by or on
41 behalf of any such organization for any such purpose:

42 (1) The American Heart Association, Kansas Affiliate, Inc. for the
43 purposes of providing education, training, certification in emergency

1 cardiac care, research and other related services to reduce disability and
2 death from cardiovascular diseases and stroke;

3 (2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of
4 advocacy for persons with mental illness and to education, research and
5 support for their families;

6 (3) the Kansas Mental Illness Awareness Council for the purposes of
7 advocacy for persons who are mentally ill and to education, research and
8 support for them and their families;

9 (4) the American Diabetes Association Kansas Affiliate, Inc. for the
10 purpose of eliminating diabetes through medical research, public education
11 focusing on disease prevention and education, patient education including
12 information on coping with diabetes, and professional education and
13 training;

14 (5) the American Lung Association of Kansas, Inc. for the purpose of
15 eliminating all lung diseases through medical research, public education
16 including information on coping with lung diseases, professional education
17 and training related to lung disease and other related services to reduce the
18 incidence of disability and death due to lung disease;

19 (6) the Kansas chapters of the Alzheimer's Disease and Related
20 Disorders Association, Inc. for the purpose of providing assistance and
21 support to persons in Kansas with Alzheimer's disease, and their families
22 and caregivers;

23 (7) the Kansas chapters of the Parkinson's disease association for the
24 purpose of eliminating Parkinson's disease through medical research and
25 public and professional education related to such disease;

26 (8) the National Kidney Foundation of Kansas and Western Missouri
27 for the purpose of eliminating kidney disease through medical research
28 and public and private education related to such disease;

29 (9) the heartstrings community foundation for the purpose of
30 providing training, employment and activities for adults with
31 developmental disabilities;

32 (10) the Cystic Fibrosis Foundation, Heart of America Chapter, for
33 the purposes of assuring the development of the means to cure and control
34 cystic fibrosis and improving the quality of life for those with the disease;

35 (11) the spina bifida association of Kansas for the purpose of
36 providing financial, educational and practical aid to families and
37 individuals with spina bifida. Such aid includes, but is not limited to,
38 funding for medical devices, counseling and medical educational
39 opportunities;

40 (12) the CHWC, Inc., for the purpose of rebuilding urban core
41 neighborhoods through the construction of new homes, acquiring and
42 renovating existing homes and other related activities, and promoting
43 economic development in such neighborhoods;

- 1 (13) the cross-lines cooperative council for the purpose of providing
2 social services to low income individuals and families;
- 3 (14) the Dreams Work, Inc., for the purpose of providing young adult
4 day services to individuals with developmental disabilities and assisting
5 families in avoiding institutional or nursing home care for a
6 developmentally disabled member of their family;
- 7 (15) the KSDS, Inc., for the purpose of promoting the independence
8 and inclusion of people with disabilities as fully participating and
9 contributing members of their communities and society through the
10 training and providing of guide and service dogs to people with
11 disabilities, and providing disability education and awareness to the
12 general public;
- 13 (16) the lyme association of greater Kansas City, Inc., for the purpose
14 of providing support to persons with lyme disease and public education
15 relating to the prevention, treatment and cure of lyme disease;
- 16 (17) the Dream Factory, Inc., for the purpose of granting the dreams
17 of children with critical and chronic illnesses;
- 18 (18) the Ottawa Suzuki Strings, Inc., for the purpose of providing
19 students and families with education and resources necessary to enable
20 each child to develop fine character and musical ability to the fullest
21 potential;
- 22 (19) the International Association of Lions Clubs for the purpose of
23 creating and fostering a spirit of understanding among all people for
24 humanitarian needs by providing voluntary services through community
25 involvement and international cooperation;
- 26 (20) the Johnson county young matrons, inc., for the purpose of
27 promoting a positive future for members of the community through
28 volunteerism, financial support and education through the efforts of an all
29 volunteer organization;
- 30 (21) the American Cancer Society, Inc., for the purpose of eliminating
31 cancer as a major health problem by preventing cancer, saving lives and
32 diminishing suffering from cancer, through research, education, advocacy
33 and service;
- 34 (22) the community services of Shawnee, inc., for the purpose of
35 providing food and clothing to those in need;
- 36 (23) the angel babies association, for the purpose of providing
37 assistance, support and items of necessity to teenage mothers and their
38 babies; and
- 39 (24) the Kansas fairgrounds foundation for the purpose of the
40 preservation, renovation and beautification of the Kansas state fairgrounds;
- 41 (ww) all sales of tangible personal property purchased by the Habitat
42 for Humanity for the exclusive use of being incorporated within a housing
43 project constructed by such organization;

1 (xx) all sales of tangible personal property and services purchased by
2 a nonprofit zoo which is exempt from federal income taxation pursuant to
3 section 501(c)(3) of the federal internal revenue code of 1986, or on behalf
4 of such zoo by an entity itself exempt from federal income taxation
5 pursuant to section 501(c)(3) of the federal internal revenue code of 1986
6 contracted with to operate such zoo and all sales of tangible personal
7 property or services purchased by a contractor for the purpose of
8 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
9 furnishing or remodeling facilities for any nonprofit zoo which would be
10 exempt from taxation under the provisions of this section if purchased
11 directly by such nonprofit zoo or the entity operating such zoo. Nothing in
12 this subsection shall be deemed to exempt the purchase of any construction
13 machinery, equipment or tools used in the constructing, equipping,
14 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
15 facilities for any nonprofit zoo. When any nonprofit zoo shall contract for
16 the purpose of constructing, equipping, reconstructing, maintaining,
17 repairing, enlarging, furnishing or remodeling facilities, it shall obtain
18 from the state and furnish to the contractor an exemption certificate for the
19 project involved, and the contractor may purchase materials for
20 incorporation in such project. The contractor shall furnish the number of
21 such certificate to all suppliers from whom such purchases are made, and
22 such suppliers shall execute invoices covering the same bearing the
23 number of such certificate. Upon completion of the project the contractor
24 shall furnish to the nonprofit zoo concerned a sworn statement, on a form
25 to be provided by the director of taxation, that all purchases so made were
26 entitled to exemption under this subsection. All invoices shall be held by
27 the contractor for a period of five years and shall be subject to audit by the
28 director of taxation. If any materials purchased under such a certificate are
29 found not to have been incorporated in the building or other project or not
30 to have been returned for credit or the sales or compensating tax otherwise
31 imposed upon such materials which will not be so incorporated in the
32 building or other project reported and paid by such contractor to the
33 director of taxation not later than the 20th day of the month following the
34 close of the month in which it shall be determined that such materials will
35 not be used for the purpose for which such certificate was issued, the
36 nonprofit zoo concerned shall be liable for tax on all materials purchased
37 for the project, and upon payment thereof it may recover the same from
38 the contractor together with reasonable attorney fees. Any contractor or
39 any agent, employee or subcontractor thereof, who shall use or otherwise
40 dispose of any materials purchased under such a certificate for any purpose
41 other than that for which such a certificate is issued without the payment
42 of the sales or compensating tax otherwise imposed upon such materials,
43 shall be guilty of a misdemeanor and, upon conviction therefor, shall be

1 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
2 and amendments thereto;

3 (yy) all sales of tangible personal property and services purchased by
4 a parent-teacher association or organization, and all sales of tangible
5 personal property by or on behalf of such association or organization;

6 (zz) all sales of machinery and equipment purchased by over-the-air,
7 free access radio or television station which is used directly and primarily
8 for the purpose of producing a broadcast signal or is such that the failure
9 of the machinery or equipment to operate would cause broadcasting to
10 cease. For purposes of this subsection, machinery and equipment shall
11 include, but not be limited to, that required by rules and regulations of the
12 federal communications commission, and all sales of electricity which are
13 essential or necessary for the purpose of producing a broadcast signal or is
14 such that the failure of the electricity would cause broadcasting to cease;

15 (aaa) all sales of tangible personal property and services purchased by
16 a religious organization which is exempt from federal income taxation
17 pursuant to section 501(c)(3) of the federal internal revenue code, and used
18 exclusively for religious purposes, and all sales of tangible personal
19 property or services purchased by a contractor for the purpose of
20 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
21 furnishing or remodeling facilities for any such organization which would
22 be exempt from taxation under the provisions of this section if purchased
23 directly by such organization. Nothing in this subsection shall be deemed
24 to exempt the purchase of any construction machinery, equipment or tools
25 used in the constructing, equipping, reconstructing, maintaining, repairing,
26 enlarging, furnishing or remodeling facilities for any such organization.
27 When any such organization shall contract for the purpose of constructing,
28 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
29 remodeling facilities, it shall obtain from the state and furnish to the
30 contractor an exemption certificate for the project involved, and the
31 contractor may purchase materials for incorporation in such project. The
32 contractor shall furnish the number of such certificate to all suppliers from
33 whom such purchases are made, and such suppliers shall execute invoices
34 covering the same bearing the number of such certificate. Upon
35 completion of the project the contractor shall furnish to such organization
36 concerned a sworn statement, on a form to be provided by the director of
37 taxation, that all purchases so made were entitled to exemption under this
38 subsection. All invoices shall be held by the contractor for a period of five
39 years and shall be subject to audit by the director of taxation. If any
40 materials purchased under such a certificate are found not to have been
41 incorporated in the building or other project or not to have been returned
42 for credit or the sales or compensating tax otherwise imposed upon such
43 materials which will not be so incorporated in the building or other project

1 reported and paid by such contractor to the director of taxation not later
2 than the 20th day of the month following the close of the month in which it
3 shall be determined that such materials will not be used for the purpose for
4 which such certificate was issued, such organization concerned shall be
5 liable for tax on all materials purchased for the project, and upon payment
6 thereof it may recover the same from the contractor together with
7 reasonable attorney fees. Any contractor or any agent, employee or
8 subcontractor thereof, who shall use or otherwise dispose of any materials
9 purchased under such a certificate for any purpose other than that for
10 which such a certificate is issued without the payment of the sales or
11 compensating tax otherwise imposed upon such materials, shall be guilty
12 of a misdemeanor and, upon conviction therefor, shall be subject to the
13 penalties provided for in subsection (g) of K.S.A. 79-3615, and
14 amendments thereto. Sales tax paid on and after July 1, 1998, but prior to
15 the effective date of this act upon the gross receipts received from any sale
16 exempted by the amendatory provisions of this subsection shall be
17 refunded. Each claim for a sales tax refund shall be verified and submitted
18 to the director of taxation upon forms furnished by the director and shall
19 be accompanied by any additional documentation required by the director.
20 The director shall review each claim and shall refund that amount of sales
21 tax paid as determined under the provisions of this subsection. All refunds
22 shall be paid from the sales tax refund fund upon warrants of the director
23 of accounts and reports pursuant to vouchers approved by the director or
24 the director's designee;

25 (bbb) all sales of food for human consumption by an organization
26 which is exempt from federal income taxation pursuant to section 501(c)
27 (3) of the federal internal revenue code of 1986, pursuant to a food
28 distribution program which offers such food at a price below cost in
29 exchange for the performance of community service by the purchaser
30 thereof;

31 (ccc) on and after July 1, 1999, all sales of tangible personal property
32 and services purchased by a primary care clinic or health center the
33 primary purpose of which is to provide services to medically underserved
34 individuals and families, and which is exempt from federal income
35 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
36 and all sales of tangible personal property or services purchased by a
37 contractor for the purpose of constructing, equipping, reconstructing,
38 maintaining, repairing, enlarging, furnishing or remodeling facilities for
39 any such clinic or center which would be exempt from taxation under the
40 provisions of this section if purchased directly by such clinic or center.
41 Nothing in this subsection shall be deemed to exempt the purchase of any
42 construction machinery, equipment or tools used in the constructing,
43 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or

1 remodeling facilities for any such clinic or center. When any such clinic or
2 center shall contract for the purpose of constructing, equipping,
3 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
4 facilities, it shall obtain from the state and furnish to the contractor an
5 exemption certificate for the project involved, and the contractor may
6 purchase materials for incorporation in such project. The contractor shall
7 furnish the number of such certificate to all suppliers from whom such
8 purchases are made, and such suppliers shall execute invoices covering the
9 same bearing the number of such certificate. Upon completion of the
10 project the contractor shall furnish to such clinic or center concerned a
11 sworn statement, on a form to be provided by the director of taxation, that
12 all purchases so made were entitled to exemption under this subsection.
13 All invoices shall be held by the contractor for a period of five years and
14 shall be subject to audit by the director of taxation. If any materials
15 purchased under such a certificate are found not to have been incorporated
16 in the building or other project or not to have been returned for credit or
17 the sales or compensating tax otherwise imposed upon such materials
18 which will not be so incorporated in the building or other project reported
19 and paid by such contractor to the director of taxation not later than the
20 20th day of the month following the close of the month in which it shall be
21 determined that such materials will not be used for the purpose for which
22 such certificate was issued, such clinic or center concerned shall be liable
23 for tax on all materials purchased for the project, and upon payment
24 thereof it may recover the same from the contractor together with
25 reasonable attorney fees. Any contractor or any agent, employee or
26 subcontractor thereof, who shall use or otherwise dispose of any materials
27 purchased under such a certificate for any purpose other than that for
28 which such a certificate is issued without the payment of the sales or
29 compensating tax otherwise imposed upon such materials, shall be guilty
30 of a misdemeanor and, upon conviction therefor, shall be subject to the
31 penalties provided for in subsection (g) of K.S.A. 79-3615, and
32 amendments thereto;

33 (ddd) on and after January 1, 1999, and before January 1, 2000, all
34 sales of materials and services purchased by any class II or III railroad as
35 classified by the federal surface transportation board for the construction,
36 renovation, repair or replacement of class II or III railroad track and
37 facilities used directly in interstate commerce. In the event any such track
38 or facility for which materials and services were purchased sales tax
39 exempt is not operational for five years succeeding the allowance of such
40 exemption, the total amount of sales tax which would have been payable
41 except for the operation of this subsection shall be recouped in accordance
42 with rules and regulations adopted for such purpose by the secretary of
43 revenue;

1 (eee) on and after January 1, 1999, and before January 1, 2001, all
2 sales of materials and services purchased for the original construction,
3 reconstruction, repair or replacement of grain storage facilities, including
4 railroad sidings providing access thereto;

5 (fff) all sales of material handling equipment, racking systems and
6 other related machinery and equipment that is used for the handling,
7 movement or storage of tangible personal property in a warehouse or
8 distribution facility in this state; all sales of installation, repair and
9 maintenance services performed on such machinery and equipment; and
10 all sales of repair and replacement parts for such machinery and
11 equipment. For purposes of this subsection, a warehouse or distribution
12 facility means a single, fixed location that consists of buildings or
13 structures in a contiguous area where storage or distribution operations are
14 conducted that are separate and apart from the business' retail operations,
15 if any, and which do not otherwise qualify for exemption as occurring at a
16 manufacturing or processing plant or facility. Material handling and
17 storage equipment shall include aeration, dust control, cleaning, handling
18 and other such equipment that is used in a public grain warehouse or other
19 commercial grain storage facility, whether used for grain handling, grain
20 storage, grain refining or processing, or other grain treatment operation;

21 (ggg) all sales of tangible personal property and services purchased
22 by or on behalf of the Kansas Academy of Science which is exempt from
23 federal income taxation pursuant to section 501(c)(3) of the federal
24 internal revenue code of 1986, and used solely by such academy for the
25 preparation, publication and dissemination of education materials;

26 (hhh) all sales of tangible personal property and services purchased
27 by or on behalf of all domestic violence shelters that are member agencies
28 of the Kansas coalition against sexual and domestic violence;

29 (iii) all sales of personal property and services purchased by an
30 organization which is exempt from federal income taxation pursuant to
31 section 501(c)(3) of the federal internal revenue code of 1986, and which
32 such personal property and services are used by any such organization in
33 the collection, storage and distribution of food products to nonprofit
34 organizations which distribute such food products to persons pursuant to a
35 food distribution program on a charitable basis without fee or charge, and
36 all sales of tangible personal property or services purchased by a
37 contractor for the purpose of constructing, equipping, reconstructing,
38 maintaining, repairing, enlarging, furnishing or remodeling facilities used
39 for the collection and storage of such food products for any such
40 organization which is exempt from federal income taxation pursuant to
41 section 501(c)(3) of the federal internal revenue code of 1986, which
42 would be exempt from taxation under the provisions of this section if
43 purchased directly by such organization. Nothing in this subsection shall

1 be deemed to exempt the purchase of any construction machinery,
2 equipment or tools used in the constructing, equipping, reconstructing,
3 maintaining, repairing, enlarging, furnishing or remodeling facilities for
4 any such organization. When any such organization shall contract for the
5 purpose of constructing, equipping, reconstructing, maintaining, repairing,
6 enlarging, furnishing or remodeling facilities, it shall obtain from the state
7 and furnish to the contractor an exemption certificate for the project
8 involved, and the contractor may purchase materials for incorporation in
9 such project. The contractor shall furnish the number of such certificate to
10 all suppliers from whom such purchases are made, and such suppliers shall
11 execute invoices covering the same bearing the number of such certificate.
12 Upon completion of the project the contractor shall furnish to such
13 organization concerned a sworn statement, on a form to be provided by the
14 director of taxation, that all purchases so made were entitled to exemption
15 under this subsection. All invoices shall be held by the contractor for a
16 period of five years and shall be subject to audit by the director of taxation.
17 If any materials purchased under such a certificate are found not to have
18 been incorporated in such facilities or not to have been returned for credit
19 or the sales or compensating tax otherwise imposed upon such materials
20 which will not be so incorporated in such facilities reported and paid by
21 such contractor to the director of taxation not later than the 20th day of the
22 month following the close of the month in which it shall be determined
23 that such materials will not be used for the purpose for which such
24 certificate was issued, such organization concerned shall be liable for tax
25 on all materials purchased for the project, and upon payment thereof it
26 may recover the same from the contractor together with reasonable
27 attorney fees. Any contractor or any agent, employee or subcontractor
28 thereof, who shall use or otherwise dispose of any materials purchased
29 under such a certificate for any purpose other than that for which such a
30 certificate is issued without the payment of the sales or compensating tax
31 otherwise imposed upon such materials, shall be guilty of a misdemeanor
32 and, upon conviction therefor, shall be subject to the penalties provided for
33 in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax
34 paid on and after July 1, 2005, but prior to the effective date of this act
35 upon the gross receipts received from any sale exempted by the
36 amendatory provisions of this subsection shall be refunded. Each claim for
37 a sales tax refund shall be verified and submitted to the director of taxation
38 upon forms furnished by the director and shall be accompanied by any
39 additional documentation required by the director. The director shall
40 review each claim and shall refund that amount of sales tax paid as
41 determined under the provisions of this subsection. All refunds shall be
42 paid from the sales tax refund fund upon warrants of the director of
43 accounts and reports pursuant to vouchers approved by the director or the

1 director's designee;

2 (jjj) all sales of dietary supplements dispensed pursuant to a
3 prescription order by a licensed practitioner or a mid-level practitioner as
4 defined by K.S.A. 65-1626, and amendments thereto. As used in this
5 subsection, "dietary supplement" means any product, other than tobacco,
6 intended to supplement the diet that: (1) Contains one or more of the
7 following dietary ingredients: A vitamin, a mineral, an herb or other
8 botanical, an amino acid, a dietary substance for use by humans to
9 supplement the diet by increasing the total dietary intake or a concentrate,
10 metabolite, constituent, extract or combination of any such ingredient; (2)
11 is intended for ingestion in tablet, capsule, powder, softgel, gelcap or
12 liquid form, or if not intended for ingestion, in such a form, is not
13 represented as conventional food and is not represented for use as a sole
14 item of a meal or of the diet; and (3) is required to be labeled as a dietary
15 supplement, identifiable by the supplemental facts box found on the label
16 and as required pursuant to 21 C.F.R. § 101.36;

17 (lll) all sales of tangible personal property and services purchased by
18 special olympics Kansas, inc. for the purpose of providing year-round
19 sports training and athletic competition in a variety of olympic-type sports
20 for individuals with intellectual disabilities by giving them continuing
21 opportunities to develop physical fitness, demonstrate courage, experience
22 joy and participate in a sharing of gifts, skills and friendship with their
23 families, other special olympics athletes and the community, and activities
24 provided or sponsored by such organization, and all sales of tangible
25 personal property by or on behalf of any such organization;

26 (mmm) all sales of tangible personal property purchased by or on
27 behalf of the Marillac Center, Inc., which is exempt from federal income
28 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
29 for the purpose of providing psycho-social-biological and special
30 education services to children, and all sales of any such property by or on
31 behalf of such organization for such purpose;

32 (nnn) all sales of tangible personal property and services purchased
33 by the West Sedgwick County-Sunrise Rotary Club and Sunrise Charitable
34 Fund for the purpose of constructing a boundless playground which is an
35 integrated, barrier free and developmentally advantageous play
36 environment for children of all abilities and disabilities;

37 (ooo) all sales of tangible personal property by or on behalf of a
38 public library serving the general public and supported in whole or in part
39 with tax money or a not-for-profit organization whose purpose is to raise
40 funds for or provide services or other benefits to any such public library;

41 (ppp) all sales of tangible personal property and services purchased
42 by or on behalf of a homeless shelter which is exempt from federal income
43 taxation pursuant to section 501(c)(3) of the federal income tax code of

1 1986, and used by any such homeless shelter to provide emergency and
2 transitional housing for individuals and families experiencing
3 homelessness, and all sales of any such property by or on behalf of any
4 such homeless shelter for any such purpose;

5 (qqq) all sales of tangible personal property and services purchased
6 by TLC for children and families, inc., hereinafter referred to as TLC,
7 which is exempt from federal income taxation pursuant to section 501(c)
8 (3) of the federal internal revenue code of 1986, and which such property
9 and services are used for the purpose of providing emergency shelter and
10 treatment for abused and neglected children as well as meeting additional
11 critical needs for children, juveniles and family, and all sales of any such
12 property by or on behalf of TLC for any such purpose; and all sales of
13 tangible personal property or services purchased by a contractor for the
14 purpose of constructing, maintaining, repairing, enlarging, furnishing or
15 remodeling facilities for the operation of services for TLC for any such
16 purpose which would be exempt from taxation under the provisions of this
17 section if purchased directly by TLC. Nothing in this subsection shall be
18 deemed to exempt the purchase of any construction machinery, equipment
19 or tools used in the constructing, maintaining, repairing, enlarging,
20 furnishing or remodeling such facilities for TLC. When TLC contracts for
21 the purpose of constructing, maintaining, repairing, enlarging, furnishing
22 or remodeling such facilities, it shall obtain from the state and furnish to
23 the contractor an exemption certificate for the project involved, and the
24 contractor may purchase materials for incorporation in such project. The
25 contractor shall furnish the number of such certificate to all suppliers from
26 whom such purchases are made, and such suppliers shall execute invoices
27 covering the same bearing the number of such certificate. Upon
28 completion of the project the contractor shall furnish to TLC a sworn
29 statement, on a form to be provided by the director of taxation, that all
30 purchases so made were entitled to exemption under this subsection. All
31 invoices shall be held by the contractor for a period of five years and shall
32 be subject to audit by the director of taxation. If any materials purchased
33 under such a certificate are found not to have been incorporated in the
34 building or other project or not to have been returned for credit or the sales
35 or compensating tax otherwise imposed upon such materials which will
36 not be so incorporated in the building or other project reported and paid by
37 such contractor to the director of taxation not later than the 20th day of the
38 month following the close of the month in which it shall be determined
39 that such materials will not be used for the purpose for which such
40 certificate was issued, TLC shall be liable for tax on all materials
41 purchased for the project, and upon payment thereof it may recover the
42 same from the contractor together with reasonable attorney fees. Any
43 contractor or any agent, employee or subcontractor thereof, who shall use

1 or otherwise dispose of any materials purchased under such a certificate
2 for any purpose other than that for which such a certificate is issued
3 without the payment of the sales or compensating tax otherwise imposed
4 upon such materials, shall be guilty of a misdemeanor and, upon
5 conviction therefor, shall be subject to the penalties provided for in
6 subsection (g) of K.S.A. 79-3615, and amendments thereto;

7 (rrr) all sales of tangible personal property and services purchased by
8 any county law library maintained pursuant to law and sales of tangible
9 personal property and services purchased by an organization which would
10 have been exempt from taxation under the provisions of this subsection if
11 purchased directly by the county law library for the purpose of providing
12 legal resources to attorneys, judges, students and the general public, and
13 all sales of any such property by or on behalf of any such county law
14 library;

15 (sss) all sales of tangible personal property and services purchased by
16 catholic charities or youthville, hereinafter referred to as charitable family
17 providers, which is exempt from federal income taxation pursuant to
18 section 501(c)(3) of the federal internal revenue code of 1986, and which
19 such property and services are used for the purpose of providing
20 emergency shelter and treatment for abused and neglected children as well
21 as meeting additional critical needs for children, juveniles and family, and
22 all sales of any such property by or on behalf of charitable family
23 providers for any such purpose; and all sales of tangible personal property
24 or services purchased by a contractor for the purpose of constructing,
25 maintaining, repairing, enlarging, furnishing or remodeling facilities for
26 the operation of services for charitable family providers for any such
27 purpose which would be exempt from taxation under the provisions of this
28 section if purchased directly by charitable family providers. Nothing in
29 this subsection shall be deemed to exempt the purchase of any construction
30 machinery, equipment or tools used in the constructing, maintaining,
31 repairing, enlarging, furnishing or remodeling such facilities for charitable
32 family providers. When charitable family providers contracts for the
33 purpose of constructing, maintaining, repairing, enlarging, furnishing or
34 remodeling such facilities, it shall obtain from the state and furnish to the
35 contractor an exemption certificate for the project involved, and the
36 contractor may purchase materials for incorporation in such project. The
37 contractor shall furnish the number of such certificate to all suppliers from
38 whom such purchases are made, and such suppliers shall execute invoices
39 covering the same bearing the number of such certificate. Upon
40 completion of the project the contractor shall furnish to charitable family
41 providers a sworn statement, on a form to be provided by the director of
42 taxation, that all purchases so made were entitled to exemption under this
43 subsection. All invoices shall be held by the contractor for a period of five

1 years and shall be subject to audit by the director of taxation. If any
2 materials purchased under such a certificate are found not to have been
3 incorporated in the building or other project or not to have been returned
4 for credit or the sales or compensating tax otherwise imposed upon such
5 materials which will not be so incorporated in the building or other project
6 reported and paid by such contractor to the director of taxation not later
7 than the 20th day of the month following the close of the month in which it
8 shall be determined that such materials will not be used for the purpose for
9 which such certificate was issued, charitable family providers shall be
10 liable for tax on all materials purchased for the project, and upon payment
11 thereof it may recover the same from the contractor together with
12 reasonable attorney fees. Any contractor or any agent, employee or
13 subcontractor thereof, who shall use or otherwise dispose of any materials
14 purchased under such a certificate for any purpose other than that for
15 which such a certificate is issued without the payment of the sales or
16 compensating tax otherwise imposed upon such materials, shall be guilty
17 of a misdemeanor and, upon conviction therefor, shall be subject to the
18 penalties provided for in subsection (g) of K.S.A. 79-3615, and
19 amendments thereto;

20 (ttt) all sales of tangible personal property or services purchased by a
21 contractor for a project for the purpose of restoring, constructing,
22 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
23 remodeling a home or facility owned by a nonprofit museum which has
24 been granted an exemption pursuant to subsection (qq), which such home
25 or facility is located in a city which has been designated as a qualified
26 hometown pursuant to the provisions of K.S.A. 75-5071 *et seq.*, and
27 amendments thereto, and which such project is related to the purposes of
28 K.S.A. 75-5071 *et seq.*, and amendments thereto, and which would be
29 exempt from taxation under the provisions of this section if purchased
30 directly by such nonprofit museum. Nothing in this subsection shall be
31 deemed to exempt the purchase of any construction machinery, equipment
32 or tools used in the restoring, constructing, equipping, reconstructing,
33 maintaining, repairing, enlarging, furnishing or remodeling a home or
34 facility for any such nonprofit museum. When any such nonprofit museum
35 shall contract for the purpose of restoring, constructing, equipping,
36 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
37 a home or facility, it shall obtain from the state and furnish to the
38 contractor an exemption certificate for the project involved, and the
39 contractor may purchase materials for incorporation in such project. The
40 contractor shall furnish the number of such certificates to all suppliers
41 from whom such purchases are made, and such suppliers shall execute
42 invoices covering the same bearing the number of such certificate. Upon
43 completion of the project, the contractor shall furnish to such nonprofit

1 museum a sworn statement on a form to be provided by the director of
2 taxation that all purchases so made were entitled to exemption under this
3 subsection. All invoices shall be held by the contractor for a period of five
4 years and shall be subject to audit by the director of taxation. If any
5 materials purchased under such a certificate are found not to have been
6 incorporated in the building or other project or not to have been returned
7 for credit or the sales or compensating tax otherwise imposed upon such
8 materials which will not be so incorporated in a home or facility or other
9 project reported and paid by such contractor to the director of taxation not
10 later than the 20th day of the month following the close of the month in
11 which it shall be determined that such materials will not be used for the
12 purpose for which such certificate was issued, such nonprofit museum
13 shall be liable for tax on all materials purchased for the project, and upon
14 payment thereof it may recover the same from the contractor together with
15 reasonable attorney fees. Any contractor or any agent, employee or
16 subcontractor thereof, who shall use or otherwise dispose of any materials
17 purchased under such a certificate for any purpose other than that for
18 which such a certificate is issued without the payment of the sales or
19 compensating tax otherwise imposed upon such materials, shall be guilty
20 of a misdemeanor and, upon conviction therefor, shall be subject to the
21 penalties provided for in subsection (g) of K.S.A. 79-3615, and
22 amendments thereto;

23 (uuu) all sales of tangible personal property and services purchased
24 by Kansas children's service league, hereinafter referred to as KCSL,
25 which is exempt from federal income taxation pursuant to section 501(c)
26 (3) of the federal internal revenue code of 1986, and which such property
27 and services are used for the purpose of providing for the prevention and
28 treatment of child abuse and maltreatment as well as meeting additional
29 critical needs for children, juveniles and family, and all sales of any such
30 property by or on behalf of KCSL for any such purpose; and all sales of
31 tangible personal property or services purchased by a contractor for the
32 purpose of constructing, maintaining, repairing, enlarging, furnishing or
33 remodeling facilities for the operation of services for KCSL for any such
34 purpose which would be exempt from taxation under the provisions of this
35 section if purchased directly by KCSL. Nothing in this subsection shall be
36 deemed to exempt the purchase of any construction machinery, equipment
37 or tools used in the constructing, maintaining, repairing, enlarging,
38 furnishing or remodeling such facilities for KCSL. When KCSL contracts
39 for the purpose of constructing, maintaining, repairing, enlarging,
40 furnishing or remodeling such facilities, it shall obtain from the state and
41 furnish to the contractor an exemption certificate for the project involved,
42 and the contractor may purchase materials for incorporation in such
43 project. The contractor shall furnish the number of such certificate to all

1 suppliers from whom such purchases are made, and such suppliers shall
2 execute invoices covering the same bearing the number of such certificate.
3 Upon completion of the project the contractor shall furnish to KCSL a
4 sworn statement, on a form to be provided by the director of taxation, that
5 all purchases so made were entitled to exemption under this subsection.
6 All invoices shall be held by the contractor for a period of five years and
7 shall be subject to audit by the director of taxation. If any materials
8 purchased under such a certificate are found not to have been incorporated
9 in the building or other project or not to have been returned for credit or
10 the sales or compensating tax otherwise imposed upon such materials
11 which will not be so incorporated in the building or other project reported
12 and paid by such contractor to the director of taxation not later than the
13 20th day of the month following the close of the month in which it shall be
14 determined that such materials will not be used for the purpose for which
15 such certificate was issued, KCSL shall be liable for tax on all materials
16 purchased for the project, and upon payment thereof it may recover the
17 same from the contractor together with reasonable attorney fees. Any
18 contractor or any agent, employee or subcontractor thereof, who shall use
19 or otherwise dispose of any materials purchased under such a certificate
20 for any purpose other than that for which such a certificate is issued
21 without the payment of the sales or compensating tax otherwise imposed
22 upon such materials, shall be guilty of a misdemeanor and, upon
23 conviction therefor, shall be subject to the penalties provided for in
24 subsection (g) of K.S.A. 79-3615, and amendments thereto;

25 (vvv) all sales of tangible personal property or services, including the
26 renting and leasing of tangible personal property or services, purchased by
27 Jazz in the Woods, Inc., a Kansas corporation which is exempt from
28 federal income taxation pursuant to section 501(c)(3) of the federal
29 internal revenue code, for the purpose of providing Jazz in the Woods, an
30 event benefiting children-in-need and other nonprofit charities assisting
31 such children, and all sales of any such property by or on behalf of such
32 organization for such purpose;

33 (www) all sales of tangible personal property purchased by or on
34 behalf of the Frontenac Education Foundation, which is exempt from
35 federal income taxation pursuant to section 501(c)(3) of the federal
36 internal revenue code, for the purpose of providing education support for
37 students, and all sales of any such property by or on behalf of such
38 organization for such purpose;

39 (xxx) all sales of personal property and services purchased by the
40 booth theatre foundation, inc., an organization which is exempt from
41 federal income taxation pursuant to section 501(c)(3) of the federal
42 internal revenue code of 1986, and which such personal property and
43 services are used by any such organization in the constructing, equipping,

1 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
2 of the booth theatre, and all sales of tangible personal property or services
3 purchased by a contractor for the purpose of constructing, equipping,
4 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
5 the booth theatre for such organization, which would be exempt from
6 taxation under the provisions of this section if purchased directly by such
7 organization. Nothing in this subsection shall be deemed to exempt the
8 purchase of any construction machinery, equipment or tools used in the
9 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
10 furnishing or remodeling facilities for any such organization. When any
11 such organization shall contract for the purpose of constructing, equipping,
12 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
13 facilities, it shall obtain from the state and furnish to the contractor an
14 exemption certificate for the project involved, and the contractor may
15 purchase materials for incorporation in such project. The contractor shall
16 furnish the number of such certificate to all suppliers from whom such
17 purchases are made, and such suppliers shall execute invoices covering the
18 same bearing the number of such certificate. Upon completion of the
19 project the contractor shall furnish to such organization concerned a sworn
20 statement, on a form to be provided by the director of taxation, that all
21 purchases so made were entitled to exemption under this subsection. All
22 invoices shall be held by the contractor for a period of five years and shall
23 be subject to audit by the director of taxation. If any materials purchased
24 under such a certificate are found not to have been incorporated in such
25 facilities or not to have been returned for credit or the sales or
26 compensating tax otherwise imposed upon such materials which will not
27 be so incorporated in such facilities reported and paid by such contractor
28 to the director of taxation not later than the 20th day of the month following
29 the close of the month in which it shall be determined that such materials
30 will not be used for the purpose for which such certificate was issued, such
31 organization concerned shall be liable for tax on all materials purchased
32 for the project, and upon payment thereof it may recover the same from
33 the contractor together with reasonable attorney fees. Any contractor or
34 any agent, employee or subcontractor thereof, who shall use or otherwise
35 dispose of any materials purchased under such a certificate for any purpose
36 other than that for which such a certificate is issued without the payment
37 of the sales or compensating tax otherwise imposed upon such materials,
38 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
39 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
40 and amendments thereto. Sales tax paid on and after January 1, 2007, but
41 prior to the effective date of this act upon the gross receipts received from
42 any sale which would have been exempted by the provisions of this
43 subsection had such sale occurred after the effective date of this act shall

1 be refunded. Each claim for a sales tax refund shall be verified and
2 submitted to the director of taxation upon forms furnished by the director
3 and shall be accompanied by any additional documentation required by the
4 director. The director shall review each claim and shall refund that amount
5 of sales tax paid as determined under the provisions of this subsection. All
6 refunds shall be paid from the sales tax refund fund upon warrants of the
7 director of accounts and reports pursuant to vouchers approved by the
8 director or the director's designee;

9 (yyy) all sales of tangible personal property and services purchased
10 by TLC charities foundation, inc., hereinafter referred to as TLC charities,
11 which is exempt from federal income taxation pursuant to section 501(c)
12 (3) of the federal internal revenue code of 1986, and which such property
13 and services are used for the purpose of encouraging private philanthropy
14 to further the vision, values, and goals of TLC for children and families,
15 inc.; and all sales of such property and services by or on behalf of TLC
16 charities for any such purpose and all sales of tangible personal property or
17 services purchased by a contractor for the purpose of constructing,
18 maintaining, repairing, enlarging, furnishing or remodeling facilities for
19 the operation of services for TLC charities for any such purpose which
20 would be exempt from taxation under the provisions of this section if
21 purchased directly by TLC charities. Nothing in this subsection shall be
22 deemed to exempt the purchase of any construction machinery, equipment
23 or tools used in the constructing, maintaining, repairing, enlarging,
24 furnishing or remodeling such facilities for TLC charities. When TLC
25 charities contracts for the purpose of constructing, maintaining, repairing,
26 enlarging, furnishing or remodeling such facilities, it shall obtain from the
27 state and furnish to the contractor an exemption certificate for the project
28 involved, and the contractor may purchase materials for incorporation in
29 such project. The contractor shall furnish the number of such certificate to
30 all suppliers from whom such purchases are made, and such suppliers shall
31 execute invoices covering the same bearing the number of such certificate.
32 Upon completion of the project the contractor shall furnish to TLC
33 charities a sworn statement, on a form to be provided by the director of
34 taxation, that all purchases so made were entitled to exemption under this
35 subsection. All invoices shall be held by the contractor for a period of five
36 years and shall be subject to audit by the director of taxation. If any
37 materials purchased under such a certificate are found not to have been
38 incorporated in the building or other project or not to have been returned
39 for credit or the sales or compensating tax otherwise imposed upon such
40 materials which will not be incorporated into the building or other project
41 reported and paid by such contractor to the director of taxation not later
42 than the 20th day of the month following the close of the month in which it
43 shall be determined that such materials will not be used for the purpose for

1 which such certificate was issued, TLC charities shall be liable for tax on
2 all materials purchased for the project, and upon payment thereof it may
3 recover the same from the contractor together with reasonable attorney
4 fees. Any contractor or any agent, employee or subcontractor thereof, who
5 shall use or otherwise dispose of any materials purchased under such a
6 certificate for any purpose other than that for which such a certificate is
7 issued without the payment of the sales or compensating tax otherwise
8 imposed upon such materials, shall be guilty of a misdemeanor and, upon
9 conviction therefor, shall be subject to the penalties provided for in
10 subsection (g) of K.S.A. 79-3615, and amendments thereto;

11 (zzz) all sales of tangible personal property purchased by the rotary
12 club of shawnee foundation which is exempt from federal income taxation
13 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
14 as amended, used for the purpose of providing contributions to community
15 service organizations and scholarships;

16 (aaaa) all sales of personal property and services purchased by or on
17 behalf of victory in the valley, inc., which is exempt from federal income
18 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
19 for the purpose of providing a cancer support group and services for
20 persons with cancer, and all sales of any such property by or on behalf of
21 any such organization for any such purpose;

22 (bbbb) all sales of entry or participation fees, charges or tickets by
23 Guadalupe health foundation, which is exempt from federal income
24 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
25 for such organization's annual fundraising event which purpose is to
26 provide health care services for uninsured workers;

27 (cccc) all sales of tangible personal property or services purchased by
28 or on behalf of wayside waifs, inc., which is exempt from federal income
29 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
30 for the purpose of providing such organization's annual fundraiser, an
31 event whose purpose is to support the care of homeless and abandoned
32 animals, animal adoption efforts, education programs for children and
33 efforts to reduce animal over-population and animal welfare services, and
34 all sales of any such property, including entry or participation fees or
35 charges, by or on behalf of such organization for such purpose;

36 (dddd) all sales of tangible personal property or services purchased
37 by or on behalf of Goodwill Industries or Easter Seals of Kansas, Inc.,
38 both of which are exempt from federal income taxation pursuant to section
39 501(c)(3) of the federal internal revenue code, for the purpose of providing
40 education, training and employment opportunities for people with
41 disabilities and other barriers to employment;

42 (eeee) all sales of tangible personal property or services purchased by
43 or on behalf of All American Beef Battalion, Inc., which is exempt from

1 federal income taxation pursuant to section 501(c)(3) of the federal
2 internal revenue code, for the purpose of educating, promoting and
3 participating as a contact group through the beef cattle industry in order to
4 carry out such projects that provide support and morale to members of the
5 United States armed forces and military services; ~~and~~

6 (ffff) all sales of tangible personal property and services purchased by
7 sheltered living, inc., which is exempt from federal income taxation
8 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
9 and which such property and services are used for the purpose of
10 providing residential and day services for people with developmental
11 disabilities or mental retardation, or both, and all sales of any such
12 property by or on behalf of sheltered living, inc. for any such purpose; and
13 all sales of tangible personal property or services purchased by a
14 contractor for the purpose of rehabilitating, constructing, maintaining,
15 repairing, enlarging, furnishing or remodeling homes and facilities for
16 sheltered living, inc. for any such purpose which would be exempt from
17 taxation under the provisions of this section if purchased directly by
18 sheltered living, inc. Nothing in this subsection shall be deemed to exempt
19 the purchase of any construction machinery, equipment or tools used in the
20 constructing, maintaining, repairing, enlarging, furnishing or remodeling
21 such homes and facilities for sheltered living, inc. When sheltered living,
22 inc. contracts for the purpose of rehabilitating, constructing, maintaining,
23 repairing, enlarging, furnishing or remodeling such homes and facilities, it
24 shall obtain from the state and furnish to the contractor an exemption
25 certificate for the project involved, and the contractor may purchase
26 materials for incorporation in such project. The contractor shall furnish the
27 number of such certificate to all suppliers from whom such purchases are
28 made, and such suppliers shall execute invoices covering the same bearing
29 the number of such certificate. Upon completion of the project the
30 contractor shall furnish to sheltered living, inc. a sworn statement, on a
31 form to be provided by the director of taxation, that all purchases so made
32 were entitled to exemption under this subsection. All invoices shall be held
33 by the contractor for a period of five years and shall be subject to audit by
34 the director of taxation. If any materials purchased under such a certificate
35 are found not to have been incorporated in the building or other project or
36 not to have been returned for credit or the sales or compensating tax
37 otherwise imposed upon such materials which will not be so incorporated
38 in the building or other project reported and paid by such contractor to the
39 director of taxation not later than the 20th day of the month following the
40 close of the month in which it shall be determined that such materials will
41 not be used for the purpose for which such certificate was issued, sheltered
42 living, inc. shall be liable for tax on all materials purchased for the project,
43 and upon payment thereof it may recover the same from the contractor

1 together with reasonable attorney fees. Any contractor or any agent,
2 employee or subcontractor thereof, who shall use or otherwise dispose of
3 any materials purchased under such a certificate for any purpose other than
4 that for which such a certificate is issued without the payment of the sales
5 or compensating tax otherwise imposed upon such materials, shall be
6 guilty of a misdemeanor and, upon conviction therefor, shall be subject to
7 the penalties provided for in subsection (g) of K.S.A. 79-3615, and
8 amendments thereto; and

9 *(gggg) all sales of game birds for which the primary purpose is use in*
10 *hunting.*

11 Sec. 75. K.S.A. 17-1762, 19-4001, 19-4002, 19-4002a, 19-4002b, 19-
12 4003, 19-4004, 19-4005, 19-4007, 19-4009, 19-4010, 19-4011, 39-927,
13 39-971, 39-1001, 39-1002, 39-1005, 39-1006, 39-1007, 39-1201, 39-1202,
14 39-1205, 39-1207, 39-1803, 58-24a16, 59-2946, 59-2972, 59-3077, 65-
15 5a14, 65-3501, 65-4202, 65-4212, 65-4411, 65-4412, 65-4413, 65-4414,
16 65-4415, 65-5601, 72-6203, 74-8917, 75-4375, 75-5399, 75-6508, 76-
17 12b01, 76-12b02, 76-12b03, 76-12b07, 76-12b11 and 76-17c01 and
18 K.S.A. 2011 Supp. 12-1675, 21-5417, 21-6622, 39-923, 39-936, 39-1401,
19 39-1702, 40-3401, 50-676, 65-180, 65-1124, 65-1626, 65-4915, 65-4921,
20 65-6805, 72-962, 74-5344, 75-4265, 75-5321a, 75-6506, 75-6609, 75-
21 6610, 75-7303, 79-3606 and 79-3606g are hereby repealed.

22 Sec. 76. This act shall take effect and be in force from and after its
23 publication in the statute book.