

HOUSE BILL No. 2644

By Representatives Rhoades and Schroeder

2-7

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

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

18 New Section 1. As used in this act and in the construction of the
19 statutes of this state, unless the construction would be inconsistent with the
20 manifest intent of the legislature, is repugnant to the context of the statute
21 or is inconsistent with a definition of the same or similar term which
22 applies to the statute, "intellectually disabled" or "intellectual disability"
23 means substantial limitations in present functioning that is manifested
24 during the period from birth to age 18 years and is characterized by
25 significantly subaverage intellectual functioning existing concurrently with
26 deficits in adaptive behavior including related limitations in two or more
27 of the following applicable adaptive skill areas: Communication, self-care,
28 home living, social skills, community use, self-direction, health and safety,
29 functional academics, leisure and work.

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~~ *intellectually disabled* or any other
35 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~~ *for the intellectually*
24 *disabled* center and its affiliates as determined by the department of social
25 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~~ *intellectually disabled, or both*, which shall be
11 organized, operated, and financed according to the provisions of this act.
12 The mental health center may render the following mental health services:
13 Out-patient and inpatient diagnostic and treatment services; rehabilitation
14 services to individuals returning to the community from an inpatient
15 facility; consultative services to schools, courts, health and welfare
16 agencies, both public and private, and conducting, in collaboration with
17 other agencies when practical, in-service training for students entering the
18 mental health professions, educational programs, information and
19 research. The community facilities for the ~~mentally-retarded~~ *intellectually*
20 *disabled* may render, and a ~~mental-retardation~~ *an intellectual disability*
21 governing board which contracts with nonprofit corporations to provide
22 services for the mentally retarded may provide, the following services:
23 Pre-school, day care, work activity, sheltered workshops, sheltered
24 domiciles, parent and community education and, in collaboration with
25 other agencies when practical, clinical services, rehabilitation services, in-
26 service training for students entering professions dealing with the above
27 aspects of ~~mental-retardation~~ *intellectually disabled*, information and
28 research. It may establish consulting ~~and/or~~ referral services, *or both*, in
29 conjunction with related community health, education, and welfare
30 services.

31 No community mental health center, ~~and/or~~ facility for the ~~mentally-~~
32 ~~retarded~~ *intellectually disabled, or both*, shall be established in ~~said such~~
33 community after the effective date of this act unless and until the
34 establishment of the same has been approved by the secretary of social and
35 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~~ *intellectually disabled* shall
40 establish a community mental health or ~~mental-retardation~~ *an intellectual*
41 *disability* governing board. Every county which wants to establish such
42 board for the purpose of allowing such board to contract with a nonprofit
43 corporation to provide services for the ~~mentally-retarded~~ *intellectually*

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

8 (2) When two or more counties desire to establish a mental health
9 center or facility for the ~~mentally-retarded~~ *intellectually disabled*, the
10 chairperson of the board of the county commissioners of each participating
11 county shall appoint two members to a selection committee, which
12 committee shall select the first governing board. Each participating county
13 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 the intellectually disabled*, education, rehabilitation,
18 labor, business and civic groups and the general public. The governing
19 board of a mental health center also shall include consumers of mental
20 health services or representatives of mental health consumer groups and
21 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~~ *intellectually*
24 *disabled* in accordance with the provisions of this act, and determine it is
25 more practical to establish a single governing board for mental health
26 services and ~~mental-retardation~~ *facilities for the intellectually disabled*, the
27 board of commissioners may establish a single board. If the board of
28 county commissioners determine that separate boards are more practical,
29 the board of county commissioners may establish a governing board for a
30 mental health center and a separate board for ~~mental-retardation~~
31 *facilities for the intellectually disabled*.

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 the*
8 *intellectually disabled* or representatives of mental health consumer groups
9 *and consumer groups for the intellectually disabled* and shall include
10 family members of mentally ill persons *and intellectually disabled persons*
11 and, as nearly as possible, shall be representative of public health, medical
12 profession, the judiciary, public welfare, hospitals and mental health
13 organizations *and organizations for the intellectually disabled* and
14 education, rehabilitation, labor, business and civic groups.

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

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

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

40 (c) The board of county commissioners, as the mental health or
41 ~~mental-retardation~~ *intellectual disability* governing board, shall seek the
42 recommendations of the mental health and ~~mental-retardation-~~ *intellectual*
43 *disability* advisory board prior to adopting the annual plan and budget for

1 county mental health and ~~retardation~~ programs *for the intellectually*
2 *disabled.*

3 Sec. 8. K.S.A. 19-4003 is hereby amended to read as follows: 19-
4 4003. The duties of the governing boards shall include: (a) Election from
5 its members of a chairman, a vice-chairman, a secretary and a treasurer,
6 who shall hold office for a term of one (1) year. Such treasurer shall give
7 bond to be approved by the board of county commissioners of the county
8 in which the mental health center ~~and/or~~ facilities for the ~~mentally retarded~~
9 *intellectually disabled, or both,* are located or the board of county
10 commissioners which created a governing board to contract with a
11 nonprofit corporation to provide services for the ~~mentally retarded~~
12 *intellectually disabled* for the safekeeping and the disbursements of all
13 funds that may come into ~~his or her~~ *such treasurer's* hands. All money
14 provided for mental health ~~and/or mental retardation~~ *intellectual disability*
15 purposes under the provisions of this act shall, when collected, be paid
16 over to the treasurer of ~~said~~ *the* governing board for the purposes of this
17 act. Such governing board shall have exclusive control over the
18 expenditures of all moneys paid to the credit of its treasurer under the
19 provisions of this act, and no money shall be paid therefrom, except upon
20 vouchers signed by the treasurer and on order of the governing board.

21 (b) Formulating and establishing policies for the operation of the
22 mental health center ~~and/or~~ facilities for the ~~mentally retarded~~
23 *intellectually disabled, or both,* and employment of personnel if the
24 governing board operates a mental health center or facility for the ~~mentally~~
25 ~~retarded~~ *intellectually disabled, or both.*

26 (c) Annually reviewing, evaluating and reporting of community
27 mental health ~~and mental retardation~~ services *and services for the*
28 *intellectually disabled* provided by the center pursuant to this act to such
29 board or boards of county commissioners.

30 (d) Preparing and submitting the annual plan and budget and making
31 recommendations thereon.

32 Sec. 9. K.S.A. 19-4004 is hereby amended to read as follows: 19-
33 4004. In all counties wherein the board or boards of county commissioners
34 in the event of a combination of counties has established a governing
35 board, the respective board or boards of county commissioners may levy
36 an annual tax upon all taxable tangible property in such county for mental
37 health services 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. The respective board or boards of county
40 commissioners may also levy an additional annual tax upon all taxable
41 tangible property in such county for ~~mental retardation~~ *intellectual*
42 *disability* services and to pay a portion of the principal and interest on
43 bonds issued under the authority of K.S.A. 12-1774, and amendments

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

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

1 for operation of or construction of a community mental health center,
2 ~~and/or facility for the mentally-retarded~~ *intellectually disabled, or both*, as
3 the case may be. Title to the building or buildings of the community
4 mental health center, ~~and/or facility for the mentally-retarded~~ *intellectually*
5 *disabled, or both*, shall vest in the governing board which is responsible
6 for the maintenance and operation of the facilities if a combination of
7 counties has established the center, but, if only one county has established
8 the mental health center or facilities for the ~~mentally-retarded~~ *intellectually*
9 *disabled*, title shall vest in the board of county commissioners of such
10 county. If the board of county commissioners has contracted with a
11 nonprofit corporation to provide mental health services under K.S.A. 19-
12 4007, and amendments thereto, the title to the building or buildings ~~may~~,
13 in the discretion of the board of county commissioners, *may* vest in the
14 board of county commissioners or the nonprofit corporation providing
15 mental health services, and the board of county commissioners may allow
16 the nonprofit corporation to use the buildings without charge.

17 Sec. 10. K.S.A. 19-4005 is hereby amended to read as follows: 19-
18 4005. ~~Said~~ The governing board may establish a schedule of charges for
19 services to persons using ~~said~~ the community mental health center, ~~and/or~~
20 ~~mental retardation~~ *or facilities for the intellectually disabled, or both*, but
21 no person shall be denied the services of ~~said~~ the mental health center
22 ~~and/or facilities for the mentally-retarded~~ *intellectually disabled* because of
23 inability to pay for the same.

24 Sec. 11. K.S.A. 19-4007 is hereby amended to read as follows: 19-
25 4007. (a) If the board or boards of county commissioners desire to provide
26 either mental health services or services for the ~~mentally-~~
27 ~~retarded~~ *intellectually disabled*, or both such services, and to levy the taxes
28 authorized in K.S.A. 19-4004, ~~or any~~ *and* amendments thereto, but
29 determine that it is more practicable to contract for such services with a
30 nonprofit corporation, such board or boards may contract with the
31 nonprofit corporation to provide either mental health services or services
32 for the ~~mentally-retarded~~ *intellectually disabled*, or both such services, for
33 the residents of ~~said~~ the county or counties. In lieu of contracting with a
34 nonprofit corporation to provide services for the ~~mentally-~~
35 ~~retarded~~ *intellectually disabled*, a board of county commissioners may
36 establish a ~~mental retardation~~ *intellectual disability* governing board for
37 the purpose of allowing this board to contract for and on behalf of the
38 board of county commissioners with a nonprofit corporation to provide
39 services for the ~~mentally-retarded~~ *intellectually disabled*. The board or
40 boards entering into such a contract with a nonprofit corporation, or the
41 ~~mental-retardation~~ *intellectual disability* governing board authorized to
42 contract with a nonprofit corporation under this section, are hereby
43 authorized to pay the amount agreed upon in such contract from the

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

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

33 Sec. 12. K.S.A. 19-4009 is hereby amended to read as follows: 19-
34 4009. Nothing contained in this act shall be construed as repealing any
35 existing law nor as affecting any mental health center or facilities for the
36 ~~mentally retarded~~ *intellectually disabled* established by any county under
37 any other law prior to the effective date of this act except as herein
38 otherwise specifically provided; but no county which has heretofore
39 established or shall hereafter establish under any other law a mental health
40 center or facilities for the ~~mentally retarded~~ *intellectually disabled* shall
41 make a tax levy under such other law for a mental health center or
42 facilities for the ~~mentally retarded~~ *intellectually disabled* if it shall establish
43 either singly or jointly a mental health center under the provisions of this

1 act.

2 Sec. 13. K.S.A. 19-4010 is hereby amended to read as follows: 19-
3 4010. The board of county commissioners of any county which is not a
4 part of a community mental health center is hereby authorized to contract
5 with a community mental health center ~~and/or~~ community facilities for the
6 ~~mentally-retarded~~ *intellectually disabled, or both*, organized in accordance
7 with the provisions of K.S.A. 19-4001 *et seq.*, and ~~any~~ amendments
8 thereto, for such mental health services ~~and/or mental retardation or~~
9 *intellectual disability* services, *or both*, for the residents of such county as
10 may be mutually agreeable between the governing board of the center
11 ~~and/or~~ community facilities for the ~~mentally-retarded~~ *intellectually*
12 *disabled, or both*, and the county commissioners, requesting the services
13 for the residents thereof. Such an agreement may provide for out-patient
14 and treatment services, rehabilitation services, consultative services and
15 other services assented to by both parties. The consideration for such
16 services shall not in any case exceed in amount the revenue that will be
17 derived from the tax levy authorized by K.S.A. 19-4011, *and amendments*
18 *thereto*. Such agreement may be for a term of not exceeding five (5) years,
19 but may be renewed from time to time.

20 Sec. 14. K.S.A. 19-4011 is hereby amended to read as follows: 19-
21 4011. The county commissioners of a county entering into such an
22 agreement with a community mental health center is hereby authorized to
23 levy an annual tax upon all of the taxable tangible property in such county
24 for the purpose of providing revenue to pay for the mental health services
25 contracted for with the center and to pay a portion of the principal and
26 interest on bonds issued under the authority of K.S.A. 12-1774, and
27 amendments thereto, by cities located in the county. The county
28 commissioners of a county entering into such an agreement with a
29 community facility for the ~~mentally-retarded~~ *intellectually disabled* is
30 hereby authorized to levy an annual tax upon all of the taxable tangible
31 property in such county for the purpose of providing revenue to pay for the
32 ~~mental retardation~~ *intellectual disability* services contracted for with the
33 facility and to pay a portion of the principal and interest on bonds issued
34 under the authority of K.S.A. 12-1774, and amendments thereto, by cities
35 located in the county. Upon receipt of such tax moneys, the county
36 commissioners shall pay the amount agreed upon to the governing body of
37 the center ~~and/or~~ community facilities for the ~~mentally-~~
38 ~~retarded~~ *intellectually disabled, or both*, and the governing body is
39 authorized to receive and expend such moneys to provide community
40 mental health services.

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

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

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

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

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

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

11 (2) subsection (a)(2) if the aggregate amount of the value of the
12 resources is:

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

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

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

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

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

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

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

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

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

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

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

40 (2) adult cared for in a private residence;

41 (3) individual kept, cared for, treated, boarded, confined or otherwise
42 accommodated in a medical care facility;

43 (4) individual ~~with mental retardation~~ *who is intellectually disabled*

1 or *who has* a developmental disability receiving services through a
2 community ~~mental retardation~~ facility *for the intellectually disabled* or
3 residential facility licensed under K.S.A. 75-3307b, and amendments
4 thereto;

5 (5) individual with a developmental disability receiving services
6 provided by a community service provider as provided in the
7 developmental disability reform act; or

8 (6) individual kept, cared for, treated, boarded, confined or otherwise
9 accommodated in a state psychiatric hospital or state institution for the
10 ~~mentally retarded~~ *intellectually disabled*.

11 (e) An offender who violates the provisions of this section may also
12 be prosecuted for, convicted of, and punished for any other offense in
13 article 54, 55, 56 or 58 of chapter 21 of the Kansas Statutes Annotated, or
14 K.S.A. 2011 Supp. 21-6418, and amendments thereto.

15 Sec. 16. K.S.A. 2011 Supp. 21-6622 is hereby amended to read as
16 follows: 21-6622. (a) If, under K.S.A. 2011 Supp. 21-6617, and
17 amendments thereto, the county or district attorney has filed a notice of
18 intent to request a separate sentencing proceeding to determine whether
19 the defendant should be sentenced to death and the defendant is convicted
20 of the crime of capital murder, the defendant's counsel or the warden of the
21 correctional institution or sheriff having custody of the defendant may
22 request a determination by the court of whether the defendant is ~~mentally~~
23 ~~retarded~~ *intellectually disabled*. If the court determines that there is not
24 sufficient reason to believe that the defendant is ~~mentally retarded~~
25 *intellectually disabled*, the court shall so find and the defendant shall be
26 sentenced in accordance with K.S.A. 2011 Supp. 21-6617, 21-6619, 21-
27 6624, 21-6625, 21-6628 and 21-6629, and amendments thereto. If the
28 court determines that there is sufficient reason to believe that the defendant
29 is ~~mentally retarded~~ *intellectually disabled*, the court shall conduct a
30 hearing to determine whether the defendant is ~~mentally retarded~~
31 *intellectually disabled*.

32 (b) If a defendant is convicted of the crime of capital murder and a
33 sentence of death is not imposed, or if a defendant is convicted of the
34 crime of murder in the first degree based upon the finding of premeditated
35 murder, the defendant's counsel or the warden of the correctional
36 institution or sheriff having custody of the defendant may request a
37 determination by the court of whether the defendant is ~~mentally retarded~~
38 *intellectually disabled*. If the court determines that there is not sufficient
39 reason to believe that the defendant is ~~mentally retarded~~ *intellectually*
40 *disabled*, the court shall so find and the defendant shall be sentenced in
41 accordance with K.S.A. 2011 Supp. 21-6620, 21-6623, 21-6624 and 21-
42 6625, and amendments thereto. If the court determines that there is
43 sufficient reason to believe that the defendant is ~~mentally retarded~~

1 *intellectually disabled*, the court shall conduct a hearing to determine
2 whether the defendant is ~~mentally-retarded~~ *intellectually disabled*.

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

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

20 (e) If, at the conclusion of a hearing pursuant to subsection (b), the
21 court determines that the defendant is not ~~mentally-retarded~~ *intellectually*
22 *disabled*, the defendant shall be sentenced in accordance with K.S.A. 2011
23 Supp. 21-6620, 21-6623, 21-6624 and 21-6625, and amendments thereto.

24 (f) If, at the conclusion of a hearing pursuant to this section, the court
25 determines that the defendant is ~~mentally-retarded~~ *intellectually disabled*,
26 the court shall sentence the defendant as otherwise provided by law, and
27 no sentence of death, life without the possibility of parole, or mandatory
28 term of imprisonment shall be imposed hereunder.

29 (g) Unless otherwise ordered by the court for good cause shown, the
30 provisions of subsection (b) shall not apply if it has been determined,
31 pursuant to a hearing granted under the provisions of subsection (a), that
32 the defendant is not ~~mentally-retarded~~ *intellectually disabled*.

33 (h) As used in this section, "~~mentally-retarded~~ *intellectually disabled*"
34 means having significantly subaverage general intellectual functioning, as
35 defined by K.S.A. 76-12b01, and amendments thereto, to an extent which
36 substantially impairs one's capacity to appreciate the criminality of one's
37 conduct or to conform one's conduct to the requirements of law.

38 Sec. 17. K.S.A. 2011 Supp. 39-923 is hereby amended to read as
39 follows: 39-923. (a) As used in this act:

40 (1) "Adult care home" means any nursing facility, nursing facility for
41 mental health, intermediate care facility for the ~~mentally-~~
42 ~~retarded~~ *intellectually disabled*, assisted living facility, residential health
43 care facility, home plus, boarding care home and adult day care facility; all

1 of which are classifications of adult care homes and are required to be
2 licensed by the secretary of aging.

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

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

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

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

34 (6) "Residential health care facility" means any place or facility, or a
35 contiguous portion of a place or facility, caring for six or more individuals
36 not related within the third degree of relationship to the administrator,
37 operator or owner by blood or marriage and who, by choice or due to
38 functional impairments, may need personal care and may need supervised
39 nursing care to compensate for activities of daily living limitations and in
40 which the place or facility includes individual living units and provides or
41 coordinates personal care or supervised nursing care available on a 24-
42 hour, seven-days-a-week basis for the support of resident independence.
43 The provision of skilled nursing procedures to a resident in a residential

1 health care facility is not prohibited by this act. Generally, the skilled
2 services provided in a residential health care facility shall be provided on
3 an intermittent or limited term basis, or if limited in scope, a regular basis.

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

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

28 (9) "Adult day care" means any place or facility operating less than
29 24 hours a day caring for individuals not related within the third degree of
30 relationship to the operator or owner by blood or marriage and who, due to
31 functional impairment, need supervision of or assistance with activities of
32 daily living.

33 (10) "Place or facility" means a building or any one or more complete
34 floors of a building, or any one or more complete wings of a building, or
35 any one or more complete wings and one or more complete floors of a
36 building, and the term "place or facility" may include multiple buildings.

37 (11) "Skilled nursing care" means services performed by or under the
38 immediate supervision of a registered professional nurse and additional
39 licensed nursing personnel. Skilled nursing includes administration of
40 medications and treatments as prescribed by a licensed physician or
41 dentist; and other nursing functions which require substantial nursing
42 judgment and skill based on the knowledge and application of scientific
43 principles.

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

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

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

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

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

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

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

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

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

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

34 (22) "Activities of daily living" means those personal, functional
35 activities required by an individual for continued well-being, including,
36 but not limited to, eating, nutrition, dressing, personal hygiene, mobility
37 and; toileting.

38 (23) "Personal care" means care provided by staff to assist an
39 individual with, or to perform activities of daily living.

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

43 (25) "Kitchen" means a food preparation area that includes a sink,

1 refrigerator and a microwave oven or stove.

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

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

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

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

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

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

34 (f) The licensing agency may by rule and regulation change the name
35 of the different classes of homes when necessary to avoid confusion in
36 terminology and the agency may further amend, substitute, change and in a
37 manner consistent with the definitions established in this section, further
38 define and identify the specific acts and services which shall fall within the
39 respective categories of facilities so long as the above categories for adult
40 care homes are used as guidelines to define and identify the specific acts.

41 Sec. 18. K.S.A. 39-927 is hereby amended to read as follows: 39-927.
42 An application for a license to operate an adult care home shall be made in
43 writing to the licensing agency upon forms provided by it and shall be in

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

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

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

33 (c) (1) The licensing agency shall require unlicensed employees of an
34 adult care home, except an adult care home licensed for the provision of
35 services to the ~~mentally retarded~~ *intellectually disabled* which has been
36 granted an exception by the secretary of aging upon a finding by the
37 licensing agency that an appropriate training program for unlicensed
38 employees is in place for such adult care home, employed on and after the
39 effective date of this act who provide direct, individual care to residents
40 and who do not administer medications to residents and who have not
41 completed a course of education and training relating to resident care and
42 treatment approved by the secretary of health and environment or are not
43 participating in such a course on the effective date of this act to complete

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

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

1 unlicensed employees of adult care homes who provide direct, individual
2 care to residents and who do not administer medications to residents and
3 shall be the same examination given by the secretary of health and
4 environment to all unlicensed employees of adult care homes who provide
5 direct, individual care to residents and who do not administer medications.

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

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

19 (5) No adult care home shall use an individual as an unlicensed
20 employee of the adult care home who provides direct, individual care to
21 residents and who does not administer medications unless the facility has
22 inquired of the state registry as to information contained in the registry
23 concerning the individual.

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

34 (d) Any person who has been employed as an unlicensed employee of
35 an adult care home in another state may be so employed in this state
36 without an examination if the secretary of health and environment
37 determines that such other state requires training or examination, or both,
38 for such employees at least equal to that required by this state.

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

42 (f) No adult care home shall require as a condition of admission to or
43 as a condition to continued residence in the adult care home that a person

1 change from a supplier of medication needs of their choice to a supplier of
2 medication selected by the adult care home. Nothing in this subsection (~~f~~)
3 shall be construed to abrogate or affect any agreements entered into prior
4 to the effective date of this act between the adult care home and any person
5 seeking admission to or resident of the adult care home.

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

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

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

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

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

37 (c) The quality enhancement wage pass-through program shall
38 require quarterly wage audits for all nursing facilities participating in the
39 program. The quarterly wage audits will require facilities to submit cost
40 information within 45 days of the end of each quarter reporting on the use
41 of the wage pass-through payment under the quality enhancement wage
42 pass-through program. This quarterly wage audit process shall be used to
43 assure that the wage pass-through payment was used to increase salaries

1 and benefits to direct care and other support staff as specified in this
2 subsection or to hire additional staff that fall into the eligible personnel
3 categories specified in this subsection.

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

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

14 (f) As used in this section, "nursing facility" means a nursing facility
15 as defined under K.S.A. 39-923, and amendments thereto, or an
16 intermediate care facility for the ~~mentally-retarded~~ *intellectually disabled*
17 as defined under K.S.A. 39-923, and amendments thereto.

18 Sec. 21. K.S.A. 39-1001 is hereby amended to read as follows: 39-
19 1001. The purpose of this act shall be to aid in development, maintenance,
20 improvement or expansion of day care programs for the ~~mentally-~~
21 ~~retarded~~ *intellectually disabled* and other handicapped children in this state.

22 Sec. 22. K.S.A. 39-1002 is hereby amended to read as follows: 39-
23 1002. The secretary of social and rehabilitation services hereinafter
24 referred to as the secretary is hereby designated as the official of this state
25 authorized to accept and disburse funds made available to the secretary for
26 grants-in-aid to eligible local community organizations for day care
27 programs for ~~mentally-retarded~~ *intellectually disabled* or other handicapped
28 children. The secretary is authorized to accept any moneys made available
29 to the state by the federal government or any agency thereof and to accept
30 and account for state appropriations, gifts and donations from any other
31 sources.

32 Sec. 23. K.S.A. 39-1005 is hereby amended to read as follows: 39-
33 1005. The purpose of grants-in-aid shall be: (a) To encourage the
34 development of local community initiative in broadening the scope of
35 noninstitutional care and training programs for ~~persons handicapped by~~
36 ~~mental-retardation~~ *intellectually disabled persons* or otherwise
37 handicapped *persons*; (b) to maintain minimum standards for the
38 operations of such programs; (c) to review the experience of individual
39 programs as they develop; *and* (d) to foster the progress of day care
40 programs to successively higher levels of quality and service. Grants-in-
41 aid under the provisions of this act shall only supplement local funds, shall
42 not exceed one-half of the cost of operating expenses of day care centers
43 for ~~retarded~~ *intellectually disabled* or other handicapped children and shall

1 not be used for the purchase or construction of buildings.

2 Sec. 24. K.S.A. 39-1006 is hereby amended to read as follows: 39-
3 1006. Day care programs shall be those which provide day service for
4 development in self-help, social, recreational, and work skills for ~~mentally~~
5 ~~retarded~~ *intellectually disabled* and other handicapped persons, giving
6 priority to providing services for the severely and young
7 ~~retarded~~ *intellectually disabled* or handicapped.

8 Sec. 25. K.S.A. 39-1007 is hereby amended to read as follows: 39-
9 1007. Eligible local community organizations shall be organizations which
10 are nonprofit charitable agencies operating day care programs under public
11 or private auspices (~~excluding public schools~~), and serving the ~~mentally~~
12 ~~retarded~~ *intellectually disabled* or handicapped without regard to race,
13 religion, or color, or national origin. Such organizations shall be licensed
14 in accordance with the provisions of article 5 of chapter 65 of the Kansas
15 Statutes Annotated, *and amendments thereto*.

16 Sec. 26. K.S.A. 39-1201 is hereby amended to read as follows: 39-
17 1201. The purpose of this act will be to aid in development, maintenance,
18 improvement or expansion of rehabilitation facilities and half-way houses
19 serving the ~~mentally-retarded~~ *intellectually disabled* and other handicapped
20 adults in this state.

21 Sec. 27. K.S.A. 39-1202 is hereby amended to read as follows: 39-
22 1202. The secretary of social and rehabilitation services, hereinafter
23 referred to as the secretary, is hereby designated as the official of this state
24 authorized to accept and disburse funds made available to said secretary
25 for grants in aid to eligible local community organizations for
26 rehabilitation facilities and half-way houses for the ~~mentally-~~
27 ~~retarded~~ *intellectually disabled* and other handicapped adults. The secretary
28 is authorized to accept any moneys made available to the state by the
29 federal government or any agency thereof, and to accept and account for
30 state appropriations, gifts and donations from any other sources.

31 Sec. 28. K.S.A. 39-1205 is hereby amended to read as follows: 39-
32 1205. The purpose of grants-in-aid shall be: (a) To encourage the
33 development of local community initiative in broadening the scope of
34 noninstitutional care and training programs for persons handicapped by
35 ~~mental-retardation~~ *intellectual disability* or other handicaps; (b) to maintain
36 minimum standards in the operation of such programs; (c) to review the
37 experiences of the individual community programs as they develop or
38 maintain their programs; *and* (d) to foster the progress of rehabilitation
39 programs and half-way house programs to higher levels of quality and
40 service. Grants-in-aid under the provisions of this act shall only
41 supplement funds, shall not exceed ~~one-half (1/2)~~ $\frac{1}{2}$ of the cost of
42 operating expense of rehabilitation facilities or half-way houses for
43 ~~mentally-retarded~~ *intellectually disabled* or other handicapped adults and

1 shall not be used for the purchase or construction of buildings.

2 Sec. 29. K.S.A. 39-1207 is hereby amended to read as follows: 39-
3 1207. Eligible local community organizations shall be organizations which
4 are nonprofit, charitable agencies, operating sheltered workshop programs
5 and half-way house programs under private auspices and serving the
6 ~~mentally-retarded~~ *intellectually disabled* or other handicapped without
7 regard to race, religion, color, ancestry or national origin. Such
8 organizations shall be licensed in accordance with the provisions of
9 existing statutes.

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

12 (a) "Resident" means:

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

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

17 (3) any individual, kept, cared for, treated, boarded or otherwise
18 accommodated in a state psychiatric hospital or state institution for the
19 ~~mentally-retarded~~ *intellectually disabled*.

20 (b) "Adult care home" has the meaning ascribed thereto in K.S.A. 39-
21 923, and amendments thereto.

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

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

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

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

43 (1) Infliction of physical or mental injury;

- 1 (2) any sexual act with a resident when the resident does not consent
2 or when the other person knows or should know that the resident is
3 incapable of resisting or declining consent to the sexual act due to mental
4 deficiency or disease or due to fear of retribution or hardship;
- 5 (3) unreasonable use of a physical restraint, isolation or medication
6 that harms or is likely to harm a resident;
- 7 (4) unreasonable use of a physical or chemical restraint, medication
8 or isolation as punishment, for convenience, in conflict with a physician's
9 orders or as a substitute for treatment, except where such conduct or
10 physical restraint is in furtherance of the health and safety of the resident
11 or another resident;
- 12 (5) a threat or menacing conduct directed toward a resident that
13 results or might reasonably be expected to result in fear or emotional or
14 mental distress to a resident;
- 15 (6) fiduciary abuse; or
- 16 (7) omission or deprivation by a caretaker or another person of goods
17 or services which are necessary to avoid physical or mental harm or
18 illness.
- 19 (g) "Neglect" means the failure or omission by one's self, caretaker or
20 another person with a duty to provide goods or services which are
21 reasonably necessary to ensure safety and well-being and to avoid physical
22 or mental harm or illness.
- 23 (h) "Caretaker" means a person or institution who has assumed the
24 responsibility, whether legally or not, for the care of the resident
25 voluntarily, by contract or by order of a court of competent jurisdiction.
- 26 (i) "Exploitation" means misappropriation of resident property or
27 intentionally taking unfair advantage of an adult's physical or financial
28 resources for another individual's personal or financial advantage by the
29 use of undue influence, coercion, harassment, duress, deception, false
30 representation or false pretense by a caretaker or another person.
- 31 (j) "Medical care facility" means a facility licensed under K.S.A. 65-
32 425 *et seq.*, and amendments thereto, but shall not include, for purposes of
33 this act, a state psychiatric hospital or state institution for the ~~mentally~~
34 ~~retarded~~ *intellectually disabled*, including Larned state hospital,
35 Osawatomie state hospital and Rainbow mental health facility, Kansas
36 neurological institute and Parsons state hospital and training center.
- 37 (k) "Fiduciary abuse" means a situation in which any person who is
38 the caretaker of, or who stands in a position of trust to, a resident, takes,
39 secretes, or appropriates the resident's money or property, to any use or
40 purpose not in the due and lawful execution of such person's trust.
- 41 (l) "State psychiatric hospital" means Larned state hospital,
42 Osawatomie state hospital and Rainbow mental health facility.
- 43 (m) "State institution for the ~~mentally retarded~~ *intellectually disabled*"

1 means Kansas neurological institute and Parsons state hospital and training
2 center.

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

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

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

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

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

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

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

27 (a) "Children and adolescents who require multiple levels and kinds
28 of specialized services which are beyond the capability of one agency"
29 means children and adolescents who are residents of Kansas, and with
30 respect to whom there is documentation that: (1) Various agencies have
31 acknowledged the need for a certain type of service and have taken action
32 to provide that level of care; (2) various agencies have collaborated to
33 develop a program plan to meet the needs of the child or adolescent; and
34 (3) various agencies have collaborated to develop programs and funding to
35 meet the need of the child or adolescent, and that existing or alternative
36 programs and funding have been exhausted or are insufficient or
37 inappropriate in view of the distinctive nature of the situation of the child
38 or adolescent.

39 (b) "Agency" means and includes county health departments, area
40 offices of the department of social and rehabilitation services, district
41 offices of the department of health and environment, local offices of the
42 department of labor, boards of education of public school districts,
43 community mental health centers, community facilities for the ~~mentally~~

1 ~~retarded/developmentally disabled~~ *intellectually disabled or*
 2 *developmentally disabled, or both*, district courts, county commissions,
 3 and law enforcement agencies.

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

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

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

13 (f) "Person acting as parent" means a guardian or conservator, or a
 14 person, other than a parent, who is liable by law to maintain, care for, or
 15 support a child or adolescent, or who has actual care and custody of the
 16 child or adolescent and is contributing the major portion of the cost of
 17 support of the child or adolescent, or who has actual care and control of
 18 the child or adolescent with the written consent of a person who has legal
 19 custody of the child or adolescent, or who has been granted custody of the
 20 child or adolescent, by a court of competent jurisdiction.

21 Sec. 32. K.S.A. 39-1803 is hereby amended to read as follows: 39-
 22 1803. As used in the developmental disabilities reform act:

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

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

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

33 (d) "Community developmental disability organization" means any
 34 community ~~mental retardation~~ *facility for the intellectually disabled* that is
 35 organized pursuant to K.S.A. 19-4001 through 19-4015, and amendments
 36 thereto.

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

39 (f) "Developmental disability" means:

40 (1) ~~Mental retardation~~ *Intellectually disabled*; or

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

42 (A) Is attributable to a mental or physical impairment, a combination
 43 of mental and physical impairments or a condition which has received a

1 dual diagnosis of ~~mental retardation~~ *intellectual disability* and mental
2 illness;

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

4 (C) is likely to continue indefinitely;

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

10 (E) reflects a need for a combination and sequence of special
11 interdisciplinary or generic care, treatment or other services which are
12 lifelong, or extended in duration and are individually planned and
13 coordinated; and

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

17 (g) "Institution" means state institution for the ~~mentally~~
18 ~~retarded~~ *intellectually disabled* as defined by subsection (c) of K.S.A. 76-
19 12b01, and amendments thereto, or intermediate care facility for the
20 ~~mentally retarded~~ *intellectually disabled* of nine beds or more as defined by
21 subsection (a) (4) of K.S.A. 39-923, and amendments thereto.

22 (h) "~~Mental retardation~~ *Intellectually disabled*" means substantial
23 limitations in present functioning that is manifested during the period from
24 birth to age 18 years and is characterized by significantly subaverage
25 intellectual functioning existing concurrently with deficits in adaptive
26 behavior including related limitations in two or more of the following
27 applicable adaptive skill areas: Communication, self-care, home living,
28 social skills, community use, self-direction, health and safety, functional
29 academics, leisure and work.

30 (i) "Secretary" means the secretary of social and rehabilitation
31 services.

32 Sec. 33. K.S.A. 2011 Supp. 40-3401 is hereby amended to read as
33 follows: 40-3401. As used in this act the following terms shall have the
34 meanings respectively ascribed to them herein.

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

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

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

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

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

3 (f) "Health care provider" means a person licensed to practice any
4 branch of the healing arts by the state board of healing arts with the
5 exception of physician assistants, a person who holds a temporary permit
6 to practice any branch of the healing arts issued by the state board of
7 healing arts, a person engaged in a postgraduate training program
8 approved by the state board of healing arts, a medical care facility licensed
9 by the department of health and environment, a health maintenance
10 organization issued a certificate of authority by the commissioner of
11 insurance, a podiatrist licensed by the state board of healing arts, an
12 optometrist licensed by the board of examiners in optometry, a pharmacist
13 licensed by the state board of pharmacy, a licensed professional nurse who
14 is authorized to practice as a registered nurse anesthetist, a licensed
15 professional nurse who has been granted a temporary authorization to
16 practice nurse anesthesia under K.S.A. 65-1153, and amendments thereto,
17 a professional corporation organized pursuant to the professional
18 corporation law of Kansas by persons who are authorized by such law to
19 form such a corporation and who are health care providers as defined by
20 this subsection, a Kansas limited liability company organized for the
21 purpose of rendering professional services by its members who are health
22 care providers as defined by this subsection and who are legally authorized
23 to render the professional services for which the limited liability company
24 is organized, a partnership of persons who are health care providers under
25 this subsection, a Kansas not-for-profit corporation organized for the
26 purpose of rendering professional services by persons who are health care
27 providers as defined by this subsection, a nonprofit corporation organized
28 to administer the graduate medical education programs of community
29 hospitals or medical care facilities affiliated with the university of Kansas
30 school of medicine, a dentist certified by the state board of healing arts to
31 administer anesthetics under K.S.A. 65-2899, and amendments thereto, a
32 psychiatric hospital licensed under K.S.A. 75-3307b, and amendments
33 thereto, or a mental health center or mental health clinic licensed by the
34 secretary of social and rehabilitation services, except that health care
35 provider does not include (1) any state institution for the ~~mentally-~~
36 ~~retarded~~ *intellectually disabled*, (2) any state psychiatric hospital, (3) any
37 person holding an exempt license issued by the state board of healing arts
38 or (4) any person holding a visiting clinical professor license from the state
39 board of healing arts.

40 (g) "Inactive health care provider" means a person or other entity who
41 purchased basic coverage or qualified as a self-insurer on or subsequent to
42 the effective date of this act but who, at the time a claim is made for
43 personal injury or death arising out of the rendering of or the failure to

1 render professional services by such health care provider, does not have
2 basic coverage or self-insurance in effect solely because such person is no
3 longer engaged in rendering professional service as a health care provider.

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

10 (i) "Plan" means the operating and administrative rules and
11 procedures developed by insurers and rating organizations or the
12 commissioner to make professional liability insurance available to health
13 care providers.

14 (j) "Professional liability insurance" means insurance providing
15 coverage for legal liability arising out of the performance of professional
16 services rendered or which should have been rendered by a health care
17 provider.

18 (k) "Rating organization" means a corporation, an unincorporated
19 association, a partnership or an individual licensed pursuant to K.S.A. 40-
20 956, and amendments thereto, to make rates for professional liability
21 insurance.

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

24 (m) "Medical care facility" means the same when used in the health
25 care provider insurance availability act as the meaning ascribed to that
26 term in K.S.A. 65-425, and amendments thereto, except that as used in the
27 health care provider insurance availability act such term, as it relates to
28 insurance coverage under the health care provider insurance availability
29 act, also includes any director, trustee, officer or administrator of a medical
30 care facility.

31 (n) "Mental health center" means a mental health center licensed by
32 the secretary of social and rehabilitation services under K.S.A. 75-3307b,
33 and amendments thereto, except that as used in the health care provider
34 insurance availability act such term, as it relates to insurance coverage
35 under the health care provider insurance availability act, also includes any
36 director, trustee, officer or administrator of a mental health center.

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

43 (p) "State institution for the ~~mentally retarded~~ *intellectually disabled*"

1 means Winfield state hospital and training center, Parsons state hospital
2 and training center and the Kansas neurological institute.

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

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

6 (1) A person engaged in a postgraduate training program approved by
7 the state board of healing arts who is employed by and is studying at the
8 university of Kansas medical center only when such person is engaged in
9 medical activities which do not include extracurricular, extra-institutional
10 medical service for which such person receives extra compensation and
11 which have not been approved by the dean of the school of medicine and
12 the executive vice-chancellor of the university of Kansas medical center.
13 Persons engaged in residency training shall be considered resident health
14 care providers for purposes of K.S.A. 40-3401 *et seq.*, and amendments
15 thereto; and

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

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

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

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

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

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

41 (c) "Immediate family member" means parent, child, stepchild or
42 spouse.

43 (d) "Major life activities" includes functions such as caring for one's

1 self, performing manual tasks, walking, seeing, hearing, speaking,
2 breathing, learning and working.

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

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

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

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

15 The term "physical or mental impairment" includes, but is not limited
16 to, such diseases and conditions as orthopedic, visual, speech and hearing
17 impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple
18 sclerosis, cancer, heart disease, diabetes, ~~mental-retardation~~ *intellectual*
19 *disability* and emotional illness.

20 (g) "Protected consumer" means:

21 (1) An elder person;

22 (2) a disabled person;

23 (3) a veteran;

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

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

26 (h) "Substantially limits" means:

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

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

33 Minor temporary ailments or injuries shall not be considered physical or
34 mental impairments which substantially limit a person's major life
35 activities. Minor temporary ailments include, but are not limited to, colds,
36 influenza or sprains or minor injuries.

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

40 Sec. 35. K.S.A. 58-24a16 is hereby amended to read as follows: 58-
41 24a16. (a) Administrators, executors, conservators, trustees, insurance
42 companies and other financial institutions, charitable, educational,
43 eleemosynary corporations and organizations are authorized, in addition to

1 investments now authorized by law, to invest funds which they are
2 authorized by law to invest, in shares or savings deposits of federally
3 insured savings and loan associations or federally chartered savings banks
4 with main or branch offices, as defined in K.S.A. 12-1675a, and
5 amendments thereto, in the state of Kansas and in credit unions which are,
6 in whole or in part, insured with an insurer or guarantee corporation as
7 required under K.S.A. 17-2246, and amendments thereto, and such
8 investment shall be deemed and held to be legal investments for such
9 funds.

10 (b) The governing body of any municipal corporation or quasi-
11 municipal corporation, county, township, school district, area vocational-
12 technical school, community college, firemen's relief association,
13 community mental health center, community facility for the ~~mentally~~
14 ~~retarded~~ *intellectually disabled* or any other governmental entity, unit or
15 division in the state of Kansas having authority to receive, hold and
16 expend public moneys or funds may invest the same subject to and as
17 provided by K.S.A. 9-1401, 9-1402, 9-1405, 9-1407, 12-1675 and 12-
18 1676, and amendments thereto.

19 Sec. 36. K.S.A. 59-2946 is hereby amended to read as follows: 59-
20 2946. When used in the care and treatment act for mentally ill persons:

21 (a) "Discharge" means the final and complete release from treatment,
22 by either the head of a treatment facility acting pursuant to K.S.A. 59-
23 2950, and amendments thereto, or by an order of a court issued pursuant to
24 K.S.A. 59-2973, and amendments thereto.

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

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

29 (d) (1) "Mental health center" means any community mental health
30 center organized pursuant to the provisions of K.S.A. 19-4001 through 19-
31 4015, and amendments thereto, or mental health clinic organized pursuant
32 to the provisions of K.S.A. 65-211 through 65-215, and amendments
33 thereto, or a mental health clinic organized as a not-for-profit or a for-
34 profit corporation pursuant to K.S.A. 17-1701 through 17-1775, and
35 amendments thereto or K.S.A. 17-6001 through 17-6010, and amendments
36 thereto, and licensed in accordance with the provisions of K.S.A. 75-
37 3307b, and amendments thereto.

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

42 (e) "Mentally ill person" means any person who is suffering from a
43 mental disorder which is manifested by a clinically significant behavioral

1 or psychological syndrome or pattern and associated with either a painful
2 symptom or an impairment in one or more important areas of functioning,
3 and involving substantial behavioral, psychological or biological
4 dysfunction, to the extent that the person is in need of treatment.

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

13 (2) "Lacks capacity to make an informed decision concerning
14 treatment" means that the person, by reason of the person's mental
15 disorder, is unable, despite conscientious efforts at explanation, to
16 understand basically the nature and effects of hospitalization or treatment
17 or is unable to engage in a rational decision-making process regarding
18 hospitalization or treatment, as evidenced by an inability to weigh the
19 possible risks and benefits.

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

32 No person who is being treated by prayer in the practice of the religion
33 of any church which teaches reliance on spiritual means alone through
34 prayer for healing shall be determined to be a mentally ill person subject to
35 involuntary commitment for care and treatment under this act unless
36 substantial evidence is produced upon which the district court finds that
37 the proposed patient is likely in the reasonably foreseeable future to cause
38 substantial physical injury or physical abuse to self or others or substantial
39 damage to another's property, as evidenced by behavior threatening,
40 attempting or causing such injury, abuse or damage; except that if the harm
41 threatened, attempted or caused is only harm to the property of another, the
42 harm must be of such a value and extent that the state's interest in
43 protecting the property from such harm outweighs the person's interest in

1 personal liberty.

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

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

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

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

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

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

19 (j) "Qualified mental health professional" means a physician or
20 psychologist who is employed by a participating mental health center or
21 who is providing services as a physician or psychologist under a contract
22 with a participating mental health center, a licensed masters level
23 psychologist, a licensed clinical psychotherapist, a licensed marriage and
24 family therapist, a licensed clinical marriage and family therapist, a
25 licensed professional counselor, a licensed clinical professional counselor,
26 a licensed specialist social worker or a licensed master social worker or a
27 registered nurse who has a specialty in psychiatric nursing, who is
28 employed by a participating mental health center and who is acting under
29 the direction of a physician or psychologist who is employed by, or under
30 contract with, a participating mental health center.

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

33 (2) "Licensed master social worker" means a person licensed as a
34 master social worker by the behavioral sciences regulatory board under
35 K.S.A. 65-6301 through 65-6318, and amendments thereto.

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

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

42 (5) "Registered nurse" means a person licensed as a registered
43 professional nurse by the board of nursing under K.S.A. 65-1113 through

1 65-1164, and amendments thereto.

2 (k) "Secretary" means the secretary of social and rehabilitation
3 services.

4 (l) "State psychiatric hospital" means Larned state hospital,
5 Osawatomie state hospital, Rainbow mental health facility or Topeka state
6 hospital.

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

11 (n) "Treatment facility" means any mental health center or clinic,
12 psychiatric unit of a medical care facility, state psychiatric hospital,
13 psychologist, physician or other institution or person authorized or
14 licensed by law to provide either inpatient or outpatient treatment to any
15 patient.

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

18 Sec. 37. K.S.A. 59-2972 is hereby amended to read as follows: 59-
19 2972. (a) The secretary of social and rehabilitation services or the
20 secretary's designee may transfer any patient from any state psychiatric
21 hospital under the secretary's control to any other state psychiatric hospital
22 whenever the secretary or the secretary's designee considers it to be in the
23 best interests of the patient. Except in the case of an emergency, the
24 patient's spouse or nearest relative or legal guardian, if one has been
25 appointed, shall be notified of the transfer, and notice shall be sent to the
26 committing court not less than 14 days before the proposed transfer. The
27 notice shall name the hospital to which the patient is proposed to be
28 transferred to and state that, upon request of the spouse or nearest relative
29 or legal guardian, an opportunity for a hearing on the proposed transfer
30 will be provided by the secretary of social and rehabilitation services prior
31 to such transfer.

32 (b) The secretary of social and rehabilitation services or the designee
33 of the secretary may transfer any involuntary patient from any state
34 psychiatric hospital to any state institution for the ~~mentally~~
35 ~~retarded~~ *intellectually disabled* whenever the secretary of social and
36 rehabilitation services or the designee of the secretary considers it to be in
37 the best interests of the patient. Any patient transferred as provided for in
38 this subsection shall remain subject to the same statutory provisions as
39 were applicable at the psychiatric hospital from which the patient was
40 transferred and in addition thereto shall abide by and be subject to all the
41 rules and regulations of the ~~retardation~~ *institution for the intellectually*
42 *disabled* to which the patient has been transferred. Except in the case of an
43 emergency, the patient's spouse or nearest relative or legal guardian, if one

1 has been appointed, shall be notified of the transfer, and notice shall be
2 sent to the committing court not less than 14 days before the proposed
3 transfer. The notice shall name the institution to which the patient is
4 proposed to be transferred to and state that, upon request of the spouse or
5 nearest relative or legal guardian, an opportunity for a hearing on the
6 proposed transfer will be provided by the secretary of social and
7 rehabilitation services prior to such transfer. No patient shall be transferred
8 from a state psychiatric hospital to a state institution for the ~~mentally~~
9 ~~retarded~~ *intellectually disabled* unless the superintendent of the receiving
10 institution has found, pursuant to K.S.A. 76-12b01 through 76-12b11, and
11 amendments thereto, that the patient is ~~mentally-retarded~~ *intellectually*
12 *disabled* and in need of care and training and that placement in the
13 institution is the least restrictive alternative available. Nothing in this
14 subsection shall prevent the secretary of social and rehabilitation services
15 or the designee of the secretary from allowing a patient at a state
16 psychiatric hospital to be admitted as a voluntary resident to a state
17 institution for the ~~mentally-retarded~~ *intellectually disabled*, or from then
18 discharging such person from the state psychiatric hospital pursuant to
19 K.S.A. 59-2973, and amendments thereto, as may be appropriate.

20 Sec. 38. K.S.A. 59-3077 is hereby amended to read as follows: 59-
21 3077. (a) At any time after the filing of the petition provided for in K.S.A.
22 59-3058, 59-3059, 59-3060 or 59-3061, and amendments thereto, any
23 person may file in addition to that original petition, or as a part thereof, or
24 at any time after the appointment of a temporary guardian as provided for
25 in K.S.A. 59-3073, and amendments thereto, or a guardian as provided for
26 in K.S.A. 59-3067, and amendments thereto, the temporary guardian or
27 guardian may file, a verified petition requesting that the court grant
28 authority to the temporary guardian or guardian to admit the proposed
29 ward or ward to a treatment facility, as defined in subsection (h), and to
30 consent to the care and treatment of the proposed ward or ward therein.
31 The petition shall include:

32 (1) The petitioner's name and address, and if the petitioner is the
33 proposed ward's or ward's court appointed temporary guardian or guardian,
34 that fact;

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

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

40 (4) the factual basis upon which the petitioner alleges the need for the
41 proposed ward or ward to be admitted to and treated at a treatment facility,
42 or for the proposed ward or ward to continue to be treated at the treatment
43 facility to which the proposed ward or ward has already been admitted, or

1 for the guardian to have continuing authority to admit the ward for care
2 and treatment at a treatment facility pursuant to subsection (b)(3) of
3 K.S.A. 59-2949, or subsection (b)(3) of K.S.A. 59-29b49, and
4 amendments thereto;

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

7 (6) a request that the court find that the proposed ward or ward is in
8 need of being admitted to and treated at a treatment facility, and that the
9 court grant to the temporary guardian or guardian the authority to admit
10 the proposed ward or ward to a treatment facility and to consent to the care
11 and treatment of the proposed ward or ward therein.

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

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

19 (1) An order fixing the date, time and place of a hearing on the
20 petition. Such hearing, in the court's discretion, may be conducted in a
21 courtroom, a treatment facility or at some other suitable place. The time
22 fixed in the order shall in no event be earlier than seven days or later than
23 21 days after the date of the filing of the petition. The court may
24 consolidate this hearing with the trial upon the original petition filed
25 pursuant to K.S.A. 59-3058, 59-3059, 59-3060 or 59-3061, and
26 amendments thereto, or with the trial provided for in the care and
27 treatment act for mentally ill persons or the care and treatment act for
28 persons with an alcohol or substance abuse problem, if the petition also
29 incorporates the allegations required by, and is filed in compliance with,
30 the provisions of either of those acts.

31 (2) An order requiring that the proposed ward or ward appear at the
32 time and place of the hearing on the petition unless the court makes a
33 finding prior to the hearing that the presence of the proposed ward or ward
34 will be injurious to the person's health or welfare, or that the proposed
35 ward's or ward's impairment is such that the person could not meaningfully
36 participate in the proceedings, or that the proposed ward or ward has filed
37 with the court a written waiver of such ward's right to appear in person. In
38 any such case, the court shall enter in the record of the proceedings the
39 facts upon which the court has found that the presence of the proposed
40 ward or ward at the hearing should be excused. Notwithstanding the
41 foregoing provisions of this subsection, if the proposed ward or ward files
42 with the court at least one day prior to the date of the hearing a written
43 notice stating the person's desire to be present at the hearing, the court

1 shall order that the person must be present at the hearing.

2 (3) An order appointing an attorney to represent the proposed ward or
3 ward. The court shall give preference, in the appointment of this attorney,
4 to any attorney who has represented the proposed ward or ward in other
5 matters, if the court has knowledge of that prior representation. The
6 proposed ward, or the ward with the consent of the ward's conservator, if
7 one has been appointed, shall have the right to engage an attorney of the
8 proposed ward's or ward's choice and, in such case, the attorney appointed
9 by the court shall be relieved of all duties by the court. Any appointment
10 made by the court shall terminate upon a final determination of the petition
11 and any appeal therefrom, unless the court continues the appointment by
12 further order.

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

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

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

23 (1) An order for a psychological or other examination and evaluation
24 of the proposed ward or ward, as may be specified by the court. The court
25 may order the proposed ward or ward to submit to such an examination
26 and evaluation to be conducted through a general hospital, psychiatric
27 hospital, community mental health center, community developmental
28 disability organization, or by a private physician, psychiatrist, psychologist
29 or other person appointed by the court who is qualified to examine and
30 evaluate the proposed ward or ward. The costs of this examination and
31 evaluation shall be assessed as provided for in K.S.A. 59-3094, and
32 amendments thereto.

33 (2) If the petition is accompanied by a report of an examination and
34 evaluation of the proposed ward or ward as provided for in subsection (b),
35 an order granting temporary authority to the temporary guardian or
36 guardian to admit the proposed ward or ward to a treatment facility and to
37 consent to the care and treatment of the proposed ward or ward therein.
38 Any such order shall expire immediately after the hearing upon the
39 petition, or as the court may otherwise specify, or upon the discharge of
40 the proposed ward or ward by the head of the treatment facility, if the
41 proposed ward or ward is discharged prior to the time at which the order
42 would otherwise expire.

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

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

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

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

21 (f) Upon completion of the hearing, if the court finds by clear and
22 convincing evidence that the criteria set out in K.S.A. 39-1803, subsection
23 (e) of K.S.A. 59-2946, subsection (f) of K.S.A. 59-29b46 or K.S.A. 76-
24 12b03, and amendments thereto, are met, and after a careful consideration
25 of reasonable alternatives to admission of the proposed ward or ward to a
26 treatment facility, the court may enter an order granting such authority to
27 the temporary guardian or guardian as is appropriate, including continuing
28 authority to the guardian to readmit the ward to an appropriate treatment
29 facility as may later become necessary. Any such grant of continuing
30 authority shall expire two years after the date of final discharge of the
31 ward from such a treatment facility if the ward has not had to be
32 readmitted to a treatment facility during that two-year period of time.
33 Thereafter, any such grant of continuing authority may be renewed only
34 after the filing of another petition seeking authority in compliance with the
35 provision of this section.

36 (g) Nothing herein shall be construed so as to prohibit the head of a
37 treatment facility from admitting a proposed ward or ward to that facility
38 as a voluntary patient if the head of the treatment facility is satisfied that
39 the proposed ward or ward at that time has the capacity to understand such
40 ward's illness and need for treatment, and to consent to such ward's
41 admission and treatment. Upon any such admission, the head of the
42 treatment facility shall give notice to the temporary guardian or guardian
43 as soon as possible of the ward's admission, and shall provide to the

1 temporary guardian or guardian copies of any consents the proposed ward
2 or ward has given. Thereafter, the temporary guardian or guardian shall
3 timely either seek to obtain proper authority pursuant to this section to
4 admit the proposed ward or ward to a treatment facility and to consent to
5 further care and treatment, or shall otherwise assume responsibility for the
6 care of the proposed ward or ward, consistent with the authority of the
7 temporary guardian or guardian, and may arrange for the discharge from
8 the facility of the proposed ward or ward, unless the head of the treatment
9 facility shall file a petition requesting the involuntary commitment of the
10 proposed ward or ward to that or some other facility.

11 (h) As used herein, "treatment facility" means the Kansas
12 neurological institute, Larned state hospital, Osawatomie state hospital,
13 Parsons state hospital and training center, the rainbow mental health
14 facility, any intermediate care facility for the ~~mentally~~
15 ~~retarded~~ *intellectually disabled*, any psychiatric hospital licensed pursuant
16 to K.S.A. 75-3307b, and amendments thereto, and any other facility for
17 mentally ill persons or ~~mentally-retarded~~ *intellectually disabled persons* or
18 developmentally disabled persons licensed pursuant to K.S.A. 75-3307b,
19 and amendments thereto, if the proposed ward or ward is to be admitted as
20 an inpatient or resident of that facility.

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

23 (a) Institute and carry on an intensive educational program among
24 physicians, hospitals, public health nurses and the public concerning
25 congenital hypothyroidism, galactosemia, phenylketonuria and other
26 genetic diseases detectable with the same specimen. This educational
27 program shall include information about the nature of such conditions and
28 examinations for the detection thereof in early infancy in order that
29 measures may be taken to prevent the ~~mental-retardation~~ *intellectual*
30 *disability* or morbidity resulting from such conditions.

31 (b) Provide recognized screening tests for phenylketonuria,
32 galactosemia, hypothyroidism and such other diseases as may be
33 appropriately detected with the same specimen. The initial laboratory
34 screening tests for these diseases shall be performed by the department of
35 health and environment or its designee for all infants born in the state.
36 Such services shall be performed without charge.

37 (c) Provide a follow-up program by providing test results and other
38 information to identified physicians; locate infants with abnormal newborn
39 screening test results; with parental consent, monitor infants to assure
40 appropriate testing to either confirm or not confirm the disease suggested
41 by the screening test results; with parental consent, monitor therapy and
42 treatment for infants with confirmed diagnosis of congenital
43 hypothyroidism, galactosemia, phenylketonuria or other genetic diseases

1 being screened under this statute; and establish ongoing education and
2 support activities for individuals with confirmed diagnosis of congenital
3 hypothyroidism, galactosemia, phenylketonuria and other genetic diseases
4 being screened under this statute and for the families of such individuals.

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

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

31 (f) Provide state assistance to an applicant pursuant to subsection (e)
32 only after it has been shown that the applicant has exhausted all benefits
33 from private third-party payers, medicare, medicaid and other government
34 assistance programs and after consideration of the applicant's income and
35 assets. The secretary of health and environment shall adopt rules and
36 regulations establishing standards for determining eligibility for state
37 assistance under this section.

38 (g) (1) Except for treatment products provided under subsection (e), if
39 the medically necessary food treatment product for diagnosed cases must
40 be purchased, the purchaser shall be reimbursed by the department of
41 health and environment for costs incurred up to \$1,500 per year per
42 diagnosed child age 18 or younger at 100% of the product cost upon
43 submission of a receipt of purchase identifying the company from which

1 the product was purchased. For a purchaser to be eligible for
2 reimbursement under this subsection (~~(g)~~(1), the applicable income of the
3 person or persons who have legal responsibility for the diagnosed child
4 shall not exceed 300% of the poverty level established under the most
5 recent poverty guidelines issued by the federal department of health and
6 human services.

7 (2) As an option to reimbursement authorized under subsection (g)
8 (1), the department of health and environment may purchase food
9 treatment products for distribution to diagnosed children in an amount not
10 to exceed \$1,500 per year per diagnosed child age 18 or younger. For a
11 diagnosed child to be eligible for the distribution of food treatment
12 products under this subsection (~~(g)~~(2), the applicable income of the person
13 or persons who have legal responsibility for the diagnosed child shall not
14 exceed 300% of the poverty level established under the most recent
15 poverty guidelines issued by the federal department of health and human
16 services.

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

20 (h) The department of health and environment shall continue to
21 receive orders for both necessary treatment products and necessary food
22 treatment products, purchase such products, and shall deliver the products
23 to an address prescribed by the diagnosed individual. The department of
24 health and environment shall bill the person or persons who have legal
25 responsibility for the diagnosed patient for a *pro-rata* share of the total
26 costs, in accordance with the rules and regulations adopted pursuant to this
27 section.

28 (i) Not later than July 1, 2008, the secretary of health and
29 environment shall adopt rules and regulations as needed to require, to the
30 extent of available funding, newborn screening tests to screen for treatable
31 disorders listed in the core uniform panel of newborn screening conditions
32 recommended in the 2005 report by the American college of medical
33 genetics entitled "Newborn Screening: Toward a Uniform Screening Panel
34 and System" or another report determined by the department of health and
35 environment to provide more appropriate newborn screening guidelines to
36 protect the health and welfare of newborns for treatable disorders.

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

40 (k) The department of health and environment shall periodically
41 review the newborn screening program to determine the efficacy and cost
42 effectiveness of the program and determine whether adjustments to the
43 program are necessary to protect the health and welfare of newborns and

1 to maximize the number of newborn screenings that may be conducted
2 with the funding available for the screening program.

3 Sec. 40. K.S.A. 65-5a14 is hereby amended to read as follows: 65-
4 5a14. The secretary of health and environment shall adopt rules and
5 regulations establishing a system of priorities for providing services,
6 devices, equipment and supplies to children under the provisions of this
7 act which will give consideration to the medical needs of the patient and
8 the financial ability of the patient to pay the cost thereof and will insure
9 that available funds will be used where the need is greatest. Such system
10 of priorities shall provide care and treatment only for children having a
11 condition that can reasonably be expected to be aided or improved by
12 treatment and shall include, but shall not be limited to:

- 13 (a) Congenital malformations requiring major surgical repair;
- 14 (b) catastrophic and chronic diseases of children (such as
15 hydronephrosis, and chronic nephritis);
- 16 (c) ~~mental retardation~~ *intellectual disability* or mental disability with
17 associated serious physical defects;
- 18 (d) orthopedic conditions (not including relaxed flat feet or treatment
19 or supportive devices therefor);
- 20 (e) burns requiring plastic surgery;
- 21 (f) cardiovascular (congenital and acquired heart disease or anomalies
22 of the major blood vessels); and
- 23 (g) malignant disease (such as leukemia, Wilm's tumor, osteogenic
24 sarcoma, etc., but not to include terminal care).

25 In adopting the rules and regulations, the secretary of health and
26 environment shall consult with and give consideration to the
27 recommendations of representatives of the Kansas medical society
28 designated or selected by the society for such purpose.

29 A child with special health care needs shall not be denied services
30 because the child is ~~mentally retarded~~ *intellectually disabled*.

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

- 34 (a) Gratuitous nursing by friends or members of the family;
- 35 (b) the incidental care of the sick by domestic servants or persons
36 primarily employed as housekeepers;
- 37 (c) caring for the sick in accordance with tenets and practices of any
38 church or religious denomination which teaches reliance upon spiritual
39 means through prayer for healing;
- 40 (d) nursing assistance in the case of an emergency;
- 41 (e) the practice of nursing by students as part of a clinical course
42 offered through a school of professional or practical nursing or program of
43 advanced registered professional nursing approved in the United States or

1 its territories;

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

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

11 (h) auxiliary patient care services performed in medical care facilities,
12 adult care homes or elsewhere by persons under the direction of a person
13 licensed to practice medicine and surgery or a person licensed to practice
14 dentistry or the supervision of a registered professional nurse or a licensed
15 practical nurse;

16 (i) the administration of medications to residents of adult care homes
17 or to patients in hospital-based long-term care units, including state
18 operated institutions for the ~~mentally-retarded~~ *intellectually disabled*, by an
19 unlicensed person who has been certified as having satisfactorily
20 completed a training program in medication administration approved by
21 the secretary of health and environment and has completed the program on
22 continuing education adopted by the secretary, or by an unlicensed person
23 while engaged in and as a part of such training program in medication
24 administration;

25 (j) the practice of mental health technology by licensed mental health
26 technicians as authorized under the mental health technicians' licensure
27 act;

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

31 (l) performance of attendant care services directed by or on behalf of
32 an individual in need of in-home care as the terms "attendant care
33 services" and "individual in need of in-home care" are defined under
34 K.S.A. 65-6201, and amendments thereto;

35 (m) performance of a nursing procedure by a person when that
36 procedure is delegated by a licensed nurse, within the reasonable exercise
37 of independent nursing judgment and is performed with reasonable skill
38 and safety by that person under the supervision of a registered professional
39 nurse or a licensed practical nurse;

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

42 (o) the teaching of the nursing process in this state by legally
43 qualified nurses of any of the other states while in consultation with a

1 licensed Kansas nurse as long as such individuals do not represent or hold
2 themselves out as nurses licensed to practice in this state.

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

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

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

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

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

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

18 (c) "Authorized distributor of record" means a wholesale distributor
19 with whom a manufacturer has established an ongoing relationship to
20 distribute the manufacturer's prescription drug. An ongoing relationship is
21 deemed to exist between such wholesale distributor and a manufacturer
22 when the wholesale distributor, including any affiliated group of the
23 wholesale distributor, as defined in section 1504 of the internal revenue
24 code, complies with any one of the following: (1) The wholesale
25 distributor has a written agreement currently in effect with the
26 manufacturer evidencing such ongoing relationship; and (2) the wholesale
27 distributor is listed on the manufacturer's current list of authorized
28 distributors of record, which is updated by the manufacturer on no less
29 than a monthly basis.

30 (d) "Board" means the state board of pharmacy created by K.S.A. 74-
31 1603, and amendments thereto.

32 (e) "Brand exchange" means the dispensing of a different drug
33 product of the same dosage form and strength and of the same generic
34 name as the brand name drug product prescribed.

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

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

42 (h) "Co-licensee" means a pharmaceutical manufacturer that has
43 entered into an agreement with another pharmaceutical manufacturer to

1 engage in a business activity or occupation related to the manufacture or
2 distribution of a prescription drug and the national drug code on the drug
3 product label shall be used to determine the identity of the drug
4 manufacturer.

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

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

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

16 (l) "Dispenser" means a practitioner or pharmacist who dispenses
17 prescription medication.

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

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

21 (o) "Drop shipment" means the sale, by a manufacturer, that
22 manufacturer's co-licensee, that manufacturer's third party logistics
23 provider, or that manufacturer's exclusive distributor, of the manufacturer's
24 prescription drug, to a wholesale distributor whereby the wholesale
25 distributor takes title but not possession of such prescription drug and the
26 wholesale distributor invoices the pharmacy, the chain pharmacy
27 warehouse, or other designated person authorized by law to dispense or
28 administer such prescription drug, and the pharmacy, the chain pharmacy
29 warehouse, or other designated person authorized by law to dispense or
30 administer such prescription drug receives delivery of the prescription
31 drug directly from the manufacturer, that manufacturer's co-licensee, that
32 manufacturer's third party logistics provider, or that manufacturer's
33 exclusive distributor, of such prescription drug. Drop shipment shall be
34 part of the "normal distribution channel."

35 (p) "Drug" means: (1) Articles recognized in the official United States
36 pharmacopoeia, or other such official compendiums of the United States,
37 or official national formulary, or any supplement of any of them; (2)
38 articles intended for use in the diagnosis, cure, mitigation, treatment or
39 prevention of disease in man or other animals; (3) articles, other than food,
40 intended to affect the structure or any function of the body of man or other
41 animals; and (4) articles intended for use as a component of any articles
42 specified in clause (1), (2) or (3) of this subsection; but does not include
43 devices or their components, parts or accessories, except that the term

1 "drug" shall not include amygdalin (laetrile) or any livestock remedy, if
2 such livestock remedy had been registered in accordance with the
3 provisions of article 5 of chapter 47 of the Kansas Statutes Annotated,
4 prior to its repeal.

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

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

25 (s) "Electronic transmission" means transmission of information in
26 electronic form or the transmission of the exact visual image of a
27 document by way of electronic equipment.

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

30 (u) (1) "Institutional drug room" means any location where
31 prescription-only drugs are stored and from which prescription-only drugs
32 are administered or dispensed and which is maintained or operated for the
33 purpose of providing the drug needs of:

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

35 (B) residents of a juvenile detention facility, as defined by the revised
36 Kansas code for care of children and the revised Kansas juvenile justice
37 code;

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

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

42 (E) persons receiving inpatient hospice services.

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

- 1 (A) Any registered pharmacy;
2 (B) any office of a practitioner; or
3 (C) a location where no prescription-only drugs are dispensed and no
4 prescription-only drugs other than individual prescriptions are stored or
5 administered.

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

10 (w) "Medical care facility" shall have the meaning provided in K.S.A.
11 65-425, and amendments thereto, except that the term shall also include
12 facilities licensed under the provisions of K.S.A. 75-3307b, and
13 amendments thereto, except community mental health centers and
14 facilities for the ~~mentally-retarded~~ *intellectually disabled*.

15 (x) "Manufacture" means the production, preparation, propagation,
16 compounding, conversion or processing of a drug either directly or
17 indirectly by extraction from substances of natural origin, independently
18 by means of chemical synthesis or by a combination of extraction and
19 chemical synthesis and includes any packaging or repackaging of the drug
20 or labeling or relabeling of its container, except that this term shall not
21 include the preparation or compounding of a drug by an individual for the
22 individual's own use or the preparation, compounding, packaging or
23 labeling of a drug by:

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

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

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

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

35 (z) "Normal distribution channel" means a chain of custody for a
36 prescription-only drug that goes from a manufacturer of the prescription-
37 only drug, from that manufacturer to that manufacturer's co-licensed
38 partner, from that manufacturer to that manufacturer's third-party logistics
39 provider, or from that manufacturer to that manufacturer's exclusive
40 distributor, directly or by drop shipment, to:

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

43 (2) a wholesale distributor to a pharmacy to a patient or other

1 designated persons authorized by law to dispense or administer such drug
2 to a patient;

3 (3) a wholesale distributor to a chain pharmacy warehouse to that
4 chain pharmacy warehouse's intracompany pharmacy to a patient or other
5 designated persons authorized by law to dispense or administer such drug
6 to a patient; or

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

10 (aa) "Person" means individual, corporation, government,
11 governmental subdivision or agency, partnership, association or any other
12 legal entity.

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

15 (cc) "Pharmacist in charge" means the pharmacist who is responsible
16 to the board for a registered establishment's compliance with the laws and
17 regulations of this state pertaining to the practice of pharmacy,
18 manufacturing of drugs and the distribution of drugs. The pharmacist in
19 charge shall supervise such establishment on a full-time or a part-time
20 basis and perform such other duties relating to supervision of a registered
21 establishment as may be prescribed by the board by rules and regulations.
22 Nothing in this definition shall relieve other pharmacists or persons from
23 their responsibility to comply with state and federal laws and regulations.

24 (dd) "Pharmacy," "drug store" or "apothecary" means premises,
25 laboratory, area or other place: (1) Where drugs are offered for sale where
26 the profession of pharmacy is practiced and where prescriptions are
27 compounded and dispensed; or (2) which has displayed upon it or within it
28 the words "pharmacist," "pharmaceutical chemist," "pharmacy,"
29 "apothecary," "drugstore," "druggist," "drugs," "drug sundries" or any of
30 these words or combinations of these words or words of similar import
31 either in English or any sign containing any of these words; or (3) where
32 the characteristic symbols of pharmacy or the characteristic prescription
33 sign "Rx" may be exhibited. As used in this subsection, premises refers
34 only to the portion of any building or structure leased, used or controlled
35 by the licensee in the conduct of the business registered by the board at the
36 address for which the registration was issued.

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

39 (ff) "Pharmacy technician" means an individual who, under the direct
40 supervision and control of a pharmacist, may perform packaging,
41 manipulative, repetitive or other nondiscretionary tasks related to the
42 processing of a prescription or medication order and who assists the
43 pharmacist in the performance of pharmacy related duties, but who does

1 not perform duties restricted to a pharmacist.

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

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

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

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

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

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

27 (mm) "Probation" means the practice or operation under a temporary
28 license, registration or permit or a conditional license, registration or
29 permit of a business or profession for which a license, registration or
30 permit is granted by the board under the provisions of the pharmacy act of
31 the state of Kansas requiring certain actions to be accomplished or certain
32 actions not to occur before a regular license, registration or permit is
33 issued.

34 (nn) "Professional incompetency" means:

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

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

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

43 (oo) "Retail dealer" means a person selling at retail nonprescription

1 drugs which are prepackaged, fully prepared by the manufacturer or
2 distributor for use by the consumer and labeled in accordance with the
3 requirements of the state and federal food, drug and cosmetic acts. Such
4 nonprescription drugs shall not include: (1) A controlled substance; (2) a
5 prescription-only drug; or (3) a drug intended for human use by
6 hypodermic injection.

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

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

15 (rr) "Unprofessional conduct" means:

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

17 (2) intentional adulteration or mislabeling of any drug, medicine,
18 chemical or poison;

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

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

22 (5) unlawful possession of drugs and unlawful diversion of drugs to
23 others;

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

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

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

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

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

33 (ss) "Mid-level practitioner" means an advanced practice registered
34 nurse issued a license pursuant to K.S.A. 65-1131, and amendments
35 thereto, who has authority to prescribe drugs pursuant to a written protocol
36 with a responsible physician under K.S.A. 65-1130, and amendments
37 thereto, or a physician assistant licensed pursuant to the physician assistant
38 licensure act who has authority to prescribe drugs pursuant to a written
39 protocol with a responsible physician under K.S.A. 65-28a08, and
40 amendments thereto.

41 (tt) "Vaccination protocol" means a written protocol, agreed to by a
42 pharmacist and a person licensed to practice medicine and surgery by the
43 state board of healing arts, which establishes procedures and

1 recordkeeping and reporting requirements for administering a vaccine by
2 the pharmacist for a period of time specified therein, not to exceed two
3 years.

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

8 (vv) "Wholesale distributor" means any person engaged in wholesale
9 distribution of prescription drugs or devices in or into the state, including,
10 but not limited to, manufacturers, repackagers, own-label distributors,
11 private-label distributors, jobbers, brokers, warehouses, including
12 manufacturers' and distributors' warehouses, co-licensees, exclusive
13 distributors, third party logistics providers, chain pharmacy warehouses
14 that conduct wholesale distributions, and wholesale drug warehouses,
15 independent wholesale drug traders and retail pharmacies that conduct
16 wholesale distributions. Wholesale distributor shall not include persons
17 engaged in the sale of durable medical equipment to consumers or
18 patients.

19 (ww) "Wholesale distribution" means the distribution of prescription
20 drugs or devices by wholesale distributors to persons other than consumers
21 or patients, and includes the transfer of prescription drugs by a pharmacy
22 to another pharmacy if the total number of units of transferred drugs
23 during a twelve-month period does not exceed 5% of the total number of
24 all units dispensed by the pharmacy during the immediately preceding
25 twelve-month period. Wholesale distribution does not include: (1) The
26 sale, purchase or trade of a prescription drug or device, an offer to sell,
27 purchase or trade a prescription drug or device or the dispensing of a
28 prescription drug or device pursuant to a prescription; (2) the sale,
29 purchase or trade of a prescription drug or device or an offer to sell,
30 purchase or trade a prescription drug or device for emergency medical
31 reasons; (3) intracompany transactions, as defined in this section, unless in
32 violation of own use provisions; (4) the sale, purchase or trade of a
33 prescription drug or device or an offer to sell, purchase or trade a
34 prescription drug or device among hospitals, chain pharmacy warehouses,
35 pharmacies or other health care entities that are under common control; (5)
36 the sale, purchase or trade of a prescription drug or device or the offer to
37 sell, purchase or trade a prescription drug or device by a charitable
38 organization described in 503(c)(3) of the internal revenue code of 1954 to
39 a nonprofit affiliate of the organization to the extent otherwise permitted
40 by law; (6) the purchase or other acquisition by a hospital or other similar
41 health care entity that is a member of a group purchasing organization of a
42 prescription drug or device for its own use from the group purchasing
43 organization or from other hospitals or similar health care entities that are

1 members of these organizations; (7) the transfer of prescription drugs or
2 devices between pharmacies pursuant to a centralized prescription
3 processing agreement; (8) the sale, purchase or trade of blood and blood
4 components intended for transfusion; (9) the return of recalled, expired,
5 damaged or otherwise non-salable prescription drugs, when conducted by
6 a hospital, health care entity, pharmacy, chain pharmacy warehouse or
7 charitable institution in accordance with the board's rules and regulations;
8 (10) the sale, transfer, merger or consolidation of all or part of the business
9 of a retail pharmacy or pharmacies from or with another retail pharmacy or
10 pharmacies, whether accomplished as a purchase and sale of stock or
11 business assets, in accordance with the board's rules and regulations; (11)
12 the distribution of drug samples by manufacturers' and authorized
13 distributors' representatives; (12) the sale of minimal quantities of drugs by
14 retail pharmacies to licensed practitioners for office use; or (13) the sale or
15 transfer from a retail pharmacy or chain pharmacy warehouse of expired,
16 damaged, returned or recalled prescription drugs to the original
17 manufacturer, originating wholesale distributor or to a third party returns
18 processor in accordance with the board's rules and regulations.

19 Sec. 43. K.S.A. 65-3501 is hereby amended to read as follows: 65-
20 3501. As used in this act, ~~or the act of which this section is amendatory,~~
21 the following words and phrases shall have the meanings respectively
22 ascribed to them in this section:

23 (a) "Adult care home" means nursing facility, nursing facilities for
24 ~~mental health~~ *the intellectually disabled*, intermediate care facilities for the
25 ~~mentally retarded~~ *intellectually disabled*, assisted living facility licensed
26 for more than 60 residents and residential health care facility licensed for
27 more than 60 residents as defined by K.S.A. 39-923, and amendments
28 thereto, or by the rules and regulations of the licensing agency adopted
29 pursuant to such section for which a license is required under article 9 of
30 chapter 39 of the Kansas Statutes Annotated, ~~or acts amendatory thereof or~~
31 ~~supplemental and amendments~~ *thereto*, except that the term "adult care
32 home" shall not include a facility that is operated exclusively for the care
33 and treatment of the ~~mentally retarded~~ *intellectually disabled* and is
34 licensed for 16 or fewer beds.

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

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

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

43 (e) "Sponsor" means entities approved by the board to provide

1 continuing education programs or courses on an ongoing basis under this
2 act and in accordance with any rules and regulations promulgated by the
3 board in accordance with this act.

4 Sec. 44. K.S.A. 65-4202 is hereby amended to read as follows: 65-
5 4202. As used in this act: (a) "Board" means the state board of nursing.

6 (b) The "practice of mental health technology" means the
7 performance, under the direction of a physician licensed to practice
8 medicine and surgery or registered professional nurse, of services in caring
9 for and treatment of the mentally ill, emotionally disturbed, ~~or mentally~~
10 ~~retarded~~ *or intellectually disabled* for compensation or personal profit,
11 which services:

12 (1) Involve responsible nursing and therapeutic procedures for
13 mentally ill or ~~mentally retarded~~ *intellectually disabled* patients requiring
14 interpersonal and technical skills in the observations and recognition of
15 symptoms and reactions of such patients, the accurate recording of such
16 symptoms and reactions and the carrying out of treatments and
17 medications as prescribed by a licensed physician or a mid-level
18 practitioner as defined in subsection (ii) of K.S.A. 65-1626, and
19 amendments thereto; and

20 (2) require an application of techniques and procedures that involve
21 understanding of cause and effect and the safeguarding of life and health
22 of the patient and others; and

23 (3) require the performance of duties that are necessary to facilitate
24 rehabilitation of the patient or are necessary in the physical, therapeutic
25 and psychiatric care of the patient and require close work with persons
26 licensed to practice medicine and surgery, psychiatrists, psychologists,
27 rehabilitation therapists, social workers, registered nurses, and other
28 professional personnel.

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

31 (d) An "approved course in mental health technology" means a
32 program of training and study including a basic curriculum which shall be
33 prescribed and approved by the board in accordance with the standards
34 prescribed herein, the successful completion of which shall be required
35 before licensure as a mental health technician, except as hereinafter
36 provided.

37 Sec. 45. K.S.A. 65-4212 is hereby amended to read as follows: 65-
38 4212. The provisions of this act shall not be construed as prohibiting: (a)
39 Gratuitous care of the mentally ill, emotionally disturbed or ~~mentally~~
40 ~~retarded~~ *the intellectually disabled* by friends or members of the family;

41 (b) the practice of mental health technology by students enrolled in
42 approved courses of mental health technology;

43 (c) the practice of mental health technology by graduates of an

1 approved course in mental health technology who are practicing as mental
2 health technicians pending the results of the first licensing examination
3 scheduled by the board following graduation;

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

6 (e) service conducted in accordance with the practice of the tenets of
7 any religious denomination in which persons of good faith rely solely upon
8 spiritual means or prayer in the exercise of their religion to prevent or cure
9 disease;

10 (f) the practice of any legally qualified mental health technician of
11 this state or another who is employed by the United States government of
12 any bureau, division or agency thereof, while in the discharge of official
13 duties;

14 (g) temporary assistance in the therapeutic care of patients where
15 adequate medical, nursing, and/or other supervision is provided;

16 (h) subsidiary workers in hospitals or related institutions from
17 assisting in the nursing care of patients where adequate medical and
18 nursing supervision is provided; and

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

22 Sec. 46. K.S.A. 65-4411 is hereby amended to read as follows: 65-
23 4411. K.S.A. 65-4411 to 65-4415, inclusive, and amendments thereto,
24 shall be known and may be cited as the Kansas community ~~mental-~~
25 ~~retardation~~ facilities *for the intellectually disabled* assistance act.

26 Sec. 47. K.S.A. 65-4412 is hereby amended to read as follows: 65-
27 4412. (a) "Community ~~mental-retardation~~ facilities *for the intellectually*
28 *disabled*" means: (1) Any community facility for the ~~mentally-retarded~~
29 *intellectually disabled* organized pursuant to the provisions of K.S.A. 19-
30 4001 to 19-4015, inclusive, and amendments thereto, and licensed in
31 accordance with the provisions of K.S.A. 75-3307b, and amendments
32 thereto; or (2) any ~~mental-retardation~~ *intellectual disability* governing
33 board which contracts with a nonprofit corporation to provide services for
34 the ~~mentally-retarded~~ *intellectually disabled*.

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

36 Sec. 48. K.S.A. 65-4413 is hereby amended to read as follows: 65-
37 4413. (a) For the purpose of insuring that adequate community ~~mental-~~
38 ~~retardation~~ *intellectual disability* services are available to all inhabitants of
39 Kansas, the state shall participate in the financing of community ~~mental-~~
40 ~~retardation~~ facilities *for the intellectually disabled* in the manner provided
41 by this section.

42 (b) Subject to the provisions of appropriations acts and the provisions
43 of K.S.A. 65-4414, and amendments thereto, the secretary shall make

1 grants to community ~~mental-retardation~~ facilities *for the intellectually*
2 *disabled* based on full-time equivalent clients served and per diem
3 amounts per client as provided in this section. The secretary, in accordance
4 with the provisions of this section, shall adopt rules and regulations (1)
5 defining full-time equivalent clients and prescribing the method of
6 computing full-time equivalent clients and (2) establishing statewide per
7 diem amounts per client for the purposes of determining grants to
8 community ~~mental-retardation~~ facilities *for the intellectually disabled*. A
9 client accepted for a program by a facility ~~on and after July 1, 1987~~, shall
10 constitute a full-time equivalent client only if the client was accepted by
11 the facility on a first-come, first-serve basis in order of the time at which
12 an application for admission was made to such facility on behalf of the
13 client, except that a client accepted for a program by a facility on other
14 than a first-come, first-serve basis because of a family crisis occasioned by
15 family circumstances shall constitute a full-time equivalent client. The
16 secretary shall adopt rules and regulations to define the parameters for
17 agency boards of directors to follow in identifying "family crisis
18 occasioned by family circumstances." Such rules and regulations shall
19 require that each agency board of directors establish standards and
20 guidelines, within parameters defined by the rules and regulations, which
21 are consistent with the needs of clients and their families. The standards
22 and guidelines established by the agency board of directors shall specify to
23 the extent known the types of family crises most likely to necessitate
24 admission to a facility and shall establish criteria for determining the
25 appropriateness of such admission. In addition the rules and regulations
26 shall establish procedures for review by the secretary of the
27 appropriateness of any such admission.

28 (c) The secretary shall make grant payments each calendar quarter.
29 Subject to the provisions of K.S.A. 65-4414, and amendments thereto: (1)
30 The first year of *per diem* payments made under this section shall be based
31 on the number of clients served during the base calendar year 1983; and
32 (2) payments in subsequent years shall be based on actual clients served
33 during the calendar year immediately preceding the year in which such
34 grant payments are to be made. In the event that sufficient moneys to pay
35 to all community ~~mental-retardation~~ facilities *for the intellectually*
36 *disabled* the full amount of grant payments determined in accordance with
37 the number of actual clients served thereby and the current *per diem*
38 amounts per client for any calendar quarter have not been appropriated or
39 are not available, the entire amount available such calendar quarter for
40 grant payments shall be prorated by the secretary among all the
41 community ~~mental-retardation~~ facilities *for the intellectually disabled*
42 applying for such grant payments in proportion to the amount each such
43 community ~~mental-retardation~~ facility *for the intellectually disabled*

1 would have received if sufficient moneys had been appropriated and
2 available therefor, subject to the provisions of K.S.A. 65-4414, and
3 amendments thereto. A client funded by special state funding shall not
4 constitute a client for purposes of *per diem* funding under this section.

5 (d) The secretary shall adopt rules and regulations for the
6 administration of the provisions of the Kansas community ~~mental-~~
7 ~~retardation~~ facilities *for the intellectually disabled* assistance act.

8 Sec. 49. K.S.A. 65-4414 is hereby amended to read as follows: 65-
9 4414. During each fiscal year commencing after June 30, 1986, each
10 community ~~mental-retardation~~ facility *for the intellectually disabled* which
11 was eligible for grant payments under K.S.A. 65-4413, *and amendments*
12 *thereto*, and which received assistance under the provisions of K.S.A. 65-
13 4401 to 65-4408, inclusive, *and amendments thereto*, for the fiscal year
14 ending June 30, 1986, shall receive a total amount of grant payments under
15 K.S.A. 65-4413, *and amendments thereto*, for such fiscal year in an
16 amount which is not less than the total amount of assistance earned by
17 such community ~~mental-retardation~~ facility *for the intellectually disabled*
18 under the provisions of K.S.A. 65-4401 to 65-4408, inclusive, *and*
19 *amendments thereto*, for the fiscal year ending June 30, 1986. In the event
20 that sufficient funds are not appropriated to pay all such community
21 ~~mental-retardation~~ facilities *for the intellectually disabled*, which are
22 applying for grants, the minimum amounts which such facilities are
23 eligible to receive under this section, the secretary shall prorate the entire
24 amount appropriated for grants among those community ~~mental-~~
25 ~~retardation~~ facilities *for the intellectually disabled* which are applying for
26 grants and which are eligible under this section, in proportion to the
27 amount each such community ~~mental-retardation~~ facility *for the*
28 *intellectually disabled* received during the base year ending June 30, 1986.

29 Sec. 50. K.S.A. 65-4415 is hereby amended to read as follows: 65-
30 4415. (a) The secretary upon determination that a program included in the
31 proposed budget of a community-~~mental-retardation~~ facility *for the*
32 *intellectually disabled*: (1) Is a new program not included in previous
33 budgets of such community ~~mental-retardation~~ center *for the intellectually*
34 *disabled*; and (2) duplicates an existing program which is adequately
35 serving the geographic area served by such community-~~mental-retardation~~
36 facility *for the intellectually disabled*, may subtract the full-time
37 equivalent clients served by the program from the total full-time
38 equivalent computation for purposes of granting financial assistance under
39 the Kansas community-~~mental-retardation~~ facilities *for the intellectually*
40 *disabled* assistance act or may require such community-~~mental-retardation~~
41 facility *for the intellectually disabled* to purchase the service from or
42 otherwise cooperate with such other program.

43 (b) The secretary shall administer the provisions of the Kansas

1 community-~~mental retardation~~-facilities *for the intellectually disabled*
2 assistance act. In administering the provisions of the Kansas community
3 ~~mental retardation~~-facilities *for the intellectually disabled* assistance act,
4 the secretary shall review the budgets and expenditures of the facilities,
5 from time to time during the fiscal year, and may withdraw funds from any
6 facility which is not being administered substantially in accordance with
7 the provisions of the annual budget submitted to the secretary.

8 (c) The secretary shall provide consultative staff service to
9 community ~~mental retardation~~ facilities *for the intellectually disabled* to
10 assist in ascertaining local needs, in obtaining federal funds and assistance
11 and in the delivery of ~~mental retardation~~ services *for the intellectually*
12 *disabled* at the local level.

13 (d) In the event any community-~~mental retardation~~-facility *for the*
14 *intellectually disabled* is paid more than it is entitled to receive under any
15 distribution made under the Kansas community-~~mental retardation~~-
16 *facilities for the intellectually disabled* assistance act, the secretary shall
17 notify the governing board of the community-~~mental retardation~~-facility
18 *for the intellectually disabled* of the amount of such overpayment, and
19 such governing board shall remit the same to the secretary. The secretary
20 shall remit any moneys so received to the state treasurer in accordance
21 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
22 receipt of each such remittance, the state treasurer shall deposit the entire
23 amount in the state treasury to the credit of the state general fund. If any
24 such governing board fails so to remit, the secretary shall deduct the
25 excess amount so paid from future payments becoming due to such
26 community-~~mental retardation~~-facility *for the intellectually disabled*.

27 (e) In the event any community-~~mental retardation~~-facility *for the*
28 *intellectually disabled* is paid less than the amount to which it is entitled
29 under any distribution made under the Kansas community-~~mental~~-
30 ~~retardation~~-facilities *for the intellectually disabled* assistance act, the
31 secretary shall pay the additional amount due at any time within the fiscal
32 year in which the underpayment was made or within 60 days after the end
33 of such year.

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

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

1 occupational therapist licensed by the state board of healing arts, an
2 occupational therapy assistant licensed by the state board of healing arts, a
3 respiratory therapist licensed by the state board of healing arts, a physician
4 assistant licensed by the state board of healing arts and attendants and
5 ambulance services certified by the emergency medical services board.

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

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

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

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

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

15 (E) an organized medical staff of a licensed medical care facility as
16 defined by K.S.A. 65-425, and amendments thereto, an organized medical
17 staff of a private psychiatric hospital licensed under K.S.A. 75-3307b, and
18 amendments thereto, or an organized medical staff of a state psychiatric
19 hospital or state institution for the ~~mentally retarded~~ *intellectually disabled*,
20 as follows: Larned state hospital, Osawatomie state hospital, Rainbow
21 mental health facility, Kansas neurological institute and Parsons state
22 hospital and training center;

23 (F) a health care provider;

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

26 (H) a Kansas corporation whose stockholders or members are health
27 care providers or an association of health care providers, which
28 corporation evaluates medical and health care services; or

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

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

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

35 (B) determine that health services rendered were professionally
36 indicated or were performed in compliance with the applicable standard of
37 care;

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

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

43 (E) reduce morbidity or mortality;

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

3 (G) conduct of research;

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

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

7 (J) review the professional qualifications or activities of health care
8 providers;

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

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

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

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

18 (B) a health care provider monitoring the delivery of health care at
19 correctional institutions under the jurisdiction of the secretary of
20 corrections.

21 (b) Except as provided by K.S.A. 60-437, and amendments thereto,
22 and by subsections (c) and (d), the reports, statements, memoranda,
23 proceedings, findings and other records submitted to or generated by peer
24 review committees or officers shall be privileged and shall not be subject
25 to discovery, subpoena or other means of legal compulsion for their release
26 to any person or entity or be admissible in evidence in any judicial or
27 administrative proceeding. Information contained in such records shall not
28 be discoverable or admissible at trial in the form of testimony by an
29 individual who participated in the peer review process. The peer review
30 officer or committee creating or initially receiving the record is the holder
31 of the privilege established by this section. This privilege may be claimed
32 by the legal entity creating the peer review committee or officer, or by the
33 commissioner of insurance for any records or proceedings of the board of
34 governors.

35 (c) Subsection (b) shall not apply to proceedings in which a health
36 care provider contests the revocation, denial, restriction or termination of
37 staff privileges or the license, registration, certification or other
38 authorization to practice of the health care provider. A licensing agency in
39 conducting a disciplinary proceeding in which admission of any peer
40 review committee report, record or testimony is proposed shall hold the
41 hearing in closed session when any such report, record or testimony is
42 disclosed. Unless otherwise provided by law, a licensing agency
43 conducting a disciplinary proceeding may close only that portion of the

1 hearing in which disclosure of a report or record privileged under this
2 section is proposed. In closing a portion of a hearing as provided by this
3 section, the presiding officer may exclude any person from the hearing
4 location except the licensee, the licensee's attorney, the agency's attorney,
5 the witness, the court reporter and appropriate staff support for either
6 counsel. The licensing agency shall make the portions of the agency record
7 in which such report or record is disclosed subject to a protective order
8 prohibiting further disclosure of such report or record. Such report or
9 record shall not be subject to discovery, subpoena or other means of legal
10 compulsion for their release to any person or entity. No person in
11 attendance at a closed portion of a disciplinary proceeding shall at a
12 subsequent civil, criminal or administrative hearing, be required to testify
13 regarding the existence or content of a report or record privileged under
14 this section which was disclosed in a closed portion of a hearing, nor shall
15 such testimony be admitted into evidence in any subsequent civil, criminal
16 or administrative hearing. A licensing agency conducting a disciplinary
17 proceeding may review peer review committee records, testimony or
18 reports but must prove its findings with independently obtained testimony
19 or records which shall be presented as part of the disciplinary proceeding
20 in open meeting of the licensing agency. Offering such testimony or
21 records in an open public hearing shall not be deemed a waiver of the peer
22 review privilege relating to any peer review committee testimony, records
23 or report.

24 (d) Nothing in this section shall limit the authority, which may
25 otherwise be provided by law, of the commissioner of insurance, the state
26 board of healing arts or other health care provider licensing or disciplinary
27 boards of this state to require a peer review committee or officer to report
28 to it any disciplinary action or recommendation of such committee or
29 officer; to transfer to it records of such committee's or officer's
30 proceedings or actions to restrict or revoke the license, registration,
31 certification or other authorization to practice of a health care provider; or
32 to terminate the liability of the fund for all claims against a specific health
33 care provider for damages for death or personal injury pursuant to
34 subsection (i) of K.S.A. 40-3403, and amendments thereto. Reports and
35 records so furnished shall not be subject to discovery, subpoena or other
36 means of legal compulsion for their release to any person or entity and
37 shall not be admissible in evidence in any judicial or administrative
38 proceeding other than a disciplinary proceeding by the state board of
39 healing arts or other health care provider licensing or disciplinary boards
40 of this state.

41 (e) A peer review committee or officer may report to and discuss its
42 activities, information and findings to other peer review committees or
43 officers or to a board of directors or an administrative officer of a health

1 care provider without waiver of the privilege provided by subsection (b)
2 and the records of all such committees or officers relating to such report
3 shall be privileged as provided by subsection (b).

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

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

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

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

15 (c) "Health care provider" means: (1) Those persons and entities
16 defined as a health care provider under K.S.A. 40-3401, and amendments
17 thereto; and (2) a dentist licensed by the Kansas dental board, a dental
18 hygienist licensed by the Kansas dental board, a professional nurse
19 licensed by the board of nursing, a practical nurse licensed by the board of
20 nursing, a mental health technician licensed by the board of nursing, a
21 physical therapist licensed by the state board of healing arts, a physical
22 therapist assistant certified by the state board of healing arts, an
23 occupational therapist licensed by the state board of healing arts, an
24 occupational therapy assistant licensed by the state board of healing arts
25 and a respiratory therapist licensed by the state board of healing arts.

26 (d) "License," "licensee" and "licensing" include comparable terms
27 which relate to regulation similar to licensure, such as registration.

28 (e) "Medical care facility" means: (1) A medical care facility licensed
29 under K.S.A. 65-425 *et seq.*, and amendments thereto; (2) a private
30 psychiatric hospital licensed under K.S.A. 75-3307b, and amendments
31 thereto; and (3) state psychiatric hospitals and state institutions for the
32 ~~mentally retarded~~ *intellectually disabled*, as follows: Larned state hospital,
33 Osawatomie state hospital, Rainbow mental health facility, Kansas
34 neurological institute and Parsons state hospital and training center.

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

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

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

43 Sec. 53. K.S.A. 65-5601 is hereby amended to read as follows: 65-

1 5601. As used in K.S.A. 65-5601 to 65-5605, inclusive, *and amendments*
2 *thereto*:

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

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

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

12 (d) "Treatment facility" means a community mental health center,
13 community service provider, psychiatric hospital and state institution for
14 the ~~mentally-retarded~~ *intellectually disabled*.

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

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

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

23 (h) "State institution for the ~~mentally-retarded~~ *intellectually disabled*"
24 means Winfield state hospital and training center, Parsons state hospital
25 and training center and the Kansas neurological institute.

26 (i) "Community service provider" means: (1) A community facility
27 for the ~~mentally-retarded~~ *intellectually disabled* organized pursuant to the
28 provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto,
29 and licensed in accordance with the provisions of K.S.A. 75-3307b, and
30 amendments thereto; (2) community service provider as provided in the
31 developmental disabilities reform act; or (3) a nonprofit corporation which
32 provides services for the ~~mentally-retarded~~ *intellectually disabled* pursuant
33 to a contract with a ~~mental-retardation~~ *an intellectual disability* governing
34 board.

35 Sec. 54. K.S.A. 2011 Supp. 65-6805 is hereby amended to read as
36 follows: 65-6805. Each medical care facility as defined by subsection (h)
37 of K.S.A. 65-425, and amendments thereto; health care provider as defined
38 in K.S.A. 40-3401, and amendments thereto; providers of health care as
39 defined in subsection (f) of K.S.A. 65-5001, and amendments thereto;
40 health care personnel as defined in subsection (e) of K.S.A. 65-5001, and
41 amendments thereto; home health agency as defined by subsection (b) of
42 K.S.A. 65-5101, and amendments thereto; psychiatric hospitals licensed
43 under K.S.A. 75-3307b, and amendments thereto; state institutions for the

1 ~~mentally retarded~~ *intellectually disabled*; community ~~mental retardation~~
2 ~~facilities for the intellectually disabled~~ as defined under K.S.A. 65-4412,
3 and amendments thereto; community mental health center as defined under
4 K.S.A. 65-4432, and amendments thereto; adult care homes as defined by
5 K.S.A. 39-923, and amendments thereto; laboratories described in K.S.A.
6 65-1,107, and amendments thereto; pharmacies; board of nursing; Kansas
7 dental board; board of examiners in optometry; state board of pharmacy;
8 state board of healing arts and third-party payors, including but not limited to,
9 to, licensed insurers, medical and hospital service corporations, health
10 maintenance organizations, fiscal intermediaries for government-funded
11 programs and self-funded employee health plans, shall file health care data
12 with the Kansas health policy authority as prescribed by the authority. The
13 provisions of this section shall not apply to any individual, facility or other
14 entity under this section which uses spiritual means through prayer alone
15 in accordance with the tenets and practices of a recognized church or
16 religious denomination for the treatment or cure of disease.

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

- 19 (a) "School district" means any public school district.
20 (b) "Board" means the board of education of any school district.
21 (c) "State board" means the state board of education.
22 (d) "Department" means the state department of education.
23 (e) "State institution" means any institution under the jurisdiction of a
24 state agency.
25 (f) "State agency" means the department of social and rehabilitation
26 services, the department of corrections and the juvenile justice authority.
27 (g) "Exceptional children" means persons who are children with
28 disabilities or gifted children and are school age, to be determined in
29 accordance with rules and regulations adopted by the state board, which
30 age may differ from the ages of children required to attend school under
31 the provisions of K.S.A. 72-1111, and amendments thereto.
32 (h) "Gifted children" means exceptional children who are determined
33 to be within the gifted category of exceptionality as such category is
34 defined by the state board.
35 (i) "Special education" means specially designed instruction provided
36 at no cost to parents to meet the unique needs of an exceptional child,
37 including:
38 (1) Instruction conducted in the classroom, in the home, in hospitals
39 and institutions, and in other settings; and
40 (2) instruction in physical education.
41 (j) "Special teacher" means a person, employed by or under contract
42 with a school district or a state institution to provide special education or
43 related services, who is: (1) Qualified to provide special education or

1 related services to exceptional children as determined pursuant to
2 standards established by the state board; or (2) qualified to assist in the
3 provision of special education or related services to exceptional children as
4 determined pursuant to standards established by the state board.

5 (k) "State plan" means the state plan for special education and related
6 services authorized by this act.

7 (l) "Agency" means boards and the state agencies.

8 (m) "Parent" means: (1) A natural parent; (2) an adoptive parent; (3) a
9 person acting as parent; (4) a legal guardian; (5) an education advocate; or
10 (6) a foster parent, if the foster parent has been appointed the education
11 advocate of an exceptional child.

12 (n) "Person acting as parent" means a person such as a grandparent,
13 stepparent or other relative with whom a child lives or a person other than
14 a parent who is legally responsible for the welfare of a child.

15 (o) "Education advocate" means a person appointed by the state board
16 in accordance with the provisions of K.S.A. 2011 Supp. 38-2218, and
17 amendments thereto. A person appointed as an education advocate for a
18 child shall not be: (1) An employee of the agency which is required by law
19 to provide special education or related services for the child; (2) an
20 employee of the state board, the department, or any agency which is
21 directly involved in providing educational services for the child; or (3) any
22 person having a professional or personal interest which would conflict
23 with the interests of the child.

24 (p) "Free appropriate public education" means special education and
25 related services that: (1) Are provided at public expense, under public
26 supervision and direction, and without charge; (2) meet the standards of
27 the state board; (3) include an appropriate preschool, elementary, or
28 secondary school education; and (4) are provided in conformity with an
29 individualized education program.

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

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

36 (s) (1) "Related services" means transportation, and such
37 developmental, corrective, and other supportive services, including
38 speech-language pathology and audiology services, interpreting services,
39 psychological services, physical and occupational therapy, recreation,
40 including therapeutic recreation, social work services, school nurse
41 services designed to enable a child with a disability to receive a free
42 appropriate public education as described in the child's IEP, counseling
43 services, including rehabilitation counseling, orientation and mobility

1 services, and medical services, except that such medical services shall be
2 for diagnostic and evaluation purposes only, as may be required to assist
3 an exceptional child to benefit from special education, and includes the
4 early identification and assessment of disabling conditions in children.

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

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

11 (u) "Individualized education program team" or "IEP team" means a
12 group of individuals composed of: (1) The parents of a child; (2) at least
13 one regular education teacher of the child, if the child is, or may be,
14 participating in the regular education environment; (3) at least one special
15 education teacher or, where appropriate, at least one special education
16 provider of the child; (4) a representative of the agency directly involved
17 in providing educational services for the child who: (A) Is qualified to
18 provide, or supervise the provision of, specially designed instruction to
19 meet the unique needs of exceptional children; (B) is knowledgeable about
20 the general curriculum; and (C) is knowledgeable about the availability of
21 resources of the agency; (5) an individual who can interpret the
22 instructional implications of evaluation results; (6) at the discretion of the
23 parent or the agency, other individuals who have knowledge or special
24 expertise regarding the child, including related services personnel as
25 appropriate; and (7) whenever appropriate, the child.

26 (v) "Evaluation" means a multisourced and multidisciplinary
27 examination, conducted in accordance with the provisions of K.S.A. 72-
28 986, and amendments thereto, to determine whether a child is an
29 exceptional child.

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

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

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

40 (z) "Children with disabilities" means: (1) Children with ~~mental-~~
41 ~~retardation~~ *intellectual disability*, hearing impairments including deafness,
42 speech or language impairments, visual impairments including blindness,
43 emotional disturbance, orthopedic impairments, autism, traumatic brain

1 injury, other health impairments, or specific learning disabilities and who,
2 by reason thereof, need special education and related services; and (2)
3 children experiencing one or more developmental delays and, by reason
4 thereof, need special education and related services if such children are
5 ages three through nine.

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

10 (bb) "Material change in services" means an increase or decrease of
11 25% or more of the duration or frequency of a special education service, a
12 related service or a supplementary aid or a service specified on the IEP of
13 an exceptional child.

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

20 (dd) "Homeless children" means "homeless children and youths" as
21 defined in the federal McKinney-Vento homeless assistance act, 42 U.S.C.
22 § 11434a.

23 (ee) "Limited English proficient" means an individual who meets the
24 qualifications specified in section 9101 of the federal elementary and
25 secondary education act of 1965, as amended.

26 Sec. 56. K.S.A. 72-6203 is hereby amended to read as follows: 72-
27 6203. (a) It is hereby declared to be a policy of the state of Kansas to
28 cooperate with the federal government in doing research in the field of
29 special education within this state to determine the needs of educable
30 ~~mentally-retarded~~ *intellectually disabled* children in areas where
31 population is not sufficiently large to make possible the organization of
32 day school special classes in centers within travel distance for children.

33 (b) The state board of education is designated the "educational
34 agency" responsible for carrying out the purposes of this act, and is
35 authorized to make and file applications for federal funds as provided in
36 the federal act of July 26, 1954 (68 Stat. 533). The state board of education
37 is authorized and empowered to receive from the federal government, or
38 any of its agencies, any funds made available under existing law, rules or
39 regulations, or that may hereafter be made available for expenses of doing
40 research, and such board may expend the same for ~~said~~ *such* purposes in
41 accordance with the rules, regulations and requirements under which such
42 funds are made available.

43 (c) The state board of education is authorized and directed to require

1 such reports, make such inspections and investigations, and prescribe such
2 regulations, as it deems necessary in carrying out the provisions of this act,
3 and shall make such reports to federal agencies as may be required by such
4 agencies in granting federal funds.

5 (d) The state treasurer is designated the custodian of all funds made
6 available for the purposes of this act. The state board of education shall
7 deposit all such funds received from the federal government in the state
8 treasury, and the treasurer of the state shall credit same to the proper
9 accounts. The director of accounts and reports is hereby authorized to draw
10 his warrants upon the treasurer of state against such accounts upon duly
11 authorized vouchers approved by the state board of education as provided
12 by law.

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

23 (b) in any way to restrict any person from carrying on any of the
24 aforesaid activities in the free expression or exchange of ideas concerning
25 the practice of psychology, the application of its principles, the teaching of
26 such subject matter and the conducting of research on problems relating to
27 human behavior if such person does not represent such person or such
28 person's services in any manner prohibited by such act;

29 (c) to limit the practice of psychology of a licensed masters level
30 psychologist or a person who holds a temporary license to practice as a
31 licensed masters level psychologist insofar as such practice is a part of the
32 duties of any such person's salaried position, and insofar as such practice is
33 performed solely on behalf of such person's employer or insofar as such
34 person is engaged in public speaking with or without remuneration;

35 (d) to limit the practice of psychology or services of a student, intern
36 or resident in psychology pursuing a degree in psychology in a school,
37 college, university or other institution, with educational standards
38 consistent with those of the state universities of Kansas if such practice or
39 services are supervised as a part of such person's degree program. Nothing
40 contained in this section shall be construed as permitting such persons to
41 offer their services as psychologists to any other person and to accept
42 remuneration for such psychological services other than as specifically
43 excepted herein, unless they have been licensed under the provisions of the

1 licensure of psychologists act of the state of Kansas, registered under the
2 provisions of K.S.A. 74-5361 to 74-5371, inclusive, and amendments
3 thereto, or granted a temporary license under the provisions of K.S.A. 74-
4 5367, and amendments thereto;

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

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

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

15 (h) to restrict the use of the term "social psychologist" by any person
16 who has received a doctoral degree in sociology or social psychology from
17 an institution whose credits in sociology or social psychology are
18 acceptable by a school or college as defined in the licensure of
19 psychologists act of the state of Kansas, and who has passed
20 comprehensive examination in the field of social psychology as a part of
21 the requirements for the doctoral degree or has had equivalent specialized
22 training in social psychology;

23 (i) to restrict the practice of psychology by a person who is certified
24 as a school psychologist by the state department of education so long as
25 such practice is conducted as a part of the duties of employment by a
26 unified school district or as part of an independent evaluation conducted in
27 accordance with K.S.A. 72-963, and amendments thereto, including the
28 use of the term "school psychologist" by such person in conjunction with
29 such practice; or

30 (j) to restrict the use of the term psychologist or the practice of
31 psychology by psychologists not licensed under the licensure of
32 psychologists act of the state of Kansas in institutions for the ~~mentally~~
33 ~~retarded~~ *intellectually disabled*, in a juvenile correctional facility, as
34 defined in K.S.A. 2011 Supp. 38-2302, and amendments thereto, or in
35 institutions within the department of corrections insofar as such term is
36 used or such practice of psychology is performed solely in conjunction
37 with such person's employment by any such institution or juvenile
38 correctional facility.

39 (k) Any person not licensed as a psychologist but who immediately
40 prior to the effective date of this act was engaged in the practice of
41 psychology in accordance with subsection (e) as it existed immediately
42 prior to the effective date of this act under the supervision of a licensed
43 psychologist may continue on and after the effective date of this act to

1 engage in such practice in the manner authorized by subsection (e) as it
2 existed immediately prior to the effective date of this act.

3 Sec. 58. K.S.A. 74-8917 is hereby amended to read as follows: 74-
4 8917. The provisions of subsection (a) of K.S.A. 74-8905, and
5 amendments thereto, shall not prohibit the issuance of bonds by the
6 Kansas development finance authority for the purpose of making loans to
7 organizations which provide community mental health, ~~mental retardation~~
8 *intellectual disability* and drug and alcohol abuse services to the Kansas
9 department of social and rehabilitation services and any such issuance of
10 bonds is exempt from the provisions of subsection (a) of K.S.A. 74-8905,
11 and amendments thereto.

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

17 (b) In implementing the intergovernmental transfer program, the
18 secretary of aging shall disburse moneys received from the federal
19 government for the intergovernmental transfer program and moneys
20 transferred from the state general fund to the intergovernmental transfer
21 fund for the program to units of government which have entered into
22 participation agreements with the secretary of aging and the secretary of
23 social and rehabilitation services. The amount of moneys disbursed to the
24 units of government from moneys transferred from the state general fund
25 to the intergovernmental transfer fund for the program shall not exceed the
26 amount necessary to match federal funds available to the state under the
27 intergovernmental transfer program. The secretary of aging shall
28 periodically calculate the amount of federal funds available under the
29 program according to the methodology prescribed for the
30 intergovernmental transfer program in the medicaid state plan.

31 (c) The secretary of social and rehabilitation services and the
32 secretary of aging are authorized to enter into intergovernmental transfer
33 program participation agreements with units of government which own
34 and operate nursing facilities. The participation agreements may permit the
35 units of government to retain a participation fee specified by the secretary
36 of aging from moneys received under the intergovernmental transfer
37 program which are otherwise required to be transferred back to the
38 secretary of aging.

39 (d) (1) There is hereby established the intergovernmental transfer
40 fund in the state treasury which shall be administered by the secretary of
41 aging in accordance with this act. All expenditures from the
42 intergovernmental transfer fund shall be to disburse the state match
43 amount under the intergovernmental transfer program and shall be made in

1 accordance with appropriation acts upon warrants of the director of
2 accounts and reports issued pursuant to vouchers approved by the
3 secretary of aging or the secretary's designee. Subject to the provisions of
4 appropriation acts, when the secretary of aging determines that an amount
5 of federal medicaid moneys is available for the intergovernmental transfer
6 program, the secretary of aging shall determine the amount required as the
7 state match and shall certify that amount to the director of accounts and
8 reports. Upon receipt of each such state match certification, the director of
9 accounts and reports shall transfer the amount certified by revenue transfer
10 from the state general fund to the intergovernmental transfer fund. Upon
11 the crediting of such state match amount in the intergovernmental transfer
12 fund, the secretary of aging shall disburse the amount of federal moneys
13 and the state match amount to the units of government that have entered
14 into participation agreements under the program.

15 (2) Each unit of government receiving a disbursement under the
16 intergovernmental transfer program shall reimburse the amount of money
17 received, less the amount of the participation fee, to the secretary of aging.
18 Upon receipt of each amount of moneys from participating units of
19 government under the intergovernmental transfer program, the secretary of
20 aging shall deposit the entire amount in the state treasury to the credit of
21 the intergovernmental transfer fund. The secretary of aging shall determine
22 the amount of each such deposit that was transferred from the state general
23 fund to match medicaid federal funds under the intergovernmental transfer
24 program and shall certify such amount to the director of accounts and
25 reports. Upon receipt of each such certification, the director of accounts
26 and reports shall retransfer the amount certified from the
27 intergovernmental transfer fund to the state general fund.

28 (e) There is hereby established the intergovernmental transfer
29 administration fund in the state treasury which shall be administered by the
30 secretary of aging in accordance with this act. All expenditures from the
31 intergovernmental transfer administration fund shall be to pay the costs of
32 administering the intergovernmental transfer program and shall be made in
33 accordance with appropriation acts upon warrants of the director of
34 accounts and reports issued pursuant to vouchers approved by the
35 secretary of aging or the secretary's designee. The secretary of aging shall
36 recover the costs of administering the intergovernmental transfer program
37 from the intergovernmental transfer fund by certifying the amount of such
38 costs to the director of accounts and reports each calendar quarter. Upon
39 receipt of each certification of costs from the secretary of aging under this
40 subsection, the director of accounts and reports shall transfer the amount
41 certified from the intergovernmental transfer fund to the intergovernmental
42 transfer administration fund.

43 (f) After each amount of moneys is credited to the intergovernmental

1 transfer fund and the amount of the state match that had been transferred
2 from the state general fund has been transferred back to the state general
3 fund pursuant to subsection (d)(2), and after the transfer of the amount
4 certified by the secretary of aging to the intergovernmental transfer
5 administration fund pursuant to subsection (e), if any, the director of
6 accounts and reports shall transfer the remaining amount in the
7 intergovernmental transfer fund as follows:

8 ~~(1) During the period from the effective date of this act through June~~
9 ~~30, 2001, 60% of such amount shall be transferred to the senior services~~
10 ~~trust fund established by K.S.A. 2011 Supp. 75-4266 and amendments~~
11 ~~thereto, 9.7% of such amount shall be transferred to the state medicaid~~
12 ~~match fund -- department on aging established by subsection (o)(1), 15.3%~~
13 ~~of such amount shall be transferred to the state medicaid match fund --~~
14 ~~SRS established by subsection (o)(2), 10% of such amount shall be~~
15 ~~transferred to the long-term care loan and grant fund established by~~
16 ~~subsection (h) and 5% of such amount shall be transferred to the HCBS~~
17 ~~programs fund established by subsection (p); and~~

18 ~~(2) after June 30, 2001, 70%.~~ *Seventy percent* of such amount shall be
19 transferred to the senior services trust fund, 5% of such amount shall be
20 transferred to the long-term care loan and grant fund and 25% of such
21 amount shall be transferred to the following special revenue funds in an
22 amount specified by appropriation acts of the legislature for each such
23 fund: State medicaid match fund – department on aging and the state
24 medicaid match fund – SRS.

25 (g) There is hereby established the senior services fund in the state
26 treasury which shall be administered by the secretary of aging in
27 accordance with this act. All expenditures from the senior services fund
28 shall be made in accordance with appropriation acts upon warrants of the
29 director of accounts and reports issued pursuant to vouchers approved by
30 the secretary of aging or the secretary's designee. Moneys in the senior
31 services fund shall be used by the secretary of aging only for projects
32 intended (1) to reduce future medicaid costs to the state, (2) to help seniors
33 avoid premature institutionalization, (3) to improve the quality of care or
34 the quality of life of seniors who are customers of long-term care
35 programs, (4) to satisfy state matching requirements for senior service
36 programs authorized by federal law, or (5) to provide financial assistance
37 under the senior pharmacy assistance program. Moneys credited to the
38 senior services fund from income of investments of the moneys in the
39 senior services trust fund shall not be used to create or fund any
40 entitlement program not in existence on the effective date of this act.

41 (h) There is hereby established the long-term care loan and grant fund
42 in the state treasury which shall be administered by the secretary of aging
43 in accordance with this act. All expenditures from the long-term care loan

1 and grant fund shall be made in accordance with appropriation acts upon
2 warrants of the director of accounts and reports issued pursuant to
3 vouchers approved by the secretary of aging or the secretary's designee.
4 Moneys in the long-term care loan and grant fund shall be used to make
5 loans under the long-term care loan program developed by the secretary of
6 aging in accordance with this section and grants under the long-term grant
7 program developed by the secretary of aging in accordance with this
8 section.

9 (i) The secretary of aging is hereby authorized to develop and
10 implement a long-term care loan program in accordance with this section.
11 Subject to the provisions of this section and the provisions of appropriation
12 acts, the secretary of aging may enter into loan agreements for market-rate,
13 low-interest or no-interest, fully or partially secured or unsecured loans
14 with repayment provisions and other terms and conditions as may be
15 prescribed by the secretary under such program. Loans under the long-
16 term care loan program may be made for the following:

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

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

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

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

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

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

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

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

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

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

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

42 (5) type of research project organization – geriatric schools or
43 programs in Kansas colleges or universities, Kansas colleges or

1 universities, educational foundations, foreign colleges or universities,
2 Kansas not-for-profit organizations, Kansas for-profit organizations,
3 foreign not-for-profit organizations, foreign for-profit organizations, and
4 individuals, in that order of preference.

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

11 (l) The secretary of aging is hereby authorized to develop and
12 implement a long-term care grant program in accordance with this section.
13 Subject to the provisions of this section and the provisions of appropriation
14 acts, the secretary of aging may make competitive matching grants under
15 such terms and conditions as may be prescribed by the secretary under
16 such program. Grants under the long-term care grant program may be
17 made only from the amount of moneys received for interest payments
18 under loan agreements under the long-term care loan program and credited
19 to the long-term care loan and grant fund. Grants under the long-term care
20 grant program may be made for the following:

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

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

26 (m) For purposes of this section, "units of government" and "units of
27 government which own and operate nursing facilities" which are eligible
28 to enter into intergovernmental transfer program participation agreements
29 shall be limited to cities of the first class, cities of the second class,
30 counties, hospital districts, or health care facilities and services hospital
31 districts which hold legal title to and are actively involved in the day-to-
32 day operations of any of the following:

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

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

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

43 (n) Entities eligible to apply for loans under the long-term care loan

1 program under this section shall be limited to the owners of:

2 (1) Licensed adult care homes, excluding nursing facilities for mental
3 health and intermediate care facilities for the ~~mentally-retarded~~
4 *intellectually disabled*, as defined in K.S.A. 39-923, and amendments
5 thereto;

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

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

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

15 (o) (1) There is hereby established the state medicaid match fund –
16 department on aging in the state treasury which shall be administered by
17 the secretary of aging in accordance with this act. All expenditures from
18 the state medicaid match fund – department on aging shall be made in
19 accordance with appropriation acts upon warrants of the director of
20 accounts and reports issued pursuant to vouchers approved by the
21 secretary of aging or the secretary's designee. Moneys in the state
22 medicaid match fund – department on aging shall be used to match
23 moneys for federal medicaid programs which are the most cost efficient in
24 providing services.

25 (2) There is hereby established the state medicaid match fund – SRS
26 in the state treasury which shall be administered as provided by law and in
27 accordance with this act. All expenditures from the state medicaid match
28 fund – SRS shall be made in accordance with appropriation acts upon
29 warrants of the director of accounts and reports issued pursuant to
30 vouchers approved as provided by law. Moneys in the state medicaid
31 match fund – SRS shall be used to match moneys for federal medicaid
32 programs which are the most cost efficient in providing services.

33 (p) There is hereby established the HCBS programs fund in the state
34 treasury which shall be administered by the secretary of social and
35 rehabilitation services. All moneys in the HCBS programs fund shall be
36 used for programs and services under the home and community-based
37 services (HCBS) programs and as otherwise provided by law. All
38 expenditures from the HCBS programs fund shall be made in accordance
39 with appropriation acts upon warrants of the director of accounts and
40 reports issued pursuant to vouchers approved by the secretary of social and
41 rehabilitation services or the secretary's designee.

42 Sec. 60. K.S.A. 75-4375 is hereby amended to read as follows: 75-
43 4375. (a) Each state officer or employee (1) who is employed by an

1 institution that is closed or abolished or otherwise ceases operations or that
2 is scheduled for such closure, abolition or cessation of operations and has a
3 budget reduction imposed that is associated with such closure, abolition or
4 cessation of operations, and (2) who is a direct care employee as defined
5 by this section, and (3) who is laid off from employment with such
6 institution for the reason of such closure, abolition, or cessation of
7 operations or such imposition of a budget reduction, and (4) who remains
8 in such employment until the date the employee is laid off, shall receive
9 compensation from the department of social and rehabilitation services for
10 the following:

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

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

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

23 (D) one hundred sixty hours of pay at the state officer or employee's
24 regular hourly rate of pay on the date the employee is laid off if the
25 employee has completed four full years of service or more on the layoff
26 date.

27 (b) As used in this section, "direct care employee" means state
28 officers or employees in the classified service under the Kansas civil
29 service act who: (1) Are exempt from the provisions of K.S.A. 75-6801,
30 and amendments thereto, as prescribed in policies and procedures
31 prescribed by the secretary of administration, including but not limited to
32 state officers and employees whose positions are in the following job class
33 series: (A) Activity therapist, (B) activity therapy technician, (C) licensed
34 mental health technician, (D) licensed mental health technician specialist,
35 (E) licensed practical nurse, (F) licensed practical nurse, senior, (G) mental
36 health aide, (H) radiologic technologist, (I) registered nurse, (J) activity
37 specialist, (K) ~~mental-retardation~~ *intellectual disability* specialist, (L)
38 ~~mental-retardation~~ *intellectual disability* technician, and (M) ~~mental-~~
39 ~~retardation~~ *intellectual disability* trainee; or

40 (2) are in positions that are assigned to job classes or job class series
41 that are designated as direct care employee job classes or job class series
42 by the secretary of social and rehabilitation services for purposes of this
43 section, except that no such designation shall be effective until the

1 secretary of social and rehabilitation services has presented such
2 designation to the SRS transition oversight committee created by K.S.A.
3 ~~1997 Supp. 46-2701, and amendments thereto.~~

4 Sec. 61. K.S.A. 2011 Supp. 75-5321a is hereby amended to read as
5 follows: 75-5321a. The secretary of social and rehabilitation services shall
6 take necessary actions to transfer the administration of certain long-term
7 care programs and services to the secretary of aging. The programs shall
8 include the nursing facility services payment program, the home and
9 community based services for the frail elderly waiver program, the case
10 management for the frail elderly program and the income eligible (home
11 care) program. Excluding nursing facility programs, the programs to be
12 transferred shall not include long-term care programs for individuals under
13 the age of 65 with mental illness, ~~mental retardation~~ *intellectual disability*,
14 other mental disabilities or physical disabilities. All such transfers shall be
15 made only in accordance with federal grant requirements related to such
16 programs.

17 Sec. 62. K.S.A. 75-5399 is hereby amended to read as follows: 75-
18 5399. When used in this act:

19 (a) "Individuals with disabilities" means individuals with ~~mental-~~
20 ~~retardation~~ *intellectual disability*, hearing impairments including deafness,
21 speech or language impairments, visual impairments including blindness,
22 serious emotional disturbance, orthopedic impairments, autism, traumatic
23 brain injury, other health impairments or specific learning disabilities.

24 (b) "Transition services" means a coordinated set of activities for a
25 student, designed within an outcome-oriented process, which promotes
26 movement from school to post-school activities, including post-secondary
27 education, vocational training, integrated employment (including
28 supported employment), continuing and adult education, adult services,
29 independent living or community participation. The coordinated set of
30 activities shall be based upon the individual student's needs, taking into
31 account the student's preferences and interests, and shall include
32 instruction, community experiences, the development of employment and
33 other post-school adult living objectives and, when appropriate,
34 acquisition of daily living skills and functional vocational evaluation.

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

38 (d) "Local education authority" means the special education interlocal
39 or cooperative or school district responsible for the local special education
40 program.

41 (e) "Special education program" means services that are provided
42 pursuant to public law 94-142 (the education of all handicapped children's
43 act) as implemented in Kansas through K.S.A. 72-961 *et seq.*, and

1 amendments thereto, and public law 101-476 (the individuals with
2 disabilities education act).

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

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

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

15 (b) Periodic deductions from state payrolls may be made in
16 accordance with procedures prescribed by the secretary of administration
17 to cover the costs of the state health care benefits program payable by
18 persons who are on the state payroll when authorized by such persons. Any
19 such periodic payroll deductions in effect on an implementation date for
20 biweekly payroll periods shall be collected in the manner prescribed by the
21 secretary of administration.

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

1 of the state health care benefits program payable by such persons when
2 authorized by such persons. All such moneys deducted from payrolls shall
3 be remitted to the Kansas state employees health care commission in
4 accordance with the directions of the commission.

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

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

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

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

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

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

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

24 (7) the commission may authorize an entity to pay less than the state
25 rate for the employee coverage for no more than three years and no more
26 than five years for dependent coverage on the condition that the entity
27 elects to participate for at least three consecutive years after first paying
28 the state rate for employee coverage.

29 Sec. 64. K.S.A. 75-6508 is hereby amended to read as follows: 75-
30 6508. (a) (1) Each state agency which has on its payroll persons
31 participating in the state health care benefits program shall pay from any
32 moneys available to the agency for such purpose an amount specified by
33 the Kansas state employees health care commission, including any
34 amounts prescribed under a cafeteria plan established under K.S.A. 75-
35 6512, and amendments thereto. All such payments shall continue on the
36 behalf of employees otherwise eligible for participation in the state health
37 care benefits program in accordance with the continuation provisions of
38 the federal family and medical leave act of 1993, P.L. 103-03, 107 Stat. 6.
39 The commission may charge each state agency a uniform amount per
40 person as the cost to the agency for the state's contribution for persons
41 participating in the state health care benefits program. Such amounts may
42 include the costs of administering the program.

43 (2) In the event that the Kansas state employees health care

1 commission designates by rules and regulations a group of persons on the
2 payroll of a county, township, city, special district or other local
3 governmental entity, public school district, licensed child care facility
4 operated by a not-for-profit corporation providing residential group foster
5 care for children and receiving reimbursement for all or part of such care
6 from the department of social and rehabilitation services, nonprofit
7 community mental health center, as provided in K.S.A. 19-4001 *et seq.*,
8 and amendments thereto, nonprofit community facility for the ~~mentally~~
9 ~~retarded~~ *intellectually disabled*, as provided in K.S.A. 19-4001 *et seq.*, and
10 amendments thereto, or nonprofit independent living agency, as defined in
11 K.S.A. 65-5101, and amendments thereto, as qualified to participate in the
12 state health care benefits program, each local governmental entity, public
13 school district, licensed child care facility operated by a not-for-profit
14 corporation providing residential group foster care for children and
15 receiving reimbursement for all or part of such care from the department
16 of social and rehabilitation services, nonprofit community mental health
17 center, as provided in K.S.A. 19-4001 *et seq.*, and amendments thereto,
18 nonprofit community facility for the ~~mentally~~ ~~retarded~~ *intellectually*
19 *disabled*, as provided in K.S.A. 19-4001 *et seq.*, and amendments thereto,
20 or nonprofit independent living agency, as defined in K.S.A. 65-5101, and
21 amendments thereto, which has on its payroll persons participating in the
22 state health care benefits program shall pay from any moneys available to
23 the local governmental entity, public school district, licensed child care
24 facility operated by a not-for-profit corporation providing residential group
25 foster care for children and receiving reimbursement for all or part of such
26 care 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~~ *intellectually disabled*, as provided in K.S.A. 19-4001 *et seq.*, and
30 amendments thereto, or nonprofit independent living agency, as defined in
31 K.S.A. 65-5101, and amendments thereto, for such purpose an amount
32 specified by the commission. The commission may charge 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~~ *intellectually disabled*, as provided in K.S.A. 19-4001 *et seq.*, and
40 amendments thereto, or nonprofit independent living agency, as defined in
41 K.S.A. 65-5101, and amendments thereto, a uniform amount per person as
42 the cost to the local governmental entity, public school district, licensed
43 child care facility operated by a not-for-profit corporation providing

1 residential group foster care for children and receiving reimbursement for
2 all or part of such care from the department of social and rehabilitation
3 services, nonprofit community mental health center, as provided in K.S.A.
4 19-4001 *et seq.*, and amendments thereto, nonprofit community facility for
5 the ~~mentally-retarded~~ *intellectually disabled*, as provided in K.S.A. 19-
6 4001 *et seq.*, and amendments thereto, or nonprofit independent living
7 agency, as defined in K.S.A. 65-5101, and amendments thereto, for the
8 contribution of the local governmental entity, public school district,
9 licensed child care facility operated by a not-for-profit corporation
10 providing residential group foster care for children and receiving
11 reimbursement for all or part of such care from the department of social
12 and rehabilitation services, nonprofit community mental health center, as
13 provided in K.S.A. 19-4001 *et seq.*, and amendments thereto, nonprofit
14 community facility for the ~~mentally-retarded~~ *intellectually disabled*, as
15 provided in K.S.A. 19-4001 *et seq.*, and amendments thereto, or nonprofit
16 independent living agency, as defined in K.S.A. 65-5101, and amendments
17 thereto, for persons participating in the state health care benefits program.
18 Such amounts may include the costs of administering the program.

19 (b) Payments from public funds for coverage under the state health
20 care benefits program for persons participating in that program shall not be
21 deemed a payment or supplement of wages of such person notwithstanding
22 any other provision of law or rules and regulations relating to wages of any
23 such person.

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

28 (b) (1) The secretary of administration shall develop criteria for the
29 identification of surplus real estate, including but not limited to, a review
30 of any legal restrictions associated with the real estate and the reasons for
31 the state agency to keep the real estate. In accordance with such criteria,
32 the secretary shall assist state agencies in the identification of surplus real
33 estate. The secretary of administration shall periodically review the status
34 of all real estate of state agencies subject to this section to determine if any
35 of the real estate owned by state agencies is potentially surplus real estate.
36 If any real estate owned by a state agency is determined by the secretary of
37 administration, in consultation with the head of the state agency, to be
38 surplus real estate in accordance with the criteria developed under
39 subsection (a), then the secretary of administration shall recommend to the
40 governor that such real estate be sold under the procedures prescribed by
41 this section.

42 (2) The secretary of administration shall develop guidelines for the
43 sale of surplus real estate. In accordance with such guidelines and upon the

1 approval of the governor, after consultation with the head of the state
2 agency which owns such surplus real estate, after consultation with the
3 joint committee on state building construction and after approval by the
4 state finance council under subsection (c), the secretary may offer such
5 property for sale by one of the following means: (A) Public auction; (B) by
6 listing the surplus property with a licensed real estate broker or
7 salesperson; or (C) by sealed bid. Subject to the approval of the state
8 finance council as required by subsection (c), the secretary of
9 administration may sell surplus real estate and any improvements thereon
10 on behalf of the state agency which owns such property.

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

18 (d) Prior to offering any real estate for sale, such property shall be
19 appraised pursuant to K.S.A. 75-3043a, and amendments thereto, unless
20 the appraisal is waived as provided in this subsection. The secretary of
21 administration may waive the requirement for appraisal for any parcel of
22 surplus real estate that is to be sold at public auction under this section if
23 the secretary of administration determines that it is in the best interests of
24 the state to waive the requirement for appraisal for such parcel of surplus
25 real estate. The costs of any such appraisal may be paid from the proceeds
26 of the sale.

27 (e) Conveyance of title in surplus real estate offered for sale by the
28 secretary of administration shall be executed on behalf of the state agency
29 by the secretary of administration. The deed for the conveyance may be by
30 warranty deed or by quitclaim deed as determined to be in the best
31 interests of the state by the secretary of administration in consultation with
32 the head of the state agency which owns the surplus real estate.

33 (f) (1) Any proceeds from the sale of surplus real estate and any
34 improvements thereon, after deduction of the expenses of such sale and
35 any cost of appraisal of the surplus real estate, shall be deposited in the
36 state treasury as prescribed by this subsection, unless otherwise authorized
37 by law. On and after the effective date of this act, 20% of the proceeds
38 from each such sale deposited in the state treasury shall be credited to the
39 surplus real estate fund or another appropriate special revenue fund of the
40 state agency which owned the surplus real estate, as is prescribed by law
41 or as may be determined by the state agency, unless otherwise required by
42 state or federal law or by the limitations or restrictions of the state's title to
43 the real estate being sold. In the case of proceeds from the sale of surplus

1 real estate at a state mental health institution or a state ~~mental-retardation~~
2 institution *for the intellectually disabled*, such portion of the proceeds shall
3 be credited to the client benefit fund of such institution or to another
4 special revenue fund of such institution for (A) rehabilitation and repair or
5 other capital improvements for such institution, or (B) one-time
6 expenditures for community mental health organizations if the real estate
7 sold was at a state mental health institution or for community
8 developmental disabilities organizations if the real estate sold was at a
9 state ~~mental-retardation~~-institution *for the intellectually disabled*, and, in
10 any such case, shall be expended in accordance with the provisions of
11 appropriation acts. The remaining 80% of the proceeds from each such
12 sale deposited in the state treasury shall be credited to the state general
13 fund.

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

19 (3) Any state agency owning real estate may apply to the director of
20 accounts and reports to establish a surplus real estate special revenue fund
21 in the state treasury. Subject to the provisions of appropriation acts,
22 moneys in a surplus real estate special revenue fund may be expended for
23 the operating expenditures of the state agency.

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

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

32 Sec. 66. K.S.A. 2011 Supp. 75-6610 is hereby amended to read as
33 follows: 75-6610. If a mental health institution or ~~mental-retardation~~
34 ~~institution~~ *an institution for the intellectually disabled* is closed and all or
35 part of the real estate of such institution is sold, the proceeds from the sale
36 of such real estate, after deduction of the costs of the sale and any costs of
37 appraisal of such surplus real estate, shall be deposited in the state treasury
38 to the credit of a new or existing special revenue fund. All expenditures of
39 such moneys in any such special revenue fund shall be in accordance with
40 the provisions of appropriation acts and shall be used (a) for capital
41 improvement or operating expenditures for another state institution
42 providing either mental health services or ~~mental-retardation~~ services *for*
43 *the intellectually disabled*, whichever were provided by the closed

1 institution or (b) to provide either mental health services or ~~mental-~~
2 ~~retardation~~ services *for the intellectually disabled*, whichever was provided
3 by the closed institution, through community organizations in
4 communities.

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

7 (a) "Ombudsman" means the state long-term care ombudsman, any
8 regional long-term care ombudsman or any individual designated as an
9 ombudsman under subsection (h) of K.S.A. 2011 Supp. 75-7306, and
10 amendments thereto, who has received the training required under
11 subsection (f) of K.S.A. 2011 Supp. 75-7306, and amendments thereto,
12 and who has been designated by the state long-term care ombudsman to
13 carry out the powers, duties and functions of the office of the state long-
14 term care ombudsman.

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

22 (c) "Facility" means an adult care home as such term is defined in
23 K.S.A. 39-923, and amendments thereto, except that facility does not
24 include any nursing facility for mental health or any intermediate care
25 facility for the ~~mentally retarded~~ *intellectually disabled*, as such terms are
26 defined in K.S.A. 39-923, and amendments thereto.

27 (d) "Resident" means a resident as such term is defined in K.S.A. 39-
28 923, and amendments thereto.

29 (e) "State long-term care ombudsman" means the individual
30 appointed by the governor to administer the office of the state long-term
31 care ombudsman.

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

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

36 (h) "Conflict of interest" means (1) having a pecuniary or other
37 interest in a facility, but not including interests that result only from having
38 a relative who is a resident or from being the guardian of a resident, (2)
39 being actively employed or otherwise having active involvement in
40 representation of or advocacy for any facility or group of facilities,
41 whether or not such representation or advocacy is individual or through an
42 association or other entity, but not including any such active involvement
43 that results only from having a relative who is a resident or from being the

1 guardian of a resident, or (3) being employed by or having an active
2 association with any entity that represents any resident or group of
3 residents, including any area agency on aging, but not including any such
4 active association that results only from having a relative who is a resident
5 or from being the guardian of a resident.

6 Sec. 68. K.S.A. 76-12b01 is hereby amended to read as follows: 76-
7 12b01. When used in this act:

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

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

14 (c) "Institution" means a state institution for the ~~mentally retarded~~
15 *intellectually disabled* including the following institutions: Kansas
16 neurological institute, Parsons state hospital and training center and
17 Winfield state hospital and training center.

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

22 (e) "Respite care" means temporary, short-term care not exceeding 90
23 days per calendar year to provide relief from the daily pressures involved
24 in caring for a ~~mentally retarded~~ *an intellectually disabled* person.

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

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

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

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

37 (j) "Superintendent" means the chief administrative officer of the
38 institution or the designee of the chief administrative officer.

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

43 Sec. 69. K.S.A. 76-12b02 is hereby amended to read as follows: 76-

1 12b02. The admission of a ~~mentally-retarded~~ *an intellectually disabled*
2 person to an institution shall be at the discretion of the secretary.

3 Sec. 70. K.S.A. 76-12b03 is hereby amended to read as follows: 76-
4 12b03. No person shall be admitted to an institution except for the purpose
5 of diagnosis and evaluation unless the superintendent has found such
6 person to be ~~mentally-retarded~~ *intellectually disabled*, in need of care and
7 training and that placement in the institution is the least restrictive
8 alternative available. An admission for respite care shall not require a
9 finding that a person is in need of training.

10 Sec. 71. K.S.A. 76-12b07 is hereby amended to read as follows: 76-
11 12b07. The secretary may transfer a person from one institution to another
12 institution whenever the secretary is of the opinion that the transfer is in
13 the best interests of the person. The secretary may transfer temporarily a
14 person to any other institution under the jurisdiction of the secretary for a
15 period not to exceed 90 days to obtain treatment not available in an
16 institution for the ~~mentally-retarded~~ *intellectually disabled*. The secretary
17 shall consult with the person, natural guardian or guardian prior to any
18 transfer under this section.

19 Sec. 72. K.S.A. 76-12b11 is hereby amended to read as follows: 76-
20 12b11. (a) The records of any proposed resident, resident or former
21 resident of a state institution for the ~~mentally-retarded~~ *intellectually*
22 *disabled* that are in the possession of the institution shall be privileged and
23 shall not be disclosed except under any of the following conditions:

24 (1) Upon the written consent of: (A) The proposed resident, resident
25 or former resident, if an adult who has no guardian; (B) the proposed
26 resident's, resident's or former resident's guardian, if any; or (C) a parent, if
27 the proposed resident, resident or former resident is under 18 years of age.
28 The superintendent of the institution which has the records may refuse to
29 disclose portions of such records if the superintendent states, in writing,
30 that the disclosure will be injurious to the welfare of the proposed resident,
31 resident or former resident.

32 (2) Upon the sole consent of the superintendent of the institution
33 which has the records after a written statement by the superintendent that
34 the disclosure is necessary for the care, training or treatment of the
35 proposed resident, resident or former resident. The superintendent may
36 make the disclosure to the proposed resident, resident or former resident,
37 the person's next of kin, any state or national accreditation agency or any
38 scholarly investigator without making that determination, but, before the
39 disclosure is made, the superintendent shall require a pledge from any state
40 or national accreditation agency or scholarly investigator that such agency
41 or investigator will not disclose the name of any proposed resident,
42 resident or former resident to any person not otherwise authorized by law
43 to receive that information.

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

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

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

8 (b) For the purposes of promoting the continuity of care between
9 services provided in an institution and by a community provider, either in
10 arranging admission to an institution, in making the determinations
11 required as a function of the periodic reviews required by K.S.A. 76-
12 12b05, and amendments thereto, or in planning for the discharge of a
13 person from an institution to community care, the consent of a resident,
14 former resident or proposed resident, or of the person's guardian, if one has
15 been appointed, or of their parent, if the person is a minor, shall not be
16 required for the release of records or exchange of information concerning
17 that person between a state institution and any community developmental
18 disability organization, as defined in K.S.A. 39-1803, and amendments
19 thereto.

20 (c) Except as provided in subsections (a) or (b), to the extent the
21 provisions of K.S.A. 65-5601 to 65-5605, inclusive, and amendments
22 thereto, are applicable to the records of any proposed resident, resident or
23 former resident of a state institution for the ~~mentally-retarded~~ *intellectually*
24 *disabled* that are in the possession of the institution, the provisions of
25 K.S.A. 65-5601 to 65-5605, inclusive, and amendments thereto, shall
26 control the disposition of information contained in such records.

27 Sec. 73. K.S.A. 76-17c01 is hereby amended to read as follows: 76-
28 17c01. There is hereby continued in existence an institution for ~~mentally~~
29 ~~retarded~~ *intellectually disabled* persons known as the Kansas neurological
30 institute. The object of said neurological institute shall be to provide for
31 the evaluation, treatment and care of the ~~mentally-retarded~~ *intellectually*
32 *disabled*, training of personnel, and for research into the causes and
33 prevention and proper methods of treatment and training of ~~mentally-~~
34 ~~retarded~~ *intellectually disabled* persons.

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

38 (a) All sales of motor-vehicle fuel or other articles upon which a sales
39 or excise tax has been paid, not subject to refund, under the laws of this
40 state except cigarettes as defined by K.S.A. 79-3301, and amendments
41 thereto, cereal malt beverages and malt products as defined by K.S.A. 79-
42 3817, and amendments thereto, including wort, liquid malt, malt syrup and
43 malt extract, which is not subject to taxation under the provisions of

1 K.S.A. 79-41a02, and amendments thereto, motor vehicles taxed pursuant
2 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A.
3 65-3424d, and amendments thereto, drycleaning and laundry services
4 taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and gross
5 receipts from regulated sports contests taxed pursuant to the Kansas
6 professional regulated sports act, and amendments thereto;

7 (b) all sales of tangible personal property or service, including the
8 renting and leasing of tangible personal property, purchased directly by the
9 state of Kansas, a political subdivision thereof, other than a school or
10 educational institution, or purchased by a public or private nonprofit
11 hospital or public hospital authority or nonprofit blood, tissue or organ
12 bank and used exclusively for state, political subdivision, hospital or
13 public hospital authority or nonprofit blood, tissue or organ bank purposes,
14 except when: (1) Such state, hospital or public hospital authority is
15 engaged or proposes to engage in any business specifically taxable under
16 the provisions of this act and such items of tangible personal property or
17 service are used or proposed to be used in such business, or (2) such
18 political subdivision is engaged or proposes to engage in the business of
19 furnishing gas, electricity or heat to others and such items of personal
20 property or service are used or proposed to be used in such business;

21 (c) all sales of tangible personal property or services, including the
22 renting and leasing of tangible personal property, purchased directly by a
23 public or private elementary or secondary school or public or private
24 nonprofit educational institution and used primarily by such school or
25 institution for nonsectarian programs and activities provided or sponsored
26 by such school or institution or in the erection, repair or enlargement of
27 buildings to be used for such purposes. The exemption herein provided
28 shall not apply to erection, construction, repair, enlargement or equipment
29 of buildings used primarily for human habitation;

30 (d) all sales of tangible personal property or services purchased by a
31 contractor for the purpose of constructing, equipping, reconstructing,
32 maintaining, repairing, enlarging, furnishing or remodeling facilities for
33 any public or private nonprofit hospital or public hospital authority, public
34 or private elementary or secondary school, a public or private nonprofit
35 educational institution, state correctional institution including a privately
36 constructed correctional institution contracted for state use and ownership,
37 which would be exempt from taxation under the provisions of this act if
38 purchased directly by such hospital or public hospital authority, school,
39 educational institution or a state correctional institution; and all sales of
40 tangible personal property or services purchased by a contractor for the
41 purpose of constructing, equipping, reconstructing, maintaining, repairing,
42 enlarging, furnishing or remodeling facilities for any political subdivision
43 of the state or district described in subsection (s), the total cost of which is

1 paid from funds of such political subdivision or district and which would
2 be exempt from taxation under the provisions of this act if purchased
3 directly by such political subdivision or district. Nothing in this subsection
4 or in the provisions of K.S.A. 12-3418, and amendments thereto, shall be
5 deemed to exempt the purchase of any construction machinery, equipment
6 or tools used in the constructing, equipping, reconstructing, maintaining,
7 repairing, enlarging, furnishing or remodeling facilities for any political
8 subdivision of the state or any such district. As used in this subsection,
9 K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a
10 political subdivision" shall mean general tax revenues, the proceeds of any
11 bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the
12 purpose of constructing, equipping, reconstructing, repairing, enlarging,
13 furnishing or remodeling facilities which are to be leased to the donor.
14 When any political subdivision of the state, district described in subsection
15 (s), public or private nonprofit hospital or public hospital authority, public
16 or private elementary or secondary school, public or private nonprofit
17 educational institution, state correctional institution including a privately
18 constructed correctional institution contracted for state use and ownership
19 shall contract for the purpose of constructing, equipping, reconstructing,
20 maintaining, repairing, enlarging, furnishing or remodeling facilities, it
21 shall obtain from the state and furnish to the contractor an exemption
22 certificate for the project involved, and the contractor may purchase
23 materials for incorporation in such project. The contractor shall furnish the
24 number of such certificate to all suppliers from whom such purchases are
25 made, and such suppliers shall execute invoices covering the same bearing
26 the number of such certificate. Upon completion of the project the
27 contractor shall furnish to the political subdivision, district described in
28 subsection (s), hospital or public hospital authority, school, educational
29 institution or department of corrections concerned a sworn statement, on a
30 form to be provided by the director of taxation, that all purchases so made
31 were entitled to exemption under this subsection. As an alternative to the
32 foregoing procedure, any such contracting entity may apply to the
33 secretary of revenue for agent status for the sole purpose of issuing and
34 furnishing project exemption certificates to contractors pursuant to rules
35 and regulations adopted by the secretary establishing conditions and
36 standards for the granting and maintaining of such status. All invoices
37 shall be held by the contractor for a period of five years and shall be
38 subject to audit by the director of taxation. If any materials purchased
39 under such a certificate are found not to have been incorporated in the
40 building or other project or not to have been returned for credit or the sales
41 or compensating tax otherwise imposed upon such materials which will
42 not be so incorporated in the building or other project reported and paid by
43 such contractor to the director of taxation not later than the 20th day of the

1 month following the close of the month in which it shall be determined
2 that such materials will not be used for the purpose for which such
3 certificate was issued, the political subdivision, district described in
4 subsection (s), hospital or public hospital authority, school, educational
5 institution or the contractor contracting with the department of corrections
6 for a correctional institution concerned shall be liable for tax on all
7 materials purchased for the project, and upon payment thereof it may
8 recover the same from the contractor together with reasonable attorney
9 fees. Any contractor or any agent, employee or subcontractor thereof, who
10 shall use or otherwise dispose of any materials purchased under such a
11 certificate for any purpose other than that for which such a certificate is
12 issued without the payment of the sales or compensating tax otherwise
13 imposed upon such materials, shall be guilty of a misdemeanor and, upon
14 conviction therefor, shall be subject to the penalties provided for in
15 subsection (g) of K.S.A. 79-3615, and amendments thereto;

16 (e) all sales of tangible personal property or services purchased by a
17 contractor for the erection, repair or enlargement of buildings or other
18 projects for the government of the United States, its agencies or
19 instrumentalities, which would be exempt from taxation if purchased
20 directly by the government of the United States, its agencies or
21 instrumentalities. When the government of the United States, its agencies
22 or instrumentalities shall contract for the erection, repair, or enlargement
23 of any building or other project, it shall obtain from the state and furnish to
24 the contractor an exemption certificate for the project involved, and the
25 contractor may purchase materials for incorporation in such project. The
26 contractor shall furnish the number of such certificates to all suppliers
27 from whom such purchases are made, and such suppliers shall execute
28 invoices covering the same bearing the number of such certificate. Upon
29 completion of the project the contractor shall furnish to the government of
30 the United States, its agencies or instrumentalities concerned a sworn
31 statement, on a form to be provided by the director of taxation, that all
32 purchases so made were entitled to exemption under this subsection. As an
33 alternative to the foregoing procedure, any such contracting entity may
34 apply to the secretary of revenue for agent status for the sole purpose of
35 issuing and furnishing project exemption certificates to contractors
36 pursuant to rules and regulations adopted by the secretary establishing
37 conditions and standards for the granting and maintaining of such status.
38 All invoices shall be held by the contractor for a period of five years and
39 shall be subject to audit by the director of taxation. Any contractor or any
40 agent, employee or subcontractor thereof, who shall use or otherwise
41 dispose of any materials purchased under such a certificate for any purpose
42 other than that for which such a certificate is issued without the payment
43 of the sales or compensating tax otherwise imposed upon such materials,

1 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
2 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
3 and amendments thereto;

4 (f) tangible personal property purchased by a railroad or public utility
5 for consumption or movement directly and immediately in interstate
6 commerce;

7 (g) sales of aircraft including remanufactured and modified aircraft
8 sold to persons using directly or through an authorized agent such aircraft
9 as certified or licensed carriers of persons or property in interstate or
10 foreign commerce under authority of the laws of the United States or any
11 foreign government or sold to any foreign government or agency or
12 instrumentality of such foreign government and all sales of aircraft for use
13 outside of the United States and sales of aircraft repair, modification and
14 replacement parts and sales of services employed in the remanufacture,
15 modification and repair of aircraft;

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

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

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

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

31 (l) all isolated or occasional sales of tangible personal property,
32 services, substances or things, except isolated or occasional sale of motor
33 vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
34 79-3603, and amendments thereto;

35 (m) all sales of tangible personal property which become an
36 ingredient or component part of tangible personal property or services
37 produced, manufactured or compounded for ultimate sale at retail within
38 or without the state of Kansas; and any such producer, manufacturer or
39 compounder may obtain from the director of taxation and furnish to the
40 supplier an exemption certificate number for tangible personal property for
41 use as an ingredient or component part of the property or services
42 produced, manufactured or compounded;

43 (n) all sales of tangible personal property which is consumed in the

1 production, manufacture, processing, mining, drilling, refining or
2 compounding of tangible personal property, the treating of by-products or
3 wastes derived from any such production process, the providing of
4 services or the irrigation of crops for ultimate sale at retail within or
5 without the state of Kansas; and any purchaser of such property may
6 obtain from the director of taxation and furnish to the supplier an
7 exemption certificate number for tangible personal property for
8 consumption in such production, manufacture, processing, mining,
9 drilling, refining, compounding, treating, irrigation and in providing such
10 services;

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

17 (p) all sales of drugs dispensed pursuant to a prescription order by a
18 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
19 1626, and amendments thereto. As used in this subsection, "drug" means a
20 compound, substance or preparation and any component of a compound,
21 substance or preparation, other than food and food ingredients, dietary
22 supplements or alcoholic beverages, recognized in the official United
23 States pharmacopoeia, official homeopathic pharmacopoeia of the United
24 States or official national formulary, and supplement to any of them,
25 intended for use in the diagnosis, cure, mitigation, treatment or prevention
26 of disease or intended to affect the structure or any function of the body;

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

30 (r) all sales of oxygen delivery equipment, kidney dialysis equipment,
31 enteral feeding systems, prosthetic devices and mobility enhancing
32 equipment prescribed in writing by a person licensed to practice the
33 healing arts, dentistry or optometry, and in addition to such sales, all sales
34 of hearing aids, as defined by subsection (c) of K.S.A. 74-5807, and
35 amendments thereto, and repair and replacement parts therefor, including
36 batteries, by a person licensed in the practice of dispensing and fitting
37 hearing aids pursuant to the provisions of K.S.A. 74-5808, and
38 amendments thereto. For the purposes of this subsection: (1) "Mobility
39 enhancing equipment" means equipment including repair and replacement
40 parts to same, but does not include durable medical equipment, which is
41 primarily and customarily used to provide or increase the ability to move
42 from one place to another and which is appropriate for use either in a
43 home or a motor vehicle; is not generally used by persons with normal

1 mobility; and does not include any motor vehicle or equipment on a motor
2 vehicle normally provided by a motor vehicle manufacturer; and (2)
3 "prosthetic device" means a replacement, corrective or supportive device
4 including repair and replacement parts for same worn on or in the body to
5 artificially replace a missing portion of the body, prevent or correct
6 physical deformity or malfunction or support a weak or deformed portion
7 of the body;

8 (s) except as provided in K.S.A. 2011 Supp. 82a-2101, and
9 amendments thereto, all sales of tangible personal property or services
10 purchased directly or indirectly by a groundwater management district
11 organized or operating under the authority of K.S.A. 82a-1020 *et seq.*, and
12 amendments thereto, by a rural water district organized or operating under
13 the authority of K.S.A. 82a-612, and amendments thereto, or by a water
14 supply district organized or operating under the authority of K.S.A. 19-
15 3501 *et seq.*, 19-3522 *et seq.* or 19-3545, and amendments thereto, which
16 property or services are used in the construction activities, operation or
17 maintenance of the district;

18 (t) all sales of farm machinery and equipment or aquaculture
19 machinery and equipment, repair and replacement parts therefor and
20 services performed in the repair and maintenance of such machinery and
21 equipment. For the purposes of this subsection the term "farm machinery
22 and equipment or aquaculture machinery and equipment" shall include a
23 work-site utility vehicle, as defined in K.S.A. 8-126, and amendments
24 thereto, and is equipped with a bed or cargo box for hauling materials, and
25 shall also include machinery and equipment used in the operation of
26 Christmas tree farming but shall not include any passenger vehicle, truck,
27 truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as
28 such terms are defined by K.S.A. 8-126, and amendments thereto. "Farm
29 machinery and equipment" includes precision farming equipment that is
30 portable or is installed or purchased to be installed on farm machinery and
31 equipment. "Precision farming equipment" includes the following items
32 used only in computer-assisted farming, ranching or aquaculture
33 production operations: Soil testing sensors, yield monitors, computers,
34 monitors, software, global positioning and mapping systems, guiding
35 systems, modems, data communications equipment and any necessary
36 mounting hardware, wiring and antennas. Each purchaser of farm
37 machinery and equipment or aquaculture machinery and equipment
38 exempted herein must certify in writing on the copy of the invoice or sales
39 ticket to be retained by the seller that the farm machinery and equipment
40 or aquaculture machinery and equipment purchased will be used only in
41 farming, ranching or aquaculture production. Farming or ranching shall
42 include the operation of a feedlot and farm and ranch work for hire and the
43 operation of a nursery;

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

4 (v) all sales of tangible personal property to any contractor for use in
5 preparing meals for delivery to homebound elderly persons over 60 years
6 of age and to homebound disabled persons or to be served at a group-
7 sitting at a location outside of the home to otherwise homebound elderly
8 persons over 60 years of age and to otherwise homebound disabled
9 persons, as all or part of any food service project funded in whole or in
10 part by government or as part of a private nonprofit food service project
11 available to all such elderly or disabled persons residing within an area of
12 service designated by the private nonprofit organization, and all sales of
13 tangible personal property for use in preparing meals for consumption by
14 indigent or homeless individuals whether or not such meals are consumed
15 at a place designated for such purpose, and all sales of food products by or
16 on behalf of any such contractor or organization for any such purpose;

17 (w) all sales of natural gas, electricity, heat and water delivered
18 through mains, lines or pipes: (1) To residential premises for
19 noncommercial use by the occupant of such premises; (2) for agricultural
20 use and also, for such use, all sales of propane gas; (3) for use in the
21 severing of oil; and (4) to any property which is exempt from property
22 taxation pursuant to K.S.A. 79-201b *Second* through *Sixth*. As used in this
23 paragraph, "severing" shall have the meaning ascribed thereto by
24 subsection (k) of K.S.A. 79-4216, and amendments thereto. For all sales of
25 natural gas, electricity and heat delivered through mains, lines or pipes
26 pursuant to the provisions of subsection (w)(1) and (w)(2), the provisions
27 of this subsection shall expire on December 31, 2005;

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

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

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

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

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

6 (cc) all sales of tangible personal property or services purchased prior
7 to January 1, 2012, except as otherwise provided, for the purpose of and in
8 conjunction with constructing, reconstructing, enlarging or remodeling a
9 business or retail business which meets the requirements established in
10 K.S.A. 74-50,115, and amendments thereto, and the sale and installation of
11 machinery and equipment purchased for installation at any such business
12 or retail business, and all sales of tangible personal property or services
13 purchased on or after January 1, 2012, for the purpose of and in
14 conjunction with constructing, reconstructing, enlarging or remodeling a
15 business which meets the requirements established in K.S.A. 74-50,115(e),
16 and amendments thereto, and the sale and installation of machinery and
17 equipment purchased for installation at any such business. When a person
18 shall contract for the construction, reconstruction, enlargement or
19 remodeling of any such business or retail business, such person shall
20 obtain from the state and furnish to the contractor an exemption certificate
21 for the project involved, and the contractor may purchase materials,
22 machinery and equipment for incorporation in such project. The contractor
23 shall furnish the number of such certificates to all suppliers from whom
24 such purchases are made, and such suppliers shall execute invoices
25 covering the same bearing the number of such certificate. Upon
26 completion of the project the contractor shall furnish to the owner of the
27 business or retail business a sworn statement, on a form to be provided by
28 the director of taxation, that all purchases so made were entitled to
29 exemption under this subsection. All invoices shall be held by the
30 contractor for a period of five years and shall be subject to audit by the
31 director of taxation. Any contractor or any agent, employee or
32 subcontractor thereof, who shall use or otherwise dispose of any materials,
33 machinery or equipment purchased under such a certificate for any
34 purpose other than that for which such a certificate is issued without the
35 payment of the sales or compensating tax otherwise imposed thereon, shall
36 be guilty of a misdemeanor and, upon conviction therefor, shall be subject
37 to the penalties provided for in subsection (g) of K.S.A. 79-3615, and
38 amendments thereto. As used in this subsection, "business" and "retail
39 business" have the meanings respectively ascribed thereto by K.S.A. 74-
40 50,114, and amendments thereto. Project exemption certificates that have
41 been previously issued under this subsection by the department of revenue
42 pursuant to K.S.A. 74-50,115, and amendments thereto, but not including
43 K.S.A. 74-50,115(e), and amendments thereto, prior to January 1, 2012,

1 and have not expired will be effective for the term of the project or two
2 years from the effective date of the certificate, whichever occurs earlier.
3 Project exemption certificates that are submitted to the department of
4 revenue prior to January 1, 2012, and are found to qualify will be issued a
5 project exemption certificate that will be effective for a two-year period or
6 for the term of the project, whichever occurs earlier;

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

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

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

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

20 (hh) all sales of medical supplies and equipment, including durable
21 medical equipment, purchased directly by a nonprofit skilled nursing home
22 or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923,
23 and amendments thereto, for the purpose of providing medical services to
24 residents thereof. This exemption shall not apply to tangible personal
25 property customarily used for human habitation purposes. As used in this
26 subsection, "durable medical equipment" means equipment including
27 repair and replacement parts for such equipment, which can withstand
28 repeated use, is primarily and customarily used to serve a medical purpose,
29 generally is not useful to a person in the absence of illness or injury and is
30 not worn in or on the body, but does not include mobility enhancing
31 equipment as defined in subsection (r), oxygen delivery equipment, kidney
32 dialysis equipment or enteral feeding systems;

33 (ii) all sales of tangible personal property purchased directly by a
34 nonprofit organization for nonsectarian comprehensive multidiscipline
35 youth development programs and activities provided or sponsored by such
36 organization, and all sales of tangible personal property by or on behalf of
37 any such organization. This exemption shall not apply to tangible personal
38 property customarily used for human habitation purposes;

39 (jj) all sales of tangible personal property or services, including the
40 renting and leasing of tangible personal property, purchased directly on
41 behalf of a community-based ~~mental-retardation~~ *facility for the*
42 *intellectually disabled* or mental health center organized pursuant to
43 K.S.A. 19-4001 *et seq.*, and amendments thereto, and licensed in

1 accordance with the provisions of K.S.A. 75-3307b, and amendments
2 thereto, and all sales of tangible personal property or services purchased
3 by contractors during the time period from July, 2003, through June, 2006,
4 for the purpose of constructing, equipping, maintaining or furnishing a
5 new facility for a community-based ~~mental-retardation~~ facility for the
6 *intellectually disabled* or mental health center located in Riverton,
7 Cherokee County, Kansas, which would have been eligible for sales tax
8 exemption pursuant to this subsection if purchased directly by such facility
9 or center. This exemption shall not apply to tangible personal property
10 customarily used for human habitation purposes;

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

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

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

18 (2) For purposes of this subsection:

19 (A) "Integrated production operation" means an integrated series of
20 operations engaged in at a manufacturing or processing plant or facility to
21 process, transform or convert tangible personal property by physical,
22 chemical or other means into a different form, composition or character
23 from that in which it originally existed. Integrated production operations
24 shall include: (i) Production line operations, including packaging
25 operations; (ii) preproduction operations to handle, store and treat raw
26 materials; (iii) post production handling, storage, warehousing and
27 distribution operations; and (iv) waste, pollution and environmental
28 control operations, if any;

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

32 (C) "manufacturing or processing plant or facility" means a single,
33 fixed location owned or controlled by a manufacturing or processing
34 business that consists of one or more structures or buildings in a
35 contiguous area where integrated production operations are conducted to
36 manufacture or process tangible personal property to be ultimately sold at
37 retail. Such term shall not include any facility primarily operated for the
38 purpose of conveying or assisting in the conveyance of natural gas,
39 electricity, oil or water. A business may operate one or more manufacturing
40 or processing plants or facilities at different locations to manufacture or
41 process a single product of tangible personal property to be ultimately sold
42 at retail;

43 (D) "manufacturing or processing business" means a business that

1 utilizes an integrated production operation to manufacture, process,
2 fabricate, finish, or assemble items for wholesale and retail distribution as
3 part of what is commonly regarded by the general public as an industrial
4 manufacturing or processing operation or an agricultural commodity
5 processing operation. (i) Industrial manufacturing or processing operations
6 include, by way of illustration but not of limitation, the fabrication of
7 automobiles, airplanes, machinery or transportation equipment, the
8 fabrication of metal, plastic, wood, or paper products, electricity power
9 generation, water treatment, petroleum refining, chemical production,
10 wholesale bottling, newspaper printing, ready mixed concrete production,
11 and the remanufacturing of used parts for wholesale or retail sale. Such
12 processing operations shall include operations at an oil well, gas well,
13 mine or other excavation site where the oil, gas, minerals, coal, clay, stone,
14 sand or gravel that has been extracted from the earth is cleaned, separated,
15 crushed, ground, milled, screened, washed, or otherwise treated or
16 prepared before its transmission to a refinery or before any other wholesale
17 or retail distribution. (ii) Agricultural commodity processing operations
18 include, by way of illustration but not of limitation, meat packing, poultry
19 slaughtering and dressing, processing and packaging farm and dairy
20 products in sealed containers for wholesale and retail distribution, feed
21 grinding, grain milling, frozen food processing, and grain handling,
22 cleaning, blending, fumigation, drying and aeration operations engaged in
23 by grain elevators or other grain storage facilities. (iii) Manufacturing or
24 processing businesses do not include, by way of illustration but not of
25 limitation, nonindustrial businesses whose operations are primarily retail
26 and that produce or process tangible personal property as an incidental part
27 of conducting the retail business, such as retailers who bake, cook or
28 prepare food products in the regular course of their retail trade, grocery
29 stores, meat lockers and meat markets that butcher or dress livestock or
30 poultry in the regular course of their retail trade, contractors who alter,
31 service, repair or improve real property, and retail businesses that clean,
32 service or refurbish and repair tangible personal property for its owner;

33 (E) "repair and replacement parts and accessories" means all parts
34 and accessories for exempt machinery and equipment, including, but not
35 limited to, dies, jigs, molds, patterns and safety devices that are attached to
36 exempt machinery or that are otherwise used in production, and parts and
37 accessories that require periodic replacement such as belts, drill bits,
38 grinding wheels, grinding balls, cutting bars, saws, refractory brick and
39 other refractory items for exempt kiln equipment used in production
40 operations;

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

42 (3) For purposes of this subsection, machinery and equipment shall
43 be deemed to be used as an integral or essential part of an integrated

1 production operation when used:

- 2 (A) To receive, transport, convey, handle, treat or store raw materials
3 in preparation of its placement on the production line;
- 4 (B) to transport, convey, handle or store the property undergoing
5 manufacturing or processing at any point from the beginning of the
6 production line through any warehousing or distribution operation of the
7 final product that occurs at the plant or facility;
- 8 (C) to act upon, effect, promote or otherwise facilitate a physical
9 change to the property undergoing manufacturing or processing;
- 10 (D) to guide, control or direct the movement of property undergoing
11 manufacturing or processing;
- 12 (E) to test or measure raw materials, the property undergoing
13 manufacturing or processing or the finished product, as a necessary part of
14 the manufacturer's integrated production operations;
- 15 (F) to plan, manage, control or record the receipt and flow of
16 inventories of raw materials, consumables and component parts, the flow
17 of the property undergoing manufacturing or processing and the
18 management of inventories of the finished product;
- 19 (G) to produce energy for, lubricate, control the operating of or
20 otherwise enable the functioning of other production machinery and
21 equipment and the continuation of production operations;
- 22 (H) to package the property being manufactured or processed in a
23 container or wrapping in which such property is normally sold or
24 transported;
- 25 (I) to transmit or transport electricity, coke, gas, water, steam or
26 similar substances used in production operations from the point of
27 generation, if produced by the manufacturer or processor at the plant site,
28 to that manufacturer's production operation; or, if purchased or delivered
29 from offsite, from the point where the substance enters the site of the plant
30 or facility to that manufacturer's production operations;
- 31 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil,
32 solvents or other substances that are used in production operations;
- 33 (K) to provide and control an environment required to maintain
34 certain levels of air quality, humidity or temperature in special and limited
35 areas of the plant or facility, where such regulation of temperature or
36 humidity is part of and essential to the production process;
- 37 (L) to treat, transport or store waste or other byproducts of production
38 operations at the plant or facility; or
- 39 (M) to control pollution at the plant or facility where the pollution is
40 produced by the manufacturing or processing operation.
- 41 (4) The following machinery, equipment and materials shall be
42 deemed to be exempt even though it may not otherwise qualify as
43 machinery and equipment used as an integral or essential part of an

1 integrated production operation: (A) Computers and related peripheral
2 equipment that are utilized by a manufacturing or processing business for
3 engineering of the finished product or for research and development or
4 product design; (B) machinery and equipment that is utilized by a
5 manufacturing or processing business to manufacture or rebuild tangible
6 personal property that is used in manufacturing or processing operations,
7 including tools, dies, molds, forms and other parts of qualifying machinery
8 and equipment; (C) portable plants for aggregate concrete, bulk cement
9 and asphalt including cement mixing drums to be attached to a motor
10 vehicle; (D) industrial fixtures, devices, support facilities and special
11 foundations necessary for manufacturing and production operations, and
12 materials and other tangible personal property sold for the purpose of
13 fabricating such fixtures, devices, facilities and foundations. An exemption
14 certificate for such purchases shall be signed by the manufacturer or
15 processor. If the fabricator purchases such material, the fabricator shall
16 also sign the exemption certificate; and (E) a manufacturing or processing
17 business' laboratory equipment that is not located at the plant or facility,
18 but that would otherwise qualify for exemption under subsection (3)(E).

19 (5) "Machinery and equipment used as an integral or essential part of
20 an integrated production operation" shall not include:

21 (A) Machinery and equipment used for nonproduction purposes,
22 including, but not limited to, machinery and equipment used for plant
23 security, fire prevention, first aid, accounting, administration, record
24 keeping, advertising, marketing, sales or other related activities, plant
25 cleaning, plant communications, and employee work scheduling;

26 (B) machinery, equipment and tools used primarily in maintaining
27 and repairing any type of machinery and equipment or the building and
28 plant;

29 (C) transportation, transmission and distribution equipment not
30 primarily used in a production, warehousing or material handling
31 operation at the plant or facility, including the means of conveyance of
32 natural gas, electricity, oil or water, and equipment related thereto, located
33 outside the plant or facility;

34 (D) office machines and equipment including computers and related
35 peripheral equipment not used directly and primarily to control or measure
36 the manufacturing process;

37 (E) furniture and other furnishings;

38 (F) buildings, other than exempt machinery and equipment that is
39 permanently affixed to or becomes a physical part of the building, and any
40 other part of real estate that is not otherwise exempt;

41 (G) building fixtures that are not integral to the manufacturing
42 operation, such as utility systems for heating, ventilation, air conditioning,
43 communications, plumbing or electrical;

1 (H) machinery and equipment used for general plant heating, cooling
2 and lighting;

3 (I) motor vehicles that are registered for operation on public
4 highways; or

5 (J) employee apparel, except safety and protective apparel that is
6 purchased by an employer and furnished gratuitously to employees who
7 are involved in production or research activities.

8 (6) Subsections (3) and (5) shall not be construed as exclusive listings
9 of the machinery and equipment that qualify or do not qualify as an
10 integral or essential part of an integrated production operation. When
11 machinery or equipment is used as an integral or essential part of
12 production operations part of the time and for nonproduction purpose at
13 other times, the primary use of the machinery or equipment shall
14 determine whether or not such machinery or equipment qualifies for
15 exemption.

16 (7) The secretary of revenue shall adopt rules and regulations
17 necessary to administer the provisions of this subsection;

18 (ll) all sales of educational materials purchased for distribution to the
19 public at no charge by a nonprofit corporation organized for the purpose of
20 encouraging, fostering and conducting programs for the improvement of
21 public health;

22 (mm) all sales of seeds and tree seedlings; fertilizers, insecticides,
23 herbicides, germicides, pesticides and fungicides; and services, purchased
24 and used for the purpose of producing plants in order to prevent soil
25 erosion on land devoted to agricultural use;

26 (nn) except as otherwise provided in this act, all sales of services
27 rendered by an advertising agency or licensed broadcast station or any
28 member, agent or employee thereof;

29 (oo) all sales of tangible personal property purchased by a community
30 action group or agency for the exclusive purpose of repairing or
31 weatherizing housing occupied by low income individuals;

32 (pp) all sales of drill bits and explosives actually utilized in the
33 exploration and production of oil or gas;

34 (qq) all sales of tangible personal property and services purchased by
35 a nonprofit museum or historical society or any combination thereof,
36 including a nonprofit organization which is organized for the purpose of
37 stimulating public interest in the exploration of space by providing
38 educational information, exhibits and experiences, which is exempt from
39 federal income taxation pursuant to section 501(c)(3) of the federal
40 internal revenue code of 1986;

41 (rr) all sales of tangible personal property which will admit the
42 purchaser thereof to any annual event sponsored by a nonprofit
43 organization which is exempt from federal income taxation pursuant to

1 section 501(c)(3) of the federal internal revenue code of 1986;

2 (ss) all sales of tangible personal property and services purchased by
3 a public broadcasting station licensed by the federal communications
4 commission as a noncommercial educational television or radio station;

5 (tt) all sales of tangible personal property and services purchased by
6 or on behalf of a not-for-profit corporation which is exempt from federal
7 income taxation pursuant to section 501(c)(3) of the federal internal
8 revenue code of 1986, for the sole purpose of constructing a Kansas
9 Korean War memorial;

10 (uu) all sales of tangible personal property and services purchased by
11 or on behalf of any rural volunteer fire-fighting organization for use
12 exclusively in the performance of its duties and functions;

13 (vv) all sales of tangible personal property purchased by any of the
14 following organizations which are exempt from federal income taxation
15 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
16 for the following purposes, and all sales of any such property by or on
17 behalf of any such organization for any such purpose:

18 (1) The American Heart Association, Kansas Affiliate, Inc. for the
19 purposes of providing education, training, certification in emergency
20 cardiac care, research and other related services to reduce disability and
21 death from cardiovascular diseases and stroke;

22 (2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of
23 advocacy for persons with mental illness and to education, research and
24 support for their families;

25 (3) the Kansas Mental Illness Awareness Council for the purposes of
26 advocacy for persons who are mentally ill and to education, research and
27 support for them and their families;

28 (4) the American Diabetes Association Kansas Affiliate, Inc. for the
29 purpose of eliminating diabetes through medical research, public education
30 focusing on disease prevention and education, patient education including
31 information on coping with diabetes, and professional education and
32 training;

33 (5) the American Lung Association of Kansas, Inc. for the purpose of
34 eliminating all lung diseases through medical research, public education
35 including information on coping with lung diseases, professional education
36 and training related to lung disease and other related services to reduce the
37 incidence of disability and death due to lung disease;

38 (6) the Kansas chapters of the Alzheimer's Disease and Related
39 Disorders Association, Inc. for the purpose of providing assistance and
40 support to persons in Kansas with Alzheimer's disease, and their families
41 and caregivers;

42 (7) the Kansas chapters of the Parkinson's disease association for the
43 purpose of eliminating Parkinson's disease through medical research and

1 public and professional education related to such disease;

2 (8) the National Kidney Foundation of Kansas and Western Missouri
3 for the purpose of eliminating kidney disease through medical research
4 and public and private education related to such disease;

5 (9) the heartstrings community foundation for the purpose of
6 providing training, employment and activities for adults with
7 developmental disabilities;

8 (10) the Cystic Fibrosis Foundation, Heart of America Chapter, for
9 the purposes of assuring the development of the means to cure and control
10 cystic fibrosis and improving the quality of life for those with the disease;

11 (11) the spina bifida association of Kansas for the purpose of
12 providing financial, educational and practical aid to families and
13 individuals with spina bifida. Such aid includes, but is not limited to,
14 funding for medical devices, counseling and medical educational
15 opportunities;

16 (12) the CHWC, Inc., for the purpose of rebuilding urban core
17 neighborhoods through the construction of new homes, acquiring and
18 renovating existing homes and other related activities, and promoting
19 economic development in such neighborhoods;

20 (13) the cross-lines cooperative council for the purpose of providing
21 social services to low income individuals and families;

22 (14) the Dreams Work, Inc., for the purpose of providing young adult
23 day services to individuals with developmental disabilities and assisting
24 families in avoiding institutional or nursing home care for a
25 developmentally disabled member of their family;

26 (15) the KSDS, Inc., for the purpose of promoting the independence
27 and inclusion of people with disabilities as fully participating and
28 contributing members of their communities and society through the
29 training and providing of guide and service dogs to people with
30 disabilities, and providing disability education and awareness to the
31 general public;

32 (16) the lyme association of greater Kansas City, Inc., for the purpose
33 of providing support to persons with lyme disease and public education
34 relating to the prevention, treatment and cure of lyme disease;

35 (17) the Dream Factory, Inc., for the purpose of granting the dreams
36 of children with critical and chronic illnesses;

37 (18) the Ottawa Suzuki Strings, Inc., for the purpose of providing
38 students and families with education and resources necessary to enable
39 each child to develop fine character and musical ability to the fullest
40 potential;

41 (19) the International Association of Lions Clubs for the purpose of
42 creating and fostering a spirit of understanding among all people for
43 humanitarian needs by providing voluntary services through community

1 involvement and international cooperation;

2 (20) the Johnson county young matrons, inc., for the purpose of
3 promoting a positive future for members of the community through
4 volunteerism, financial support and education through the efforts of an all
5 volunteer organization;

6 (21) the American Cancer Society, Inc., for the purpose of eliminating
7 cancer as a major health problem by preventing cancer, saving lives and
8 diminishing suffering from cancer, through research, education, advocacy
9 and service;

10 (22) the community services of Shawnee, inc., for the purpose of
11 providing food and clothing to those in need;

12 (23) the angel babies association, for the purpose of providing
13 assistance, support and items of necessity to teenage mothers and their
14 babies; and

15 (24) the Kansas fairgrounds foundation for the purpose of the
16 preservation, renovation and beautification of the Kansas state fairgrounds;

17 (ww) all sales of tangible personal property purchased by the Habitat
18 for Humanity for the exclusive use of being incorporated within a housing
19 project constructed by such organization;

20 (xx) all sales of tangible personal property and services purchased by
21 a nonprofit zoo which is exempt from federal income taxation pursuant to
22 section 501(c)(3) of the federal internal revenue code of 1986, or on behalf
23 of such zoo by an entity itself exempt from federal income taxation
24 pursuant to section 501(c)(3) of the federal internal revenue code of 1986
25 contracted with to operate such zoo and all sales of tangible personal
26 property or services purchased by a contractor for the purpose of
27 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
28 furnishing or remodeling facilities for any nonprofit zoo which would be
29 exempt from taxation under the provisions of this section if purchased
30 directly by such nonprofit zoo or the entity operating such zoo. Nothing in
31 this subsection shall be deemed to exempt the purchase of any construction
32 machinery, equipment or tools used in the constructing, equipping,
33 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
34 facilities for any nonprofit zoo. When any nonprofit zoo shall contract for
35 the purpose of constructing, equipping, reconstructing, maintaining,
36 repairing, enlarging, furnishing or remodeling facilities, it shall obtain
37 from the state and furnish to the contractor an exemption certificate for the
38 project involved, and the contractor may purchase materials for
39 incorporation in such project. The contractor shall furnish the number of
40 such certificate to all suppliers from whom such purchases are made, and
41 such suppliers shall execute invoices covering the same bearing the
42 number of such certificate. Upon completion of the project the contractor
43 shall furnish to the nonprofit zoo concerned a sworn statement, on a form

1 to be provided by the director of taxation, that all purchases so made were
2 entitled to exemption under this subsection. All invoices shall be held by
3 the contractor for a period of five years and shall be subject to audit by the
4 director of taxation. If any materials purchased under such a certificate are
5 found not to have been incorporated in the building or other project or not
6 to have been returned for credit or the sales or compensating tax otherwise
7 imposed upon such materials which will not be so incorporated in the
8 building or other project reported and paid by such contractor to the
9 director of taxation not later than the 20th day of the month following the
10 close of the month in which it shall be determined that such materials will
11 not be used for the purpose for which such certificate was issued, the
12 nonprofit zoo concerned shall be liable for tax on all materials purchased
13 for the project, and upon payment thereof it may recover the same from
14 the contractor together with reasonable attorney fees. Any contractor or
15 any agent, employee or subcontractor thereof, who shall use or otherwise
16 dispose of any materials purchased under such a certificate for any purpose
17 other than that for which such a certificate is issued without the payment
18 of the sales or compensating tax otherwise imposed upon such materials,
19 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
20 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
21 and amendments thereto;

22 (yy) all sales of tangible personal property and services purchased by
23 a parent-teacher association or organization, and all sales of tangible
24 personal property by or on behalf of such association or organization;

25 (zz) all sales of machinery and equipment purchased by over-the-air,
26 free access radio or television station which is used directly and primarily
27 for the purpose of producing a broadcast signal or is such that the failure
28 of the machinery or equipment to operate would cause broadcasting to
29 cease. For purposes of this subsection, machinery and equipment shall
30 include, but not be limited to, that required by rules and regulations of the
31 federal communications commission, and all sales of electricity which are
32 essential or necessary for the purpose of producing a broadcast signal or is
33 such that the failure of the electricity would cause broadcasting to cease;

34 (aaa) all sales of tangible personal property and services purchased by
35 a religious organization which is exempt from federal income taxation
36 pursuant to section 501(c)(3) of the federal internal revenue code, and used
37 exclusively for religious purposes, and all sales of tangible personal
38 property or services purchased by a contractor for the purpose of
39 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
40 furnishing or remodeling facilities for any such organization which would
41 be exempt from taxation under the provisions of this section if purchased
42 directly by such organization. Nothing in this subsection shall be deemed
43 to exempt the purchase of any construction machinery, equipment or tools

1 used in the constructing, equipping, reconstructing, maintaining, repairing,
2 enlarging, furnishing or remodeling facilities for any such organization.
3 When any such organization shall contract for the purpose of constructing,
4 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
5 remodeling facilities, it shall obtain from the state and furnish to the
6 contractor an exemption certificate for the project involved, and the
7 contractor may purchase materials for incorporation in such project. The
8 contractor shall furnish the number of such certificate to all suppliers from
9 whom such purchases are made, and such suppliers shall execute invoices
10 covering the same bearing the number of such certificate. Upon
11 completion of the project the contractor shall furnish to such organization
12 concerned a sworn statement, on a form to be provided by the director of
13 taxation, that all purchases so made were entitled to exemption under this
14 subsection. All invoices shall be held by the contractor for a period of five
15 years and shall be subject to audit by the director of taxation. If any
16 materials purchased under such a certificate are found not to have been
17 incorporated in the building or other project or not to have been returned
18 for credit or the sales or compensating tax otherwise imposed upon such
19 materials which will not be so incorporated in the building or other project
20 reported and paid by such contractor to the director of taxation not later
21 than the 20th day of the month following the close of the month in which it
22 shall be determined that such materials will not be used for the purpose for
23 which such certificate was issued, such organization concerned shall be
24 liable for tax on all materials purchased for the project, and upon payment
25 thereof it may recover the same from the contractor together with
26 reasonable attorney fees. Any contractor or any agent, employee or
27 subcontractor thereof, who shall use or otherwise dispose of any materials
28 purchased under such a certificate for any purpose other than that for
29 which such a certificate is issued without the payment of the sales or
30 compensating tax otherwise imposed upon such materials, shall be guilty
31 of a misdemeanor and, upon conviction therefor, shall be subject to the
32 penalties provided for in subsection (g) of K.S.A. 79-3615, and
33 amendments thereto. Sales tax paid on and after July 1, 1998, but prior to
34 the effective date of this act upon the gross receipts received from any sale
35 exempted by the amendatory provisions of this subsection shall be
36 refunded. Each claim for a sales tax refund shall be verified and submitted
37 to the director of taxation upon forms furnished by the director and shall
38 be accompanied by any additional documentation required by the director.
39 The director shall review each claim and shall refund that amount of sales
40 tax paid as determined under the provisions of this subsection. All refunds
41 shall be paid from the sales tax refund fund upon warrants of the director
42 of accounts and reports pursuant to vouchers approved by the director or
43 the director's designee;

1 (bbb) all sales of food for human consumption by an organization
2 which is exempt from federal income taxation pursuant to section 501(c)
3 (3) of the federal internal revenue code of 1986, pursuant to a food
4 distribution program which offers such food at a price below cost in
5 exchange for the performance of community service by the purchaser
6 thereof;

7 (ccc) on and after July 1, 1999, all sales of tangible personal property
8 and services purchased by a primary care clinic or health center the
9 primary purpose of which is to provide services to medically underserved
10 individuals and families, and which is exempt from federal income
11 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
12 and all sales of tangible personal property or services purchased by a
13 contractor for the purpose of constructing, equipping, reconstructing,
14 maintaining, repairing, enlarging, furnishing or remodeling facilities for
15 any such clinic or center which would be exempt from taxation under the
16 provisions of this section if purchased directly by such clinic or center.
17 Nothing in this subsection shall be deemed to exempt the purchase of any
18 construction machinery, equipment or tools used in the constructing,
19 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
20 remodeling facilities for any such clinic or center. When any such clinic or
21 center shall contract for the purpose of constructing, equipping,
22 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
23 facilities, it shall obtain from the state and furnish to the contractor an
24 exemption certificate for the project involved, and the contractor may
25 purchase materials for incorporation in such project. The contractor shall
26 furnish the number of such certificate to all suppliers from whom such
27 purchases are made, and such suppliers shall execute invoices covering the
28 same bearing the number of such certificate. Upon completion of the
29 project the contractor shall furnish to such clinic or center concerned a
30 sworn statement, on a form to be provided by the director of taxation, that
31 all purchases so made were entitled to exemption under this subsection.
32 All invoices shall be held by the contractor for a period of five years and
33 shall be subject to audit by the director of taxation. If any materials
34 purchased under such a certificate are found not to have been incorporated
35 in the building or other project or not to have been returned for credit or
36 the sales or compensating tax otherwise imposed upon such materials
37 which will not be so incorporated in the building or other project reported
38 and paid by such contractor to the director of taxation not later than the
39 20th day of the month following the close of the month in which it shall be
40 determined that such materials will not be used for the purpose for which
41 such certificate was issued, such clinic or center concerned shall be liable
42 for tax on all materials purchased for the project, and upon payment
43 thereof it may recover the same from the contractor together with

1 reasonable attorney fees. Any contractor or any agent, employee or
2 subcontractor thereof, who shall use or otherwise dispose of any materials
3 purchased under such a certificate for any purpose other than that for
4 which such a certificate is issued without the payment of the sales or
5 compensating tax otherwise imposed upon such materials, shall be guilty
6 of a misdemeanor and, upon conviction therefor, shall be subject to the
7 penalties provided for in subsection (g) of K.S.A. 79-3615, and
8 amendments thereto;

9 (ddd) on and after January 1, 1999, and before January 1, 2000, all
10 sales of materials and services purchased by any class II or III railroad as
11 classified by the federal surface transportation board for the construction,
12 renovation, repair or replacement of class II or III railroad track and
13 facilities used directly in interstate commerce. In the event any such track
14 or facility for which materials and services were purchased sales tax
15 exempt is not operational for five years succeeding the allowance of such
16 exemption, the total amount of sales tax which would have been payable
17 except for the operation of this subsection shall be recouped in accordance
18 with rules and regulations adopted for such purpose by the secretary of
19 revenue;

20 (eee) on and after January 1, 1999, and before January 1, 2001, all
21 sales of materials and services purchased for the original construction,
22 reconstruction, repair or replacement of grain storage facilities, including
23 railroad sidings providing access thereto;

24 (fff) all sales of material handling equipment, racking systems and
25 other related machinery and equipment that is used for the handling,
26 movement or storage of tangible personal property in a warehouse or
27 distribution facility in this state; all sales of installation, repair and
28 maintenance services performed on such machinery and equipment; and
29 all sales of repair and replacement parts for such machinery and
30 equipment. For purposes of this subsection, a warehouse or distribution
31 facility means a single, fixed location that consists of buildings or
32 structures in a contiguous area where storage or distribution operations are
33 conducted that are separate and apart from the business' retail operations,
34 if any, and which do not otherwise qualify for exemption as occurring at a
35 manufacturing or processing plant or facility. Material handling and
36 storage equipment shall include aeration, dust control, cleaning, handling
37 and other such equipment that is used in a public grain warehouse or other
38 commercial grain storage facility, whether used for grain handling, grain
39 storage, grain refining or processing, or other grain treatment operation;

40 (ggg) all sales of tangible personal property and services purchased
41 by or on behalf of the Kansas Academy of Science which is exempt from
42 federal income taxation pursuant to section 501(c)(3) of the federal
43 internal revenue code of 1986, and used solely by such academy for the

1 preparation, publication and dissemination of education materials;

2 (hhh) all sales of tangible personal property and services purchased
3 by or on behalf of all domestic violence shelters that are member agencies
4 of the Kansas coalition against sexual and domestic violence;

5 (iii) all sales of personal property and services purchased by an
6 organization which is exempt from federal income taxation pursuant to
7 section 501(c)(3) of the federal internal revenue code of 1986, and which
8 such personal property and services are used by any such organization in
9 the collection, storage and distribution of food products to nonprofit
10 organizations which distribute such food products to persons pursuant to a
11 food distribution program on a charitable basis without fee or charge, and
12 all sales of tangible personal property or services purchased by a
13 contractor for the purpose of constructing, equipping, reconstructing,
14 maintaining, repairing, enlarging, furnishing or remodeling facilities used
15 for the collection and storage of such food products for any such
16 organization which is exempt from federal income taxation pursuant to
17 section 501(c)(3) of the federal internal revenue code of 1986, which
18 would be exempt from taxation under the provisions of this section if
19 purchased directly by such organization. Nothing in this subsection shall
20 be deemed to exempt the purchase of any construction machinery,
21 equipment or tools used in the constructing, equipping, reconstructing,
22 maintaining, repairing, enlarging, furnishing or remodeling facilities for
23 any such organization. When any such organization shall contract for the
24 purpose of constructing, equipping, reconstructing, maintaining, repairing,
25 enlarging, furnishing or remodeling facilities, it shall obtain from the state
26 and furnish to the contractor an exemption certificate for the project
27 involved, and the contractor may purchase materials for incorporation in
28 such project. The contractor shall furnish the number of such certificate to
29 all suppliers from whom such purchases are made, and such suppliers shall
30 execute invoices covering the same bearing the number of such certificate.
31 Upon completion of the project the contractor shall furnish to such
32 organization concerned a sworn statement, on a form to be provided by the
33 director of taxation, that all purchases so made were entitled to exemption
34 under this subsection. All invoices shall be held by the contractor for a
35 period of five years and shall be subject to audit by the director of taxation.
36 If any materials purchased under such a certificate are found not to have
37 been incorporated in such facilities or not to have been returned for credit
38 or the sales or compensating tax otherwise imposed upon such materials
39 which will not be so incorporated in such facilities reported and paid by
40 such contractor to the director of taxation not later than the 20th day of the
41 month following the close of the month in which it shall be determined
42 that such materials will not be used for the purpose for which such
43 certificate was issued, such organization concerned shall be liable for tax

1 on all materials purchased for the project, and upon payment thereof it
2 may recover the same from the contractor together with reasonable
3 attorney fees. Any contractor or any agent, employee or subcontractor
4 thereof, who shall use or otherwise dispose of any materials purchased
5 under such a certificate for any purpose other than that for which such a
6 certificate is issued without the payment of the sales or compensating tax
7 otherwise imposed upon such materials, shall be guilty of a misdemeanor
8 and, upon conviction therefor, shall be subject to the penalties provided for
9 in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax
10 paid on and after July 1, 2005, but prior to the effective date of this act
11 upon the gross receipts received from any sale exempted by the
12 amendatory provisions of this subsection shall be refunded. Each claim for
13 a sales tax refund shall be verified and submitted to the director of taxation
14 upon forms furnished by the director and shall be accompanied by any
15 additional documentation required by the director. The director shall
16 review each claim and shall refund that amount of sales tax paid as
17 determined under the provisions of this subsection. All refunds shall be
18 paid from the sales tax refund fund upon warrants of the director of
19 accounts and reports pursuant to vouchers approved by the director or the
20 director's designee;

21 (jjj) all sales of dietary supplements dispensed pursuant to a
22 prescription order by a licensed practitioner or a mid-level practitioner as
23 defined by K.S.A. 65-1626, and amendments thereto. As used in this
24 subsection, "dietary supplement" means any product, other than tobacco,
25 intended to supplement the diet that: (1) Contains one or more of the
26 following dietary ingredients: A vitamin, a mineral, an herb or other
27 botanical, an amino acid, a dietary substance for use by humans to
28 supplement the diet by increasing the total dietary intake or a concentrate,
29 metabolite, constituent, extract or combination of any such ingredient; (2)
30 is intended for ingestion in tablet, capsule, powder, softgel, gelcap or
31 liquid form, or if not intended for ingestion, in such a form, is not
32 represented as conventional food and is not represented for use as a sole
33 item of a meal or of the diet; and (3) is required to be labeled as a dietary
34 supplement, identifiable by the supplemental facts box found on the label
35 and as required pursuant to 21 C.F.R. § 101.36;

36 (lll) all sales of tangible personal property and services purchased by
37 special olympics Kansas, inc. for the purpose of providing year-round
38 sports training and athletic competition in a variety of olympic-type sports
39 for individuals with intellectual disabilities by giving them continuing
40 opportunities to develop physical fitness, demonstrate courage, experience
41 joy and participate in a sharing of gifts, skills and friendship with their
42 families, other special olympics athletes and the community, and activities
43 provided or sponsored by such organization, and all sales of tangible

1 personal property by or on behalf of any such organization;

2 (mmm) all sales of tangible personal property purchased by or on
3 behalf of the Marillac Center, Inc., which is exempt from federal income
4 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
5 for the purpose of providing psycho-social-biological and special
6 education services to children, and all sales of any such property by or on
7 behalf of such organization for such purpose;

8 (nnn) all sales of tangible personal property and services purchased
9 by the West Sedgwick County-Sunrise Rotary Club and Sunrise Charitable
10 Fund for the purpose of constructing a boundless playground which is an
11 integrated, barrier free and developmentally advantageous play
12 environment for children of all abilities and disabilities;

13 (ooo) all sales of tangible personal property by or on behalf of a
14 public library serving the general public and supported in whole or in part
15 with tax money or a not-for-profit organization whose purpose is to raise
16 funds for or provide services or other benefits to any such public library;

17 (ppp) all sales of tangible personal property and services purchased
18 by or on behalf of a homeless shelter which is exempt from federal income
19 taxation pursuant to section 501(c)(3) of the federal income tax code of
20 1986, and used by any such homeless shelter to provide emergency and
21 transitional housing for individuals and families experiencing
22 homelessness, and all sales of any such property by or on behalf of any
23 such homeless shelter for any such purpose;

24 (qqq) all sales of tangible personal property and services purchased
25 by TLC for children and families, inc., hereinafter referred to as TLC,
26 which is exempt from federal income taxation pursuant to section 501(c)
27 (3) of the federal internal revenue code of 1986, and which such property
28 and services are used for the purpose of providing emergency shelter and
29 treatment for abused and neglected children as well as meeting additional
30 critical needs for children, juveniles and family, and all sales of any such
31 property by or on behalf of TLC for any such purpose; and all sales of
32 tangible personal property or services purchased by a contractor for the
33 purpose of constructing, maintaining, repairing, enlarging, furnishing or
34 remodeling facilities for the operation of services for TLC for any such
35 purpose which would be exempt from taxation under the provisions of this
36 section if purchased directly by TLC. Nothing in this subsection shall be
37 deemed to exempt the purchase of any construction machinery, equipment
38 or tools used in the constructing, maintaining, repairing, enlarging,
39 furnishing or remodeling such facilities for TLC. When TLC contracts for
40 the purpose of constructing, maintaining, repairing, enlarging, furnishing
41 or remodeling such facilities, it shall obtain from the state and furnish to
42 the contractor an exemption certificate for the project involved, and the
43 contractor may purchase materials for incorporation in such project. The

1 contractor shall furnish the number of such certificate to all suppliers from
2 whom such purchases are made, and such suppliers shall execute invoices
3 covering the same bearing the number of such certificate. Upon
4 completion of the project the contractor shall furnish to TLC a sworn
5 statement, on a form to be provided by the director of taxation, that all
6 purchases so made were entitled to exemption under this subsection. All
7 invoices shall be held by the contractor for a period of five years and shall
8 be subject to audit by the director of taxation. If any materials purchased
9 under such a certificate are found not to have been incorporated in the
10 building or other project or not to have been returned for credit or the sales
11 or compensating tax otherwise imposed upon such materials which will
12 not be so incorporated in the building or other project reported and paid by
13 such contractor to the director of taxation not later than the 20th day of the
14 month following the close of the month in which it shall be determined
15 that such materials will not be used for the purpose for which such
16 certificate was issued, TLC shall be liable for tax on all materials
17 purchased for the project, and upon payment thereof it may recover the
18 same from the contractor together with reasonable attorney fees. Any
19 contractor or any agent, employee or subcontractor thereof, who shall use
20 or otherwise dispose of any materials purchased under such a certificate
21 for any purpose other than that for which such a certificate is issued
22 without the payment of the sales or compensating tax otherwise imposed
23 upon such materials, shall be guilty of a misdemeanor and, upon
24 conviction therefor, shall be subject to the penalties provided for in
25 subsection (g) of K.S.A. 79-3615, and amendments thereto;

26 (rrr) all sales of tangible personal property and services purchased by
27 any county law library maintained pursuant to law and sales of tangible
28 personal property and services purchased by an organization which would
29 have been exempt from taxation under the provisions of this subsection if
30 purchased directly by the county law library for the purpose of providing
31 legal resources to attorneys, judges, students and the general public, and
32 all sales of any such property by or on behalf of any such county law
33 library;

34 (sss) all sales of tangible personal property and services purchased by
35 catholic charities or youthville, hereinafter referred to as charitable family
36 providers, which is exempt from federal income taxation pursuant to
37 section 501(c)(3) of the federal internal revenue code of 1986, and which
38 such property and services are used for the purpose of providing
39 emergency shelter and treatment for abused and neglected children as well
40 as meeting additional critical needs for children, juveniles and family, and
41 all sales of any such property by or on behalf of charitable family
42 providers for any such purpose; and all sales of tangible personal property
43 or services purchased by a contractor for the purpose of constructing,

1 maintaining, repairing, enlarging, furnishing or remodeling facilities for
2 the operation of services for charitable family providers for any such
3 purpose which would be exempt from taxation under the provisions of this
4 section if purchased directly by charitable family providers. Nothing in
5 this subsection shall be deemed to exempt the purchase of any construction
6 machinery, equipment or tools used in the constructing, maintaining,
7 repairing, enlarging, furnishing or remodeling such facilities for charitable
8 family providers. When charitable family providers contracts for the
9 purpose of constructing, maintaining, repairing, enlarging, furnishing or
10 remodeling such facilities, it shall obtain from the state and furnish to the
11 contractor an exemption certificate for the project involved, and the
12 contractor may purchase materials for incorporation in such project. The
13 contractor shall furnish the number of such certificate to all suppliers from
14 whom such purchases are made, and such suppliers shall execute invoices
15 covering the same bearing the number of such certificate. Upon
16 completion of the project the contractor shall furnish to charitable family
17 providers a sworn statement, on a form to be provided by the director of
18 taxation, that all purchases so made were entitled to exemption under this
19 subsection. All invoices shall be held by the contractor for a period of five
20 years and shall be subject to audit by the director of taxation. If any
21 materials purchased under such a certificate are found not to have been
22 incorporated in the building or other project or not to have been returned
23 for credit or the sales or compensating tax otherwise imposed upon such
24 materials which will not be so incorporated in the building or other project
25 reported and paid by such contractor to the director of taxation not later
26 than the 20th day of the month following the close of the month in which it
27 shall be determined that such materials will not be used for the purpose for
28 which such certificate was issued, charitable family providers shall be
29 liable for tax on all materials purchased for the project, and upon payment
30 thereof it may recover the same from the contractor together with
31 reasonable attorney fees. Any contractor or any agent, employee or
32 subcontractor thereof, who shall use or otherwise dispose of any materials
33 purchased under such a certificate for any purpose other than that for
34 which such a certificate is issued without the payment of the sales or
35 compensating tax otherwise imposed upon such materials, shall be guilty
36 of a misdemeanor and, upon conviction therefor, shall be subject to the
37 penalties provided for in subsection (g) of K.S.A. 79-3615, and
38 amendments thereto;

39 (ttt) all sales of tangible personal property or services purchased by a
40 contractor for a project for the purpose of restoring, constructing,
41 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
42 remodeling a home or facility owned by a nonprofit museum which has
43 been granted an exemption pursuant to subsection (qq), which such home

1 or facility is located in a city which has been designated as a qualified
2 hometown pursuant to the provisions of K.S.A. 75-5071 *et seq.*, and
3 amendments thereto, and which such project is related to the purposes of
4 K.S.A. 75-5071 *et seq.*, and amendments thereto, and which would be
5 exempt from taxation under the provisions of this section if purchased
6 directly by such nonprofit museum. Nothing in this subsection shall be
7 deemed to exempt the purchase of any construction machinery, equipment
8 or tools used in the restoring, constructing, equipping, reconstructing,
9 maintaining, repairing, enlarging, furnishing or remodeling a home or
10 facility for any such nonprofit museum. When any such nonprofit museum
11 shall contract for the purpose of restoring, constructing, equipping,
12 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
13 a home or facility, it shall obtain from the state and furnish to the
14 contractor an exemption certificate for the project involved, and the
15 contractor may purchase materials for incorporation in such project. The
16 contractor shall furnish the number of such certificates to all suppliers
17 from whom such purchases are made, and such suppliers shall execute
18 invoices covering the same bearing the number of such certificate. Upon
19 completion of the project, the contractor shall furnish to such nonprofit
20 museum a sworn statement on a form to be provided by the director of
21 taxation that all purchases so made were entitled to exemption under this
22 subsection. All invoices shall be held by the contractor for a period of five
23 years and shall be subject to audit by the director of taxation. If any
24 materials purchased under such a certificate are found not to have been
25 incorporated in the building or other project or not to have been returned
26 for credit or the sales or compensating tax otherwise imposed upon such
27 materials which will not be so incorporated in a home or facility or other
28 project reported and paid by such contractor to the director of taxation not
29 later than the 20th day of the month following the close of the month in
30 which it shall be determined that such materials will not be used for the
31 purpose for which such certificate was issued, such nonprofit museum
32 shall be liable for tax on all materials purchased for the project, and upon
33 payment thereof it may recover the same from the contractor together with
34 reasonable attorney fees. Any contractor or any agent, employee or
35 subcontractor thereof, who shall use or otherwise dispose of any materials
36 purchased under such a certificate for any purpose other than that for
37 which such a certificate is issued without the payment of the sales or
38 compensating tax otherwise imposed upon such materials, shall be guilty
39 of a misdemeanor and, upon conviction therefor, shall be subject to the
40 penalties provided for in subsection (g) of K.S.A. 79-3615, and
41 amendments thereto;

42 (uuu) all sales of tangible personal property and services purchased
43 by Kansas children's service league, hereinafter referred to as KCSL,

1 which is exempt from federal income taxation pursuant to section 501(c)
2 (3) of the federal internal revenue code of 1986, and which such property
3 and services are used for the purpose of providing for the prevention and
4 treatment of child abuse and maltreatment as well as meeting additional
5 critical needs for children, juveniles and family, and all sales of any such
6 property by or on behalf of KCSL for any such purpose; and all sales of
7 tangible personal property or services purchased by a contractor for the
8 purpose of constructing, maintaining, repairing, enlarging, furnishing or
9 remodeling facilities for the operation of services for KCSL for any such
10 purpose which would be exempt from taxation under the provisions of this
11 section if purchased directly by KCSL. Nothing in this subsection shall be
12 deemed to exempt the purchase of any construction machinery, equipment
13 or tools used in the constructing, maintaining, repairing, enlarging,
14 furnishing or remodeling such facilities for KCSL. When KCSL contracts
15 for the purpose of constructing, maintaining, repairing, enlarging,
16 furnishing or remodeling such facilities, it shall obtain from the state and
17 furnish to the contractor an exemption certificate for the project involved,
18 and the contractor may purchase materials for incorporation in such
19 project. The contractor shall furnish the number of such certificate to all
20 suppliers from whom such purchases are made, and such suppliers shall
21 execute invoices covering the same bearing the number of such certificate.
22 Upon completion of the project the contractor shall furnish to KCSL a
23 sworn statement, on a form to be provided by the director of taxation, that
24 all purchases so made were entitled to exemption under this subsection.
25 All invoices shall be held by the contractor for a period of five years and
26 shall be subject to audit by the director of taxation. If any materials
27 purchased under such a certificate are found not to have been incorporated
28 in the building or other project or not to have been returned for credit or
29 the sales or compensating tax otherwise imposed upon such materials
30 which will not be so incorporated in the building or other project reported
31 and paid by such contractor to the director of taxation not later than the
32 20th day of the month following the close of the month in which it shall be
33 determined that such materials will not be used for the purpose for which
34 such certificate was issued, KCSL shall be liable for tax on all materials
35 purchased for the project, and upon payment thereof it may recover the
36 same from the contractor together with reasonable attorney fees. Any
37 contractor or any agent, employee or subcontractor thereof, who shall use
38 or otherwise dispose of any materials purchased under such a certificate
39 for any purpose other than that for which such a certificate is issued
40 without the payment of the sales or compensating tax otherwise imposed
41 upon such materials, shall be guilty of a misdemeanor and, upon
42 conviction therefor, shall be subject to the penalties provided for in
43 subsection (g) of K.S.A. 79-3615, and amendments thereto;

1 (vvv) all sales of tangible personal property or services, including the
2 renting and leasing of tangible personal property or services, purchased by
3 Jazz in the Woods, Inc., a Kansas corporation which is exempt from
4 federal income taxation pursuant to section 501(c)(3) of the federal
5 internal revenue code, for the purpose of providing Jazz in the Woods, an
6 event benefiting children-in-need and other nonprofit charities assisting
7 such children, and all sales of any such property by or on behalf of such
8 organization for such purpose;

9 (www) all sales of tangible personal property purchased by or on
10 behalf of the Frontenac Education Foundation, which is exempt from
11 federal income taxation pursuant to section 501(c)(3) of the federal
12 internal revenue code, for the purpose of providing education support for
13 students, and all sales of any such property by or on behalf of such
14 organization for such purpose;

15 (xxx) all sales of personal property and services purchased by the
16 booth theatre foundation, inc., an organization which is exempt from
17 federal income taxation pursuant to section 501(c)(3) of the federal
18 internal revenue code of 1986, and which such personal property and
19 services are used by any such organization in the constructing, equipping,
20 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
21 of the booth theatre, and all sales of tangible personal property or services
22 purchased by a contractor for the purpose of constructing, equipping,
23 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
24 the booth theatre for such organization, which would be exempt from
25 taxation under the provisions of this section if purchased directly by such
26 organization. Nothing in this subsection shall be deemed to exempt the
27 purchase of any construction machinery, equipment or tools used in the
28 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
29 furnishing or remodeling facilities for any such organization. When any
30 such organization shall contract for the purpose of constructing, equipping,
31 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
32 facilities, it shall obtain from the state and furnish to the contractor an
33 exemption certificate for the project involved, and the contractor may
34 purchase materials for incorporation in such project. The contractor shall
35 furnish the number of such certificate to all suppliers from whom such
36 purchases are made, and such suppliers shall execute invoices covering the
37 same bearing the number of such certificate. Upon completion of the
38 project the contractor shall furnish to such organization concerned a sworn
39 statement, on a form to be provided by the director of taxation, that all
40 purchases so made were entitled to exemption under this subsection. All
41 invoices shall be held by the contractor for a period of five years and shall
42 be subject to audit by the director of taxation. If any materials purchased
43 under such a certificate are found not to have been incorporated in such

1 facilities or not to have been returned for credit or the sales or
2 compensating tax otherwise imposed upon such materials which will not
3 be so incorporated in such facilities reported and paid by such contractor
4 to the director of taxation not later than the 20th day of the month following
5 the close of the month in which it shall be determined that such materials
6 will not be used for the purpose for which such certificate was issued, such
7 organization concerned shall be liable for tax on all materials purchased
8 for the project, and upon payment thereof it may recover the same from
9 the contractor together with reasonable attorney fees. Any contractor or
10 any agent, employee or subcontractor thereof, who shall use or otherwise
11 dispose of any materials purchased under such a certificate for any purpose
12 other than that for which such a certificate is issued without the payment
13 of the sales or compensating tax otherwise imposed upon such materials,
14 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
15 subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
16 and amendments thereto. Sales tax paid on and after January 1, 2007, but
17 prior to the effective date of this act upon the gross receipts received from
18 any sale which would have been exempted by the provisions of this
19 subsection had such sale occurred after the effective date of this act shall
20 be refunded. Each claim for a sales tax refund shall be verified and
21 submitted to the director of taxation upon forms furnished by the director
22 and shall be accompanied by any additional documentation required by the
23 director. The director shall review each claim and shall refund that amount
24 of sales tax paid as determined under the provisions of this subsection. All
25 refunds shall be paid from the sales tax refund fund upon warrants of the
26 director of accounts and reports pursuant to vouchers approved by the
27 director or the director's designee;

28 (yyy) all sales of tangible personal property and services purchased
29 by TLC charities foundation, inc., hereinafter referred to as TLC charities,
30 which is exempt from federal income taxation pursuant to section 501(c)
31 (3) of the federal internal revenue code of 1986, and which such property
32 and services are used for the purpose of encouraging private philanthropy
33 to further the vision, values, and goals of TLC for children and families,
34 inc.; and all sales of such property and services by or on behalf of TLC
35 charities for any such purpose and all sales of tangible personal property or
36 services purchased by a contractor for the purpose of constructing,
37 maintaining, repairing, enlarging, furnishing or remodeling facilities for
38 the operation of services for TLC charities for any such purpose which
39 would be exempt from taxation under the provisions of this section if
40 purchased directly by TLC charities. Nothing in this subsection shall be
41 deemed to exempt the purchase of any construction machinery, equipment
42 or tools used in the constructing, maintaining, repairing, enlarging,
43 furnishing or remodeling such facilities for TLC charities. When TLC

1 charities contracts for the purpose of constructing, maintaining, repairing,
2 enlarging, furnishing or remodeling such facilities, it shall obtain from the
3 state and furnish to the contractor an exemption certificate for the project
4 involved, and the contractor may purchase materials for incorporation in
5 such project. The contractor shall furnish the number of such certificate to
6 all suppliers from whom such purchases are made, and such suppliers shall
7 execute invoices covering the same bearing the number of such certificate.
8 Upon completion of the project the contractor shall furnish to TLC
9 charities a sworn statement, on a form to be provided by the director of
10 taxation, that all purchases so made were entitled to exemption under this
11 subsection. All invoices shall be held by the contractor for a period of five
12 years and shall be subject to audit by the director of taxation. If any
13 materials purchased under such a certificate are found not to have been
14 incorporated in the building or other project or not to have been returned
15 for credit or the sales or compensating tax otherwise imposed upon such
16 materials which will not be incorporated into the building or other project
17 reported and paid by such contractor to the director of taxation not later
18 than the 20th day of the month following the close of the month in which it
19 shall be determined that such materials will not be used for the purpose for
20 which such certificate was issued, TLC charities shall be liable for tax on
21 all materials purchased for the project, and upon payment thereof it may
22 recover the same from the contractor together with reasonable attorney
23 fees. Any contractor or any agent, employee or subcontractor thereof, who
24 shall use or otherwise dispose of any materials purchased under such a
25 certificate for any purpose other than that for which such a certificate is
26 issued without the payment of the sales or compensating tax otherwise
27 imposed upon such materials, shall be guilty of a misdemeanor and, upon
28 conviction therefor, shall be subject to the penalties provided for in
29 subsection (g) of K.S.A. 79-3615, and amendments thereto;

30 (zzz) all sales of tangible personal property purchased by the rotary
31 club of shawnee foundation which is exempt from federal income taxation
32 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
33 as amended, used for the purpose of providing contributions to community
34 service organizations and scholarships;

35 (aaaa) all sales of personal property and services purchased by or on
36 behalf of victory in the valley, inc., which is exempt from federal income
37 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
38 for the purpose of providing a cancer support group and services for
39 persons with cancer, and all sales of any such property by or on behalf of
40 any such organization for any such purpose;

41 (bbbb) all sales of entry or participation fees, charges or tickets by
42 Guadalupe health foundation, which is exempt from federal income
43 taxation pursuant to section 501(c)(3) of the federal internal revenue code,

1 for such organization's annual fundraising event which purpose is to
2 provide health care services for uninsured workers;

3 (cccc) all sales of tangible personal property or services purchased by
4 or on behalf of wayside waifs, inc., which is exempt from federal income
5 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
6 for the purpose of providing such organization's annual fundraiser, an
7 event whose purpose is to support the care of homeless and abandoned
8 animals, animal adoption efforts, education programs for children and
9 efforts to reduce animal over-population and animal welfare services, and
10 all sales of any such property, including entry or participation fees or
11 charges, by or on behalf of such organization for such purpose;

12 (dddd) all sales of tangible personal property or services purchased
13 by or on behalf of Goodwill Industries or Easter Seals of Kansas, Inc.,
14 both of which are exempt from federal income taxation pursuant to section
15 501(c)(3) of the federal internal revenue code, for the purpose of providing
16 education, training and employment opportunities for people with
17 disabilities and other barriers to employment;

18 (eeee) all sales of tangible personal property or services purchased by
19 or on behalf of All American Beef Battalion, Inc., which is exempt from
20 federal income taxation pursuant to section 501(c)(3) of the federal
21 internal revenue code, for the purpose of educating, promoting and
22 participating as a contact group through the beef cattle industry in order to
23 carry out such projects that provide support and morale to members of the
24 United States armed forces and military services; ~~and~~

25 (ffff) all sales of tangible personal property and services purchased by
26 sheltered living, inc., which is exempt from federal income taxation
27 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
28 and which such property and services are used for the purpose of
29 providing residential and day services for people with developmental
30 disabilities or ~~mental retardation~~ *intellectual disabilities*, or both, and all
31 sales of any such property by or on behalf of sheltered living, inc. for any
32 such purpose; and all sales of tangible personal property or services
33 purchased by a contractor for the purpose of rehabilitating, constructing,
34 maintaining, repairing, enlarging, furnishing or remodeling homes and
35 facilities for sheltered living, inc. for any such purpose which would be
36 exempt from taxation under the provisions of this section if purchased
37 directly by sheltered living, inc. Nothing in this subsection shall be
38 deemed to exempt the purchase of any construction machinery, equipment
39 or tools used in the constructing, maintaining, repairing, enlarging,
40 furnishing or remodeling such homes and facilities for sheltered living,
41 inc. When sheltered living, inc. contracts for the purpose of rehabilitating,
42 constructing, maintaining, repairing, enlarging, furnishing or remodeling
43 such homes and facilities, it shall obtain from the state and furnish to the

1 contractor an exemption certificate for the project involved, and the
2 contractor may purchase materials for incorporation in such project. The
3 contractor shall furnish the number of such certificate to all suppliers from
4 whom such purchases are made, and such suppliers shall execute invoices
5 covering the same bearing the number of such certificate. Upon
6 completion of the project the contractor shall furnish to sheltered living,
7 inc. a sworn statement, on a form to be provided by the director of
8 taxation, that all purchases so made were entitled to exemption under this
9 subsection. All invoices shall be held by the contractor for a period of five
10 years and shall be subject to audit by the director of taxation. If any
11 materials purchased under such a certificate are found not to have been
12 incorporated in the building or other project or not to have been returned
13 for credit or the sales or compensating tax otherwise imposed upon such
14 materials which will not be so incorporated in the building or other project
15 reported and paid by such contractor to the director of taxation not later
16 than the 20th day of the month following the close of the month in which it
17 shall be determined that such materials will not be used for the purpose for
18 which such certificate was issued, sheltered living, inc. shall be liable for
19 tax on all materials purchased for the project, and upon payment thereof it
20 may recover the same from the contractor together with reasonable
21 attorney fees. Any contractor or any agent, employee or subcontractor
22 thereof, who shall use or otherwise dispose of any materials purchased
23 under such a certificate for any purpose other than that for which such a
24 certificate is issued without the payment of the sales or compensating tax
25 otherwise imposed upon such materials, shall be guilty of a misdemeanor
26 and, upon conviction therefor, shall be subject to the penalties provided for
27 in subsection (g) of K.S.A. 79-3615, and amendments thereto; and

28 *(gggg) all sales of game birds for which the primary purpose is use in*
29 *hunting.*

30 Sec. 75. K.S.A. 17-1762, 19-4001, 19-4002, 19-4002a, 19-4002b, 19-
31 4003, 19-4004, 19-4005, 19-4007, 19-4009, 19-4010, 19-4011, 39-927,
32 39-971, 39-1001, 39-1002, 39-1005, 39-1006, 39-1007, 39-1201, 39-1202,
33 39-1205, 39-1207, 39-1803, 58-24a16, 59-2946, 59-2972, 59-3077, 65-
34 5a14, 65-3501, 65-4202, 65-4212, 65-4411, 65-4412, 65-4413, 65-4414,
35 65-4415, 65-5601, 72-6203, 74-8917, 75-4375, 75-5399, 75-6508, 76-
36 12b01, 76-12b02, 76-12b03, 76-12b07, 76-12b11 and 76-17c01 and
37 K.S.A. 2011 Supp. 12-1675, 21-5417, 21-6622, 39-923, 39-936, 39-1401,
38 39-1702, 40-3401, 50-676, 65-180, 65-1124, 65-1626, 65-4915, 65-4921,
39 65-6805, 72-962, 74-5344, 75-4265, 75-5321a, 75-6506, 75-6609, 75-
40 6610, 75-7303, 79-3606 and 79-3606g are hereby repealed.

41 Sec. 76. This act shall take effect and be in force from and after its
42 publication in the statute book.

43