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

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

Sec. 2. K.S.A. 2011 Supp. 12-1675 is hereby amended to read as follows: 12-1675. (a) The governing body of any county, city, township, school district, area vocational-technical school, community college, firemen's relief association, community mental health center, community facility for the mentally retarded, intellectually disabled or any other governmental entity, unit or subdivision in the state of Kansas having authority to receive, hold and expend public moneys or funds may invest
any moneys which are not immediately required for the purposes for
which the moneys were collected or received, and the investment of which
is not subject to or regulated by any other statute.
(b) Such moneys shall be invested only:
   (1) In temporary notes or no-fund warrants issued by such investing
governmental unit;
   (2) in savings deposits, time deposit, open accounts, certificates of
deposit or time certificates of deposit with maturities of not more than two
years: (A) In banks, savings and loan associations and savings banks,
which have main or branch offices located in such investing governmental
unit; or (B) if no main or branch office of a bank, savings and loan
association or savings bank is located in such investing governmental unit,
then in banks, savings and loan associations and savings banks, which
have main or branch offices in the county or counties in which all or part
of such investing governmental unit is located;
   (3) in repurchase agreements with: (A) Banks, savings and loan
associations and savings banks, which have main or branch offices located
in such investing governmental unit, for direct obligations of, or
obligations that are insured as to principal and interest by, the United
States government or any agency thereof; or (B)(i) if no main or branch
office of a bank, savings and loan association or savings bank, is located in
such investing governmental unit; or (ii) if no such bank, savings and loan
association or savings bank having a main or branch office located in such
investing governmental unit is willing to enter into such an agreement with
the investing governmental unit at an interest rate equal to or greater than
the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and
amendments thereto, then such repurchase agreements may be entered into
with banks, savings and loan associations or savings banks which have
main or branch offices in the county or counties in which all or part of
such investing governmental unit is located; or (C) if no bank, savings and
loan association or savings bank, having a main or branch office in such
county or counties is willing to enter into such an agreement with the
investing governmental unit at an interest rate equal to or greater than the
investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and
amendments thereto, then such repurchase agreements may be entered into
with banks, savings and loan associations or savings banks located within
this state;
   (4) in United States treasury bills or notes with maturities as the
governing body shall determine, but not exceeding two years. Such
investment transactions shall only be conducted with banks, savings and
loan associations and savings banks; the federal reserve bank of Kansas
City, Missouri; or with primary government securities dealers which report
to the market report division of the federal reserve bank of New York, or
any broker-dealer engaged in the business of selling government securities
which is registered in compliance with the requirements of section 15 or
15C of the securities exchange act of 1934 and registered pursuant to
K.S.A. 17-12a401, and amendments thereto;
(5) in the municipal investment pool fund established in K.S.A. 12-
1677a, and amendments thereto;
(6) in the investments authorized and in accordance with the
conditions prescribed in K.S.A. 12-1677b, and amendments thereto;
(7) in multiple municipal client investment pools managed by the
trust departments of banks which have main or branch offices located in
the county or counties where such investing governmental unit is located
or with trust companies incorporated under the laws of this state which
have contracted to provide trust services under the provisions of K.S.A. 9-
2107, and amendments thereto, with banks which have main or branch
offices located in the county or counties in which such investing
governmental unit is located. Public moneys invested under this paragraph
shall be secured in the same manner as provided for under K.S.A. 9-1402,
and amendments thereto. Pooled investments of public moneys made by
trust departments under this paragraph shall be subject to the same terms,
conditions and limitations as are applicable to the municipal investment
pool established by K.S.A. 12-1677a, and amendments thereto; or
(8) municipal bonds or other obligations issued by any municipality
of the state of Kansas as defined in K.S.A. 10-1101, and amendments
thereto, which are general obligations of the municipality issuing the same.
(c) The investments authorized in paragraphs (4), (5), (6), (7) or (8)
of subsection (b) shall be utilized only if the banks, savings and loan
associations and savings banks eligible for investments authorized in
paragraph (2) of subsection (b), cannot or will not make the investments
authorized in paragraph (2) of subsection (b) available to the investing
governmental unit at interest rates equal to or greater than the investment
rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments
thereto.
(d) In selecting a depository pursuant to paragraph (2) of subsection
(b), if a bank, savings and loan association or savings bank eligible for an
investment deposit thereunder has an office located in the investing
governmental unit and such financial institution will make such deposits
available to the investing governmental unit at interest rates equal to or
greater than the investment rate, as defined in subsection (g) of K.S.A. 12-
1675a, and amendments thereto, and such financial institution otherwise
qualifies for such deposit, the investing governmental unit shall select one
or more of such eligible financial institutions for deposit of funds pursuant
to this section. If no such financial institution qualifies for such deposits,
the investing governmental unit may select for such deposits one or more
eligible banks, savings and loan associations or savings banks which have offices in the county or counties in which all or a part of such investing governmental unit is located which will make such deposits available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, and which otherwise qualify for such deposits.

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

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

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

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

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

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

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

(a) State educational institutions under the control and supervision of the state board of regents, unified school districts, educational interlocals, educational cooperatives, area vocational-technical schools, all educational institutions that are accredited by a regional accrediting association or by an organization affiliated with the national commission of accrediting, any foundation having an established identity with any of the aforementioned educational institutions, any other educational institution confining its solicitation of contributions to the student body, alumni, faculty and trustees of such institution, and their families, or a library established under the laws of this state, provided that the annual financial report of such institution or library shall be filed with the attorney general;
(b) fraternal, patriotic, social, educational, alumni organizations and historical societies when solicitation of contributions is confined to their membership. This exemption shall be extended to any subsidiary of a parent or superior organization exempted by this subsection where such solicitation is confined to the membership of the subsidiary, parent or superior organization;

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

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

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

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

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

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

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

(j) any boys' club which is affiliated with the boys' club of America, a
corporation chartered by congress, if such an affiliate properly files the
reports required by the boys' club of America and that the boys' club of
America files with the government of the United States the reports
required by such federal charter;

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

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

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

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

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

(p) any licensed community mental retardation for the intellectually
disabled center and its affiliates as determined by the department of social
and rehabilitation services;

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

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

(s) any charitable organization which does not intend to or does not
actually solicit or receive contributions from more than 100 persons;
(t) any charitable organization the funds of which are used to support
an activity of a municipality of this state; and
(u) the junior league, including any local community organization
affiliated therewith.

Sec. 4. K.S.A. 19-4001 is hereby amended to read as follows: 19-
4001. The board of county commissioners of any county or the boards of
county commissioners of two (2) or more counties jointly may establish a
community mental health center, and/or community facility for the
mentally retarded intellectually disabled, or both, which shall be
organized, operated, and financed according to the provisions of this act.
The mental health center may render the following mental health services:
Out-patient and inpatient diagnostic and treatment services; rehabilitation
services to individuals returning to the community from an inpatient
facility; consultative services to schools, courts, health and welfare
agencies, both public and private, and conducting, in collaboration with
other agencies when practical, in-service training for students entering the
mental health professions, educational programs, information and
research. The community facilities for the mentally retarded intellectually
disabled may render, and a mental retardation an intellectual disability
governing board which contracts with nonprofit corporations to provide
services for the mentally retarded may provide, the following services:
Pre-school, day care, work activity, sheltered workshops, sheltered
domiciles, parent and community education and, in collaboration with
other agencies when practical, clinical services, rehabilitation services, in-
service training for students entering professions dealing with the above
aspects of mental retardation intellectually disabled, information and
research. It may establish consulting and/or referral services, or both, in
conjunction with related community health, education, and welfare
services.

No community mental health center, and/or facility for the mentally
retarded intellectually disabled, or both, shall be established in said such
community after the effective date of this act unless and until the
establishment of the same has been approved by the secretary of social and
rehabilitation services.

Sec. 5. K.S.A. 19-4002 is hereby amended to read as follows: 19-
4002. (a) (1) Except as provided by K.S.A. 19-4002a and 19-4002b, and
amendments thereto, every county which establishes a mental health
center or facility for the mentally retarded intellectually disabled shall
establish a community mental health or mental retardation an intellectual
disability governing board. Every county which wants to establish such
board for the purpose of allowing such board to contract with a nonprofit
corporation to provide services for the mentally retarded intellectually
disabled may establish a mental retardation an intellectual disability governing board in accordance with the provisions of this section. Any board established under this subsection shall be referred to as the governing board. The governing board shall be composed of not less than seven members. The members of such governing board shall be appointed by and shall serve at the pleasure of the board of county commissioners of the county.

(2) When two or more counties desire to establish a mental health center or facility for the mentally retarded intellectually disabled, the chairperson of the board of the county commissioners of each participating county shall appoint two members to a selection committee, which committee shall select the first governing board. Each participating county shall have at least one representative on such board.

(b) Membership of each governing board, as nearly as possible, shall be representative of public health, medical profession, the judiciary, public welfare, hospitals, mental health organizations and mental retardation organizations for the intellectually disabled, education, rehabilitation, labor, business and civic groups and the general public. The governing board of a mental health center also shall include consumers of mental health services or representatives of mental health consumer groups and shall include family members of mentally ill persons.

(c) If the board of county commissioners desires to provide both mental health services and services for the mentally retarded intellectually disabled in accordance with the provisions of this act, and determine it is more practical to establish a single governing board for mental health services and mental retardation facilities for the intellectually disabled, the board of commissioners may establish a single board. If the board of county commissioners determine that separate boards are more practical, the board of county commissioners may establish a governing board for a mental health center and a separate board for mental retardation facilities for the intellectually disabled.

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

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

(b) If the board of county commissioners or the unified government
board of commissioners elects to serve as the governing board pursuant to this section, the board of county commissioners or the unified government board of commissioners shall appoint a mental health and mental retardation intellectual disability advisory board of not less than seven members. Members of the advisory board shall serve at the pleasure of the board making their appointment. Membership of the advisory board shall include consumers of mental health services and services for the intellectually disabled or representatives of mental health consumer groups and consumer groups for the intellectually disabled and shall include family members of mentally ill persons and intellectually disabled persons and, as nearly as possible, shall be representative of public health, medical profession, the judiciary, public welfare, hospitals and mental health organizations and organizations for the intellectually disabled and education, rehabilitation, labor, business and civic groups.

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

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

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

(c) The board of county commissioners, as the mental health or mental retardation intellectual disability governing board, shall seek the recommendations of the mental health and mental retardation intellectual disability advisory board prior to adopting the annual plan and budget for
county mental health and retardation programs for the intellectually disabled.

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

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

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

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

Sec. 9. K.S.A. 19-4004 is hereby amended to read as follows: 19-4004. In all counties wherein the board or boards of county commissioners in the event of a combination of counties has established a governing board, the respective board or boards of county commissioners may levy an annual tax upon all taxable tangible property in such county for mental health services and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county. The respective board or boards of county commissioners may also levy an additional annual tax upon all taxable tangible property in such county for mental retardation intellectual disability services and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments
thereto, by cities located in the county. The additional levy authorized by
this section for mental retardation/intellectual disability services shall not
be made until a notice of intent to make such levy has been published in a
newspaper of general circulation in the county or counties involved by the
board or boards of county commissioners proposing to make such levy,
and such notice shall state that if a petition signed by 5% of the electors of
the county shall file a protest petition within 60 days of the date of such
publication a proposition will be submitted at an election called for the
purpose in the county for approval of the levy; if such proposition is
approved or if no sufficient protest is made, then the board or boards of
county commissioners shall levy such tax, but if a sufficient protest is
made and such proposition is not approved, the levy will not be made. The
proceeds thereof shall be placed in the hands of the appropriate governing
board to be administered as provided by this act.

In addition thereto, to provide for the purchase of or the construction of
facilities for the community mental health center, and/or facility for the
mentally retarded/intellectually disabled, or both, the board or boards of
county commissioners may, upon petition of the governing board, may
levy an annual tax on all taxable tangible property in their county and to
issue and sell general obligation bonds of such county, for the purpose of
creating and providing a special fund to be used in acquiring a site for, and
the building, equipping, repairing, remodeling and furnishing of a
community mental health center, and/or facilities for the mentally
retarded/intellectually disabled, or both, or for any one or more of such
purposes. The additional levy authorized by this section shall not be made
until a notice of intent to make such levy has been published in a
newspaper of general circulation in the county or counties involved by the
board or boards of county commissioners proposing to make such levy,
and such notice shall state that if a petition signed by 5% of the electors of
the county shall file a protest petition within 60 days of the date of such
publication a proposition will be submitted at an election called for the
purpose in the county for approval of the levy; if such proposition is
approved or if no sufficient protest is made, then the board of county
commissioners will make the levy of such tax, but if a sufficient protest is
made and such proposition is not approved, the levy will not be made. The
board of county commissioners shall proceed in the manner prescribed to
be followed in such notice. The tax levy may be made annually until
sufficient funds have been created for the purpose or purposes, or if the
county has issued and sold general obligation bonds, the proceeds raised
by the annual tax levy shall be used to retire the general obligation bonds
and the tax levy shall continue until the general obligation bonds have
been retired. Such federal, state or private funds as may be available may
be accepted by the board of county commissioners to be placed in the fund
for operation of or construction of a community mental health center-and/or facility for the mentally retarded intellectually disabled, or both, as the case may be. Title to the building or buildings of the community mental health center-and/or facility for the mentally retarded intellectually disabled, or both, shall vest in the governing board which is responsible for the maintenance and operation of the facilities if a combination of counties has established the center, but, if only one county has established the mental health center or facilities for the mentally retarded intellectually disabled, title shall vest in the board of county commissioners of such county. If the board of county commissioners has contracted with a nonprofit corporation to provide mental health services under K.S.A. 19-4007, and amendments thereto, the title to the building or buildings may, in the discretion of the board of county commissioners, vest in the board of county commissioners or the nonprofit corporation providing mental health services, and the board of county commissioners may allow the nonprofit corporation to use the buildings without charge.

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

Sec. 11. K.S.A. 19-4007 is hereby amended to read as follows: 19-4007. (a) If the board or boards of county commissioners desire to provide either mental health services or services for the mentally retarded intellectually disabled, or both such services, and to levy the taxes authorized in K.S.A. 19-4004, or any and amendments thereto, but determine that it is more practicable to contract for such services with a nonprofit corporation, such board or boards may contract with the nonprofit corporation to provide either mental health services or services for the mentally retarded intellectually disabled, or both such services, for the residents of said the county or counties. In lieu of contracting with a nonprofit corporation to provide services for the mentally retarded intellectually disabled, a board of county commissioners may establish a mental retardation an intellectual disability governing board for the purpose of allowing this board to contract for and on behalf of the board of county commissioners with a nonprofit corporation to provide services for the mentally retarded intellectually disabled. The board or boards entering into such a contract with a nonprofit corporation, or the mental retardation intellectual disability governing board authorized to contract with a nonprofit corporation under this section, are hereby authorized to pay the amount agreed upon in such contract from the
proceeds of the tax or taxes levied pursuant to K.S.A. 19-4004, or any and amendments thereto, for mental health services or mental retardation intellectual disability services, or for both such services. Said The nonprofit corporation may not deny service to anyone because of inability to pay for the same, but said the nonprofit corporation may establish a schedule of charges for services to those who are financially able to pay for such services. Said The nonprofit corporation shall annually provide said the board or boards of county commissioners with a complete financial report showing the amount of fees collected, the amount of tax money received under said the contract, and any other income. The financial report shall also show the nonprofit corporation's disbursements, including salaries paid to each person employed by said the nonprofit corporation. No such nonprofit corporation shall be organized to receive public funds raised through taxation or public solicitation, or both, unless and until the establishment of the same has been approved by the secretary of social and rehabilitation services. The governing board of all such nonprofit corporations shall report annually to the secretary of social and rehabilitation services, in such form as may be required, on the activities of the mental health center, or community facility for the mentally retarded intellectually disabled.

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

Sec. 12. K.S.A. 19-4009 is hereby amended to read as follows: 19-4009. Nothing contained in this act shall be construed as repealing any existing law nor as affecting any mental health center or facilities for the mentally retarded intellectually disabled established by any county under any other law prior to the effective date of this act except as herein otherwise specifically provided; but no county which has heretofore established or shall hereafter establish under any other law a mental health center or facilities for the mentally retarded intellectually disabled shall make a tax levy under such other law for a mental health center or facilities for the mentally retarded intellectually disabled if it shall establish either singly or jointly a mental health center under the provisions of this
Sec. 13. K.S.A. 19-4010 is hereby amended to read as follows: 19-4010. The board of county commissioners of any county which is not a part of a community mental health center is hereby authorized to contract with a community mental health center and/or community facilities for the mentally retarded, intellectually disabled, or both, organized in accordance with the provisions of K.S.A. 19-4001 et seq., and any amendments thereto, for such mental health services and/or mental retardation or intellectual disability services, or both, for the residents of such county as may be mutually agreeable between the governing board of the center and/or community facilities for the mentally retarded intellectually disabled, or both, and the county commissioners, requesting the services for the residents thereof. Such an agreement may provide for out-patient and treatment services, rehabilitation services, consultative services and other services assented to by both parties. The consideration for such services shall not in any case exceed in amount the revenue that will be derived from the tax levy authorized by K.S.A. 19-4011, and amendments thereto. Such agreement may be for a term of not exceeding five (5) years, but may be renewed from time to time.

Sec. 14. K.S.A. 19-4011 is hereby amended to read as follows: 19-4011. The county commissioners of a county entering into such an agreement with a community mental health center is hereby authorized to levy an annual tax upon all of the taxable tangible property in such county for the purpose of providing revenue to pay for the mental health services contracted for with the center and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county. The county commissioners of a county entering into such an agreement with a community facility for the mentally retarded intellectually disabled is hereby authorized to levy an annual tax upon all of the taxable tangible property in such county for the purpose of providing revenue to pay for the mental retardation intellectual disability services contracted for with the facility and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county. Upon receipt of such tax moneys, the county commissioners shall pay the amount agreed upon to the governing body of the center and/or community facilities for the mentally retarded intellectually disabled, or both, and the governing body is authorized to receive and expend such moneys to provide community mental health services.

Sec. 15. K.S.A. 2011 Supp. 21-5417 is hereby amended to read as follows: 21-5417. (a) Mistreatment of a dependent adult is knowingly committing one or more of the following acts:
(1) Infliction of physical injury, unreasonable confinement or unreasonable punishment upon a dependent adult;
(2) taking unfair advantage of a dependent adult's physical or financial resources for another individual's personal or financial advantage by the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense; or
(3) omission or deprivation of treatment, goods or services that are necessary to maintain physical or mental health of a dependent adult.

(b) Mistreatment of a dependent adult as defined in:
(1) Subsection (a)(1) is a severity level 5, person felony;
(2) subsection (a)(2) if the aggregate amount of the value of the resources is:
   (A) $1,000,000 or more is a severity level 2, person felony;
   (B) at least $250,000 but less than $1,000,000 is a severity level 3, person felony;
   (C) at least $100,000 but less than $250,000 is a severity level 4, person felony;
   (D) at least $25,000 but less than $100,000 is a severity level 5, person felony;
   (E) at least $1,000 but less than $25,000 is a severity level 7, person felony;
   (F) less than $1,000 and committed by a person who has, within five years immediately preceding commission of the crime, the offender has been convicted of mistreatment of a dependent adult two or more times is a severity level 7, person felony; and
   (3) subsection (a)(3) is a severity level 8, person felony.

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

(d) As used in this section, "dependent adult" means an individual 18 years of age or older who is unable to protect the individual's own interest. Such term shall include, but is not limited to, any:
(1) Resident of an adult care home including, but not limited to, those facilities defined by K.S.A. 39-923, and amendments thereto;
(2) adult cared for in a private residence;
(3) individual kept, cared for, treated, boarded, confined or otherwise accommodated in a medical care facility;
(4) individual with mental retardation who is intellectually disabled
or who has a developmental disability receiving services through a community mental retardation facility for the intellectually disabled or residential facility licensed under K.S.A. 75-3307b, and amendments thereto;

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

(6) individual kept, cared for, treated, boarded, confined or otherwise accommodated in a state psychiatric hospital or state institution for the mentally retarded.

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

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

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

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

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

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

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

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

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

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

1. "Adult care home" means any nursing facility, nursing facility for mental health, intermediate care facility for the mentally retarded, intellectually disabled, assisted living facility, residential health care facility, home plus, boarding care home and adult day care facility; all
of which are classifications of adult care homes and are required to be licensed by the secretary of aging.

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

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

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

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

(6) "Residential health care facility" means any place or facility, or a contiguous portion of a place or facility, caring for six or more individuals not related within the third degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes individual living units and provides or coordinates personal care or supervised nursing care available on a 24-hour, seven-days-a-week basis for the support of resident independence. The provision of skilled nursing procedures to a resident in a residential
health care facility is not prohibited by this act. Generally, the skilled
services provided in a residential health care facility shall be provided on
an intermittent or limited term basis, or if limited in scope, a regular basis.

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

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

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

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

(11) "Skilled nursing care" means services performed by or under the
immediate supervision of a registered professional nurse and additional
licensed nursing personnel. Skilled nursing includes administration of
medications and treatments as prescribed by a licensed physician or
dentist; and other nursing functions which require substantial nursing
judgment and skill based on the knowledge and application of scientific
principles.
(12) "Supervised nursing care" means services provided by or under the guidance of a licensed nurse with initial direction for nursing procedures and periodic inspection of the actual act of accomplishing the procedures; administration of medications and treatments as prescribed by a licensed physician or dentist and assistance of residents with the performance of activities of daily living.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) (1) The licensing agency shall require unlicensed employees of an adult care home, except an adult care home licensed for the provision of services to the mentally retarded intellectually disabled which has been granted an exception by the secretary of aging upon a finding by the licensing agency that an appropriate training program for unlicensed employees is in place for such adult care home, employed on and after the effective date of this act who provide direct, individual care to residents and who do not administer medications to residents and who have not completed a course of education and training relating to resident care and treatment approved by the secretary of health and environment or are not participating in such a course on the effective date of this act to complete
successfully 40 hours of training in basic resident care skills. Any unlicensed person who has not completed 40 hours of training relating to resident care and treatment approved by the secretary of health and environment shall not provide direct, individual care to residents. The 40 hours of training shall be supervised by a registered professional nurse and the content and administration thereof shall comply with rules and regulations adopted by the secretary of health and environment. The 40 hours of training may be prepared and administered by an adult care home or by any other qualified person and may be conducted on the premises of the adult care home. The 40 hours of training required in this section shall be a part of any course of education and training required by the secretary of health and environment under subsection (c)(2). Training for paid nutrition assistants shall consist of at least eight hours of instruction, at a minimum, which meets the requirements of 42 C.F.R. § 483.160.

(2) The licensing agency may require unlicensed employees of an adult care home, except an adult care home licensed for the provision of services to the mentally retarded, intellectually disabled which has been granted an exception by the secretary of health and environment upon a finding by the licensing agency that an appropriate training program for unlicensed employees is in place for such adult care home, who provide direct, individual care to residents and who do not administer medications to residents and who do not meet the definition of paid nutrition assistance under paragraph (a)(27) of K.S.A. 39-923, and amendments thereto, after 90 days of employment to successfully complete an approved course of instruction and an examination relating to resident care and treatment as a condition to continued employment by an adult care home. A course of instruction may be prepared and administered by any adult care home or by any other qualified person. A course of instruction prepared and administered by an adult care home may be conducted on the premises of the adult care home which prepared and which will administer the course of instruction. The licensing agency shall not require unlicensed employees of an adult care home who provide direct, individual care to residents and who do not administer medications to residents to enroll in any particular approved course of instruction as a condition to the taking of an examination, but the secretary of health and environment shall prepare guidelines for the preparation and administration of courses of instruction and shall approve or disapprove courses of instruction. Unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications to residents may enroll in any approved course of instruction and upon completion of the approved course of instruction shall be eligible to take an examination. The examination shall be prescribed by the secretary of health and environment, shall be reasonably related to the duties performed by
unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications to residents and shall be the same examination given by the secretary of health and environment to all unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications.

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

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

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

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

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

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

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

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

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

Sec. 20. K.S.A. 39-971 is hereby amended to read as follows: 39-971.
(a) Notwithstanding any provision of law to the contrary, and within the
limits of appropriations therefor, the secretary of social and rehabilitation
services and the secretary on aging shall establish a quality enhancement
wage pass-through program as part of the state medicaid plan to allow
nursing facilities electing to participate in such program a payment option
of not to exceed $4 per resident day designed to increase salaries or
benefits, or both, for those employees providing direct care and support
services to residents of nursing facilities. The categories of employees
eligible to receive the wage pass-through are the following: Nurse aides,
medication aides, restorative-rehabilitation aides, licensed mental health
technicians, plant operating and maintenance personnel, nonsupervisory
dietary personnel, laundry personnel, housekeeping personnel and
nonsupervisory activity staff. The program shall establish a pass-through
wage payment system designed to reimburse facilities during the
reimbursement period in which the pass-through wage payment costs are
incurred.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) "Resident" means:

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

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

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

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

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

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

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

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

(1) Infliction of physical or mental injury;
(2) any sexual act with a resident when the resident does not consent or when the other person knows or should know that the resident is incapable of resisting or declining consent to the sexual act due to mental deficiency or disease or due to fear of retribution or hardship;
(3) unreasonable use of a physical restraint, isolation or medication that harms or is likely to harm a resident;
(4) unreasonable use of a physical or chemical restraint, medication or isolation as punishment, for convenience, in conflict with a physician's orders or as a substitute for treatment, except where such conduct or physical restraint is in furtherance of the health and safety of the resident or another resident;
(5) a threat or menacing conduct directed toward a resident that results or might reasonably be expected to result in fear or emotional or mental distress to a resident;
(6) fiduciary abuse; or
(7) omission or deprivation by a caretaker or another person of goods or services which are necessary to avoid physical or mental harm or illness.

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

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

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

(j) "Medical care facility" means a facility licensed under K.S.A. 65-425 et seq., and amendments thereto, but shall not include, for purposes of this act, a state psychiatric hospital or state institution for the mentally retarded, including Larned state hospital, Osawatomie state hospital and Rainbow mental health facility, Kansas neurological institute and Parsons state hospital and training center.

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

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

(m) "State institution for the mentally retarded, intellectually disabled"
means Kansas neurological institute and Parsons state hospital and training center.

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

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

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

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

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

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

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

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

(b) "Agency" means and includes county health departments, area offices of the department of social and rehabilitation services, district offices of the department of health and environment, local offices of the department of labor, boards of education of public school districts, community mental health centers, community facilities for the mentally...
(c) "Authorized decision makers" means agency representatives who have the authority to commit the resources of the agency they represent in the provision of services to any child or adolescent whose needs are brought before a regional interagency council.

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

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

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

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

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

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

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

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

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

(f) "Developmental disability" means:

(1) Mental retardation/intellectually disabled; or

(2) a severe, chronic disability, which:

(A) Is attributable to a mental or physical impairment, a combination of mental and physical impairments or a condition which has received a
dual diagnosis of mental retardation/intellectual disability and mental illness;
(B) is manifest before 22 years of age;
(C) is likely to continue indefinitely;
(D) results, in the case of a person five years of age or older, in a substantial limitation in three or more of the following areas of major life functioning: Self-care, receptive and expressive language development and use, learning and adapting, mobility, self-direction, capacity for independent living and economic self-sufficiency;
(E) reflects a need for a combination and sequence of special interdisciplinary or generic care, treatment or other services which are lifelong, or extended in duration and are individually planned and coordinated; and
(F) does not include individuals who are solely and severely emotionally disturbed or seriously or persistently mentally ill or have disabilities solely as a result of the infirmities of aging.
(g) "Institution" means state institution for the mentally retarded/intellectually disabled as defined by subsection (c) of K.S.A. 76-12b01, and amendments thereto, or intermediate care facility for the mentally retarded/intellectually disabled of nine beds or more as defined by subsection (a) (4) of K.S.A. 39-923, and amendments thereto.
(h) "Mental retardation/Intellectually disabled" means substantial limitations in present functioning that is manifested during the period from birth to age 18 years and is characterized by significantly subaverage intellectual functioning existing concurrently with deficits in adaptive behavior including related limitations in two or more of the following applicable adaptive skill areas: Communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure and work.
(i) "Secretary" means the secretary of social and rehabilitation services.
Sec. 33. K.S.A. 2011 Supp. 40-3401 is hereby amended to read as follows: 40-3401. As used in this act the following terms shall have the meanings respectively ascribed to them herein.
(a) "Applicant" means any health care provider.
(b) "Basic coverage" means a policy of professional liability insurance required to be maintained by each health care provider pursuant to the provisions of subsection (a) or (b) of K.S.A. 40-3402, and amendments thereto.
(c) "Commissioner" means the commissioner of insurance.
(d) "Fiscal year" means the year commencing on the effective date of this act and each year, commencing on the first day of that month, thereafter.
(e) "Fund" means the health care stabilization fund established pursuant to subsection (a) of K.S.A. 40-3403, and amendments thereto.

(f) "Health care provider" means a person licensed to practice any branch of the healing arts by the state board of healing arts with the exception of physician assistants, a person who holds a temporary permit to practice any branch of the healing arts issued by the state board of healing arts, a person engaged in a postgraduate training program approved by the state board of healing arts, a medical care facility licensed by the department of health and environment, a health maintenance organization issued a certificate of authority by the commissioner of insurance, a podiatrist licensed by the state board of healing arts, an optometrist licensed by the board of examiners in optometry, a pharmacist licensed by the state board of pharmacy, a licensed professional nurse who is authorized to practice as a registered nurse anesthetist, a licensed professional nurse who has been granted a temporary authorization to practice nurse anesthesia under K.S.A. 65-1153, and amendments thereto, a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are health care providers as defined by this subsection, a Kansas limited liability company organized for the purpose of rendering professional services by its members who are health care providers as defined by this subsection and who are legally authorized to render the professional services for which the limited liability company is organized, a partnership of persons who are health care providers under this subsection, a Kansas not-for-profit corporation organized for the purpose of rendering professional services by persons who are health care providers as defined by this subsection, a nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine, a dentist certified by the state board of healing arts to administer anesthetics under K.S.A. 65-2899, and amendments thereto, a psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto, or a mental health center or mental health clinic licensed by the secretary of social and rehabilitation services, except that health care provider does not include (1) any state institution for the mentally retarded, (2) any state psychiatric hospital, (3) any person holding an exempt license issued by the state board of healing arts or (4) any person holding a visiting clinical professor license from the state board of healing arts.

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

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

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

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

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

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

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

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

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

(p) "State institution for the mentally retarded"
means Winfield state hospital and training center, Parsons state hospital and training center and the Kansas neurological institute.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) "Protected consumer" means:

(1) An elder person;

(2) a disabled person;

(3) a veteran;

(4) the surviving spouse of a veteran; and

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

(h) "Substantially limits" means:

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

(2) significantly restricted as to the condition, manner or duration under which an individual can perform a particular major life activity as compared to the condition, manner or duration under which the average person in the general population can perform that same major life activity. Minor temporary ailments or injuries shall not be considered physical or mental impairments which substantially limit a person's major life activities. Minor temporary ailments include, but are not limited to, colds, influenza or sprains or minor injuries.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) "Registered nurse" means a person licensed as a registered professional nurse by the board of nursing under K.S.A. 65-1113 through
(k) "Secretary" means the secretary of social and rehabilitation services.

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

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

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

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

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

(b) The secretary of social and rehabilitation services or the designee of the secretary may transfer any involuntary patient from any state psychiatric hospital to any state institution for the mentally retarded, intellectually disabled whenever the secretary of social and rehabilitation services or the designee of the secretary considers it to be in the best interests of the patient. Any patient transferred as provided for in this subsection shall remain subject to the same statutory provisions as were applicable at the psychiatric hospital from which the patient was transferred and in addition thereto shall abide by and be subject to all the rules and regulations of the retardation institution for the intellectually disabled to which the patient has been transferred. Except in the case of an emergency, the patient's spouse or nearest relative or legal guardian, if one
has been appointed, shall be notified of the transfer, and notice shall be
sent to the committing court not less than 14 days before the proposed
transfer. The notice shall name the institution to which the patient is
proposed to be transferred to and state that, upon request of the spouse or
nearest relative or legal guardian, an opportunity for a hearing on the
proposed transfer will be provided by the secretary of social and
rehabilitation services prior to such transfer. No patient shall be transferred
from a state psychiatric hospital to a state institution for the mentally
retarded/intellectually disabled unless the superintendent of the receiving
institution has found, pursuant to K.S.A. 76-12b01 through 76-12b11, and
amendments thereto, that the patient is mentally retarded/intellectually
discharged under K.S.A. 76-12b11, and amendments thereto, that the patient is
mentally retarded/intellectually disabled and in need of care and training and that placement in the
institution is the least restrictive alternative available. Nothing in this
subsection shall prevent the secretary of social and rehabilitation services
or the designee of the secretary from allowing a patient at a state
psychiatric hospital to be admitted as a voluntary resident to a state
institution for the mentally retarded/intellectually disabled, or from then
discharging such person from the state psychiatric hospital pursuant to
K.S.A. 59-2973, and amendments thereto, as may be appropriate.

Sec. 38. K.S.A. 59-3077 is hereby amended to read as follows: 59-
3077. (a) At any time after the filing of the petition provided for in K.S.A.
59-3058, 59-3059, 59-3060 or 59-3061, and amendments thereto, any
person may file in addition to that original petition, or as a part thereof, or
at any time after the appointment of a temporary guardian as provided for
in K.S.A. 59-3073, and amendments thereto, or a guardian as provided for
in K.S.A. 59-3067, and amendments thereto, the temporary guardian or
guardian may file, a verified petition requesting that the court grant
authority to the temporary guardian or guardian to admit the proposed
ward or ward to a treatment facility, as defined in subsection (h), and to
consent to the care and treatment of the proposed ward or ward therein.
The petition shall include:
(1) The petitioner's name and address, and if the petitioner is the
proposed ward's or ward's court appointed temporary guardian or guardian,
that fact;
(2) the proposed ward's or ward's name, age, date of birth, address of
permanent residence, and present address or whereabouts, if different from
the proposed ward's or ward's permanent residence;
(3) the name and address of the proposed ward's or ward's court
appointed temporary guardian or guardian, if different from the petitioner;
(4) the factual basis upon which the petitioner alleges the need for the
proposed ward or ward to be admitted to and treated at a treatment facility,
or for the proposed ward or ward to continue to be treated at the treatment
facility to which the proposed ward or ward has already been admitted, or
for the guardian to have continuing authority to admit the ward for care and treatment at a treatment facility pursuant to subsection (b)(3) of K.S.A. 59-2949, or subsection (b)(3) of K.S.A. 59-29b49, and amendments thereto;
(5) the names and addresses of witnesses by whom the truth of this petition may be proved; and
(6) a request that the court find that the proposed ward or ward is in need of being admitted to and treated at a treatment facility, and that the court grant to the temporary guardian or guardian the authority to admit the proposed ward or ward to a treatment facility and to consent to the care and treatment of the proposed ward or ward therein.

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

(c) Upon the filing of such a petition, the court shall issue the following:
(1) An order fixing the date, time and place of a hearing on the petition. Such hearing, in the court's discretion, may be conducted in a courtroom, a treatment facility or at some other suitable place. The time fixed in the order shall in no event be earlier than seven days or later than 21 days after the date of the filing of the petition. The court may consolidate this hearing with the trial upon the original petition filed pursuant to K.S.A. 59-3058, 59-3059, 59-3060 or 59-3061, and amendments thereto, or with the trial provided for in the care and treatment act for mentally ill persons or the care and treatment act for persons with an alcohol or substance abuse problem, if the petition also incorporates the allegations required by, and is filed in compliance with, the provisions of either of those acts.
(2) An order requiring that the proposed ward or ward appear at the time and place of the hearing on the petition unless the court makes a finding prior to the hearing that the presence of the proposed ward or ward will be injurious to the person's health or welfare, or that the proposed ward's or ward's impairment is such that the person could not meaningfully participate in the proceedings, or that the proposed ward or ward has filed with the court a written waiver of such ward's right to appear in person. In any such case, the court shall enter in the record of the proceedings the facts upon which the court has found that the presence of the proposed ward or ward at the hearing should be excused. Notwithstanding the foregoing provisions of this subsection, if the proposed ward or ward files with the court at least one day prior to the date of the hearing a written notice stating the person's desire to be present at the hearing, the court
shall order that the person must be present at the hearing.

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

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

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

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

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

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

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

For good cause shown, an order changing the place of the hearing.

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

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

Nothing herein shall be construed so as to prohibit the head of a treatment facility from admitting a proposed ward or ward to that facility as a voluntary patient if the head of the treatment facility is satisfied that the proposed ward or ward at that time has the capacity to understand such ward's illness and need for treatment, and to consent to such ward's admission and treatment. Upon any such admission, the head of the treatment facility shall give notice to the temporary guardian or guardian as soon as possible of the ward's admission, and shall provide to the
temporary guardian or guardian copies of any consents the proposed ward or ward has given. Thereafter, the temporary guardian or guardian shall timely either seek to obtain proper authority pursuant to this section to admit the proposed ward or ward to a treatment facility and to consent to further care and treatment, or shall otherwise assume responsibility for the care of the proposed ward or ward, consistent with the authority of the temporary guardian or guardian, and may arrange for the discharge from the facility of the proposed ward or ward, unless the head of the treatment facility shall file a petition requesting the involuntary commitment of the proposed ward or ward to that or some other facility.

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

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

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

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

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

(d) Maintain a registry of cases including information of importance
for the purpose of follow-up services to prevent mental—
intellectual disability or morbidity.

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

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

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

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

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

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

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

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

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

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

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

In adopting the rules and regulations, the secretary of health and
environment shall consult with and give consideration to the
recommendations of representatives of the Kansas medical society
designated or selected by the society for such purpose.
A child with special health care needs shall not be denied services
because the child is mentally retarded/intellectually disabled.

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

(a) Gratuitous nursing by friends or members of the family;
(b) the incidental care of the sick by domestic servants or persons
primarily employed as housekeepers;
(c) caring for the sick in accordance with tenets and practices of any
church or religious denomination which teaches reliance upon spiritual
means through prayer for healing;
(d) nursing assistance in the case of an emergency;
(e) the practice of nursing by students as part of a clinical course
offered through a school of professional or practical nursing or program of
advanced registered professional nursing approved in the United States or
its territories;
(f) the practice of nursing in this state by legally qualified nurses of any of the other states as long as the engagement of any such nurse requires the nurse to accompany and care for a patient temporarily residing in this state during the period of one such engagement not to exceed six months in length, and as long as such nurses do not represent or hold themselves out as nurses licensed to practice in this state;
(g) the practice by any nurse who is employed by the United States government or any bureau, division or agency thereof, while in the discharge of official duties;
(h) auxiliary patient care services performed in medical care facilities, adult care homes or elsewhere by persons under the direction of a person licensed to practice medicine and surgery or a person licensed to practice dentistry or the supervision of a registered professional nurse or a licensed practical nurse;
(i) the administration of medications to residents of adult care homes or to patients in hospital-based long-term care units, including state operated institutions for the mentally retarded, intellectually disabled, by an unlicensed person who has been certified as having satisfactorily completed a training program in medication administration approved by the secretary of health and environment and has completed the program on continuing education adopted by the secretary, or by an unlicensed person while engaged in and as a part of such training program in medication administration;
(j) the practice of mental health technology by licensed mental health technicians as authorized under the mental health technicians' licensure act;
(k) performance in the school setting of nursing procedures when delegated by a licensed professional nurse in accordance with the rules and regulations of the board;
(l) performance of attendant care services directed by or on behalf of an individual in need of in-home care as the terms "attendant care services" and "individual in need of in-home care" are defined under K.S.A. 65-6201, and amendments thereto;
(m) performance of a nursing procedure by a person when that procedure is delegated by a licensed nurse, within the reasonable exercise of independent nursing judgment and is performed with reasonable skill and safety by that person under the supervision of a registered professional nurse or a licensed practical nurse;
(n) the practice of nursing by an applicant for Kansas nurse licensure in the supervised clinical portion of a refresher course; or
(o) the teaching of the nursing process in this state by legally qualified nurses of any of the other states while in consultation with a
licensed Kansas nurse as long as such individuals do not represent or hold
themselves out as nurses licensed to practice in this state.

Sec. 42. K.S.A. 2011 Supp. 65-1626 is hereby amended to read as
follows: 65-1626. For the purposes of this act:
(a) "Administer" means the direct application of a drug, whether by
injection, inhalation, ingestion or any other means, to the body of a patient
or research subject by:
(1) A practitioner or pursuant to the lawful direction of a practitioner;
(2) the patient or research subject at the direction and in the presence
of the practitioner; or
(3) a pharmacist as authorized in K.S.A. 65-1635a, and amendments
thereto.
(b) "Agent" means an authorized person who acts on behalf of or at
the direction of a manufacturer, distributor or dispenser but shall not
include a common carrier, public warehouseman or employee of the carrier
or warehouseman when acting in the usual and lawful course of the
carrier's or warehouseman's business.
(c) "Authorized distributor of record" means a wholesale distributor
with whom a manufacturer has established an ongoing relationship to
distribute the manufacturer's prescription drug. An ongoing relationship is
deemed to exist between such wholesale distributor and a manufacturer
when the wholesale distributor, including any affiliated group of the
wholesale distributor, as defined in section 1504 of the internal revenue
code, complies with any one of the following: (1) The wholesale
distributor has a written agreement currently in effect with the
manufacturer evidencing such ongoing relationship; and (2) the wholesale
distributor is listed on the manufacturer's current list of authorized
distributors of record, which is updated by the manufacturer on no less
than a monthly basis.
(d) "Board" means the state board of pharmacy created by K.S.A. 74-
1603, and amendments thereto.
(e) "Brand exchange" means the dispensing of a different drug
product of the same dosage form and strength and of the same generic
name as the brand name drug product prescribed.
(f) "Brand name" means the registered trademark name given to a
drug product by its manufacturer, labeler or distributor.
(g) "Chain pharmacy warehouse" means a permanent physical
location for drugs or devices, or both, that acts as a central warehouse and
performs intracompany sales or transfers of prescription drugs or devices
to chain pharmacies that have the same ownership or control. Chain
pharmacy warehouses must be registered as wholesale distributors.
(h) "Co-licensee" means a pharmaceutical manufacturer that has
entered into an agreement with another pharmaceutical manufacturer to
engage in a business activity or occupation related to the manufacture or
distribution of a prescription drug and the national drug code on the drug
product label shall be used to determine the identity of the drug
manufacturer.

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

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

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

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

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

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

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

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

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

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

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

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

(u) (1) "Institutional drug room" means any location where prescription-only drugs are stored and from which prescription-only drugs are administered or dispensed and which is maintained or operated for the purpose of providing the drug needs of:
(A) Inmates of a jail or correctional institution or facility;
(B) residents of a juvenile detention facility, as defined by the revised Kansas code for care of children and the revised Kansas juvenile justice code;
(C) students of a public or private university or college, a community college or any other institution of higher learning which is located in Kansas;
(D) employees of a business or other employer; or
(E) persons receiving inpatient hospice services.
(2) "Institutional drug room" does not include:
(A) Any registered pharmacy;
(B) any office of a practitioner; or
(C) a location where no prescription-only drugs are dispensed and no
prescription-only drugs other than individual prescriptions are stored or
administered.

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

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

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

(1) A practitioner or a practitioner's authorized agent incident to such
practitioner's administering or dispensing of a drug in the course of the
practitioner's professional practice;
(2) a practitioner, by a practitioner's authorized agent or under a
practitioner's supervision for the purpose of, or as an incident to, research,
teaching or chemical analysis and not for sale; or
(3) a pharmacist or the pharmacist's authorized agent acting under the
direct supervision of the pharmacist for the purpose of, or incident to, the
dispensing of a drug by the pharmacist.

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

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

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

(aa) "Person" means individual, corporation, government, governmental subdivision or agency, partnership, association or any other legal entity.
(bb) "Pharmacist" means any natural person licensed under this act to practice pharmacy.
(cc) "Pharmacist in charge" means the pharmacist who is responsible to the board for a registered establishment's compliance with the laws and regulations of this state pertaining to the practice of pharmacy, manufacturing of drugs and the distribution of drugs. The pharmacist in charge shall supervise such establishment on a full-time or a part-time basis and perform such other duties relating to supervision of a registered establishment as may be prescribed by the board by rules and regulations. Nothing in this definition shall relieve other pharmacists or persons from their responsibility to comply with state and federal laws and regulations.
(dd) "Pharmacy," "drug store" or "apothecary" means premises, laboratory, area or other place: (1) Where drugs are offered for sale where the profession of pharmacy is practiced and where prescriptions are compounded and dispensed; or (2) which has displayed upon it or within it the words "pharmacist," "pharmaceutical chemist," "pharmacy," "apothecary," "drugstore," "druggist," "drugs," "drug sundries" or any of these words or combinations of these words or words of similar import either in English or any sign containing any of these words; or (3) where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" may be exhibited. As used in this subsection, premises refers only to the portion of any building or structure leased, used or controlled by the licensee in the conduct of the business registered by the board at the address for which the registration was issued.
(ee) "Pharmacy student" means an individual, registered with the board of pharmacy, enrolled in an accredited school of pharmacy.
(ff) "Pharmacy technician" means an individual who, under the direct supervision and control of a pharmacist, may perform packaging, manipulative, repetitive or other nondiscretionary tasks related to the processing of a prescription or medication order and who assists the pharmacist in the performance of pharmacy related duties, but who does
not perform duties restricted to a pharmacist.

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

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

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

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

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

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

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

(nn) "Professional incompetency" means:

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

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

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

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

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

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

(rr) "Unprofessional conduct" means:
(1) Fraud in securing a registration or permit;
(2) intentional adulteration or mislabeling of any drug, medicine,
chemical or poison;
(3) causing any drug, medicine, chemical or poison to be adulterated
or mislabeled, knowing the same to be adulterated or mislabeled;
(4) intentionally falsifying or altering records or prescriptions;
(5) unlawful possession of drugs and unlawful diversion of drugs to
others;
(6) willful betrayal of confidential information under K.S.A. 65-1654,
and amendments thereto;
(7) conduct likely to deceive, defraud or harm the public;
(8) making a false or misleading statement regarding the licensee's
professional practice or the efficacy or value of a drug;
(9) commission of any act of sexual abuse, misconduct or
exploitation related to the licensee's professional practice; or
(10) performing unnecessary tests, examinations or services which
have no legitimate pharmaceutical purpose.

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

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

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

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

(ww) "Wholesale distribution" means the distribution of prescription
drugs or devices by wholesale distributors to persons other than consumers
or patients, and includes the transfer of prescription drugs by a pharmacy
to another pharmacy if the total number of units of transferred drugs
during a twelve-month period does not exceed 5% of the total number of
all units dispensed by the pharmacy during the immediately preceding
twelve-month period. Wholesale distribution does not include: (1) The
sale, purchase or trade of a prescription drug or device, an offer to sell,
purchase or trade a prescription drug or device or the dispensing of a
prescription drug or device pursuant to a prescription; (2) the sale,
purchase or trade of a prescription drug or device or an offer to sell,
purchase or trade a prescription drug or device for emergency medical
reasons; (3) intracompany transactions, as defined in this section, unless in
violation of own use provisions; (4) the sale, purchase or trade of a
prescription drug or device for its own use from the group purchasing
organization or from other hospitals or similar health care entities that are
members of these organizations; (7) the transfer of prescription drugs or
devices between pharmacies pursuant to a centralized prescription
processing agreement; (8) the sale, purchase or trade of blood and blood
components intended for transfusion; (9) the return of recalled, expired,
damaged or otherwise non-salable prescription drugs, when conducted by
a hospital, health care entity, pharmacy, chain pharmacy warehouse or
charitable institution in accordance with the board's rules and regulations;
(10) the sale, transfer, merger or consolidation of all or part of the business
of a retail pharmacy or pharmacies from or with another retail pharmacy or
pharmacies, whether accomplished as a purchase and sale of stock or
business assets, in accordance with the board's rules and regulations; (11)
the distribution of drug samples by manufacturers' and authorized
distributors' representatives; (12) the sale of minimal quantities of drugs by
retail pharmacies to licensed practitioners for office use; or (13) the sale or
transfer from a retail pharmacy or chain pharmacy warehouse of expired,
damaged, returned or recalled prescription drugs to the original
manufacturer, originating wholesale distributor or to a third party returns
processor in accordance with the board's rules and regulations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) the practice of mental health technology by graduates of an
approved course in mental health technology who are practicing as mental
health technicians pending the results of the first licensing examination
scheduled by the board following graduation;
(d) practice by short-term trainees exploring the practice of mental
health technology as a prospective vocation;
(e) service conducted in accordance with the practice of the tenets of
any religious denomination in which persons of good faith rely solely upon
spiritual means or prayer in the exercise of their religion to prevent or cure
disease;
(f) the practice of any legally qualified mental health technician of
this state or another who is employed by the United States government of
any bureau, division or agency thereof, while in the discharge of official
duties;
(g) temporary assistance in the therapeutic care of patients where
adequate medical, nursing, and/or other supervision is provided;
(h) subsidiary workers in hospitals or related institutions from
assisting in the nursing care of patients where adequate medical and
nursing supervision is provided; and
(i) the employment of psychiatric aides who have received at least
three months instruction in an approved basic aide training program and
who work under the supervision of licensed personnel.
Sec. 46. K.S.A. 65-4411 is hereby amended to read as follows: 65-
4411. K.S.A. 65-4411 to 65-4415, inclusive, and amendments thereto,
shall be known and may be cited as the Kansas community mental-
retardation facilities for the intellectually disabled assistance act.
Sec. 47. K.S.A. 65-4412 is hereby amended to read as follows: 65-
4412. (a) "Community mental retardation facilities for the intellectually
disabled" means: (1) Any community facility for the mentally retarded
intellectually disabled organized pursuant to the provisions of K.S.A. 19-
4001 to 19-4015, inclusive, and amendments thereto, and licensed in
accordance with the provisions of K.S.A. 75-3307b, and amendments
thereto; or (2) any mental retardation intellectual disability governing
board which contracts with a nonprofit corporation to provide services for
the mentally retarded intellectually disabled.
(b) "Secretary" means secretary of social and rehabilitation services.
Sec. 48. K.S.A. 65-4413 is hereby amended to read as follows: 65-
4413. (a) For the purpose of insuring that adequate community mental-
retardation intellectual disability services are available to all inhabitants of
Kansas, the state shall participate in the financing of community mental-
retardation facilities for the intellectually disabled in the manner provided
by this section.
(b) Subject to the provisions of appropriations acts and the provisions
of K.S.A. 65-4414, and amendments thereto, the secretary shall make
grants to community mental retardation facilities for the intellectually disabled based on full-time equivalent clients served and per diem amounts per client as provided in this section. The secretary, in accordance with the provisions of this section, shall adopt rules and regulations (1) defining full-time equivalent clients and prescribing the method of computing full-time equivalent clients and (2) establishing statewide per diem amounts per client for the purposes of determining grants to community mental retardation facilities for the intellectually disabled. A client accepted for a program by a facility on and after July 1, 1987, shall constitute a full-time equivalent client only if the client was accepted by the facility on a first-come, first-serve basis in order of the time at which an application for admission was made to such facility on behalf of the client, except that a client accepted for a program by a facility on other than a first-come, first-serve basis because of a family crisis occasioned by family circumstances shall constitute a full-time equivalent client. The secretary shall adopt rules and regulations to define the parameters for agency boards of directors to follow in identifying "family crisis occasioned by family circumstances." Such rules and regulations shall require that each agency board of directors establish standards and guidelines, within parameters defined by the rules and regulations, which are consistent with the needs of clients and their families. The standards and guidelines established by the agency board of directors shall specify to the extent known the types of family crises most likely to necessitate admission to a facility and shall establish criteria for determining the appropriateness of such admission. In addition the rules and regulations shall establish procedures for review by the secretary of the appropriateness of any such admission.

(c) The secretary shall make grant payments each calendar quarter. Subject to the provisions of K.S.A. 65-4414, and amendments thereto: (1) The first year of per diem payments made under this section shall be based on the number of clients served during the base calendar year 1983; and (2) payments in subsequent years shall be based on actual clients served during the calendar year immediately preceding the year in which such grant payments are to be made. In the event that sufficient moneys to pay to all community mental retardation facilities for the intellectually disabled the full amount of grant payments determined in accordance with the number of actual clients served thereby and the current per diem amounts per client for any calendar quarter have not been appropriated or are not available, the entire amount available such calendar quarter for grant payments shall be prorated by the secretary among all the community mental retardation facilities for the intellectually disabled applying for such grant payments in proportion to the amount each such community mental retardation facility for the intellectually disabled
would have received if sufficient moneys had been appropriated and available therefor, subject to the provisions of K.S.A. 65-4414, and amendments thereto. A client funded by special state funding shall not constitute a client for purposes of *per diem* funding under this section.

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

Sec. 49. K.S.A. 65-4414 is hereby amended to read as follows: 65-4414. During each fiscal year commencing after June 30, 1986, each community mental retardation facility for the intellectually disabled which was eligible for grant payments under K.S.A. 65-4413, and amendments thereto, and which received assistance under the provisions of K.S.A. 65-4401 to 65-4408, inclusive, and amendments thereto, for the fiscal year ending June 30, 1986, shall receive a total amount of grant payments under K.S.A. 65-4413, and amendments thereto, for such fiscal year in an amount which is not less than the total amount of assistance earned by such community mental retardation facility for the intellectually disabled under the provisions of K.S.A. 65-4401 to 65-4408, inclusive, and amendments thereto, for the fiscal year ending June 30, 1986. In the event that sufficient funds are not appropriated to pay all such community mental-retardation facilities for the intellectually disabled, which are applying for grants, the minimum amounts which such facilities are eligible to receive under this section, the secretary shall prorate the entire amount appropriated for grants among those community mental-retardation facilities for the intellectually disabled which are applying for grants and which are eligible under this section, in proportion to the amount each such community mental-retardation facility for the intellectually disabled received during the base year ending June 30, 1986.

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

(b) The secretary shall administer the provisions of the Kansas
community—mental retardation—facilities for the intellectually disabled assistance act. In administering the provisions of the Kansas community mental retardation—facilities for the intellectually disabled assistance act, the secretary shall review the budgets and expenditures of the facilities, from time to time during the fiscal year, and may withdraw funds from any facility which is not being administered substantially in accordance with the provisions of the annual budget submitted to the secretary.

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

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

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

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

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

(2) "Health care provider group" means:
(A) A state or local association of health care providers or one or
more committees thereof;
(B) the board of governors created under K.S.A. 40-3403, and
amendments thereto;
(C) an organization of health care providers formed pursuant to state
or federal law and authorized to evaluate medical and health care services;
(D) a review committee operating pursuant to K.S.A. 65-2840c, and
amendments thereto;
(E) an organized medical staff of a licensed medical care facility as
defined by K.S.A. 65-425, and amendments thereto, an organized medical
staff of a private psychiatric hospital licensed under K.S.A. 75-3307b, and
amendments thereto, or an organized medical staff of a state psychiatric
hospital or state institution for the mentally retarded, intellectually disabled,
as follows: Larned state hospital, Osawatomie state hospital, Rainbow
mental health facility, Kansas neurological institute and Parsons state
hospital and training center;
(F) a health care provider;
(G) a professional society of health care providers or one or more
committees thereof;
(H) a Kansas corporation whose stockholders or members are health
care providers or an association of health care providers, which
corporation evaluates medical and health care services; or
(I) an insurance company, health maintenance organization or
administrator of a health benefits plan which engages in any of the
functions defined as peer review under this section.

(3) "Peer review" means any of the following functions:
(A) Evaluate and improve the quality of health care services rendered
by health care providers;
(B) determine that health services rendered were professionally
indicated or were performed in compliance with the applicable standard of
care;
(C) determine that the cost of health care rendered was considered
reasonable by the providers of professional health services in this area;
(D) evaluate the qualifications, competence and performance of the
providers of health care or to act upon matters relating to the discipline of
any individual provider of health care;
(E) reduce morbidity or mortality;
(F) establish and enforce guidelines designed to keep within reasonable bounds the cost of health care;
(G) conduct of research;
(H) determine if a hospital's facilities are being properly utilized;
(I) supervise, discipline, admit, determine privileges or control members of a hospital's medical staff;
(J) review the professional qualifications or activities of health care providers;
(K) evaluate the quantity, quality and timeliness of health care services rendered to patients in the facility;
(L) evaluate, review or improve methods, procedures or treatments being utilized by the medical care facility or by health care providers in a facility rendering health care.

(4) "Peer review officer or committee" means:
(A) An individual employed, designated or appointed by, or a committee of or employed, designated or appointed by, a health care provider group and authorized to perform peer review; or
(B) a health care provider monitoring the delivery of health care at correctional institutions under the jurisdiction of the secretary of corrections.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) "School district" means any public school district.
(b) "Board" means the board of education of any school district.
(c) "State board" means the state board of education.
(d) "Department" means the state department of education.
(e) "State institution" means any institution under the jurisdiction of a state agency.
(f) "State agency" means the department of social and rehabilitation services, the department of corrections and the juvenile justice authority.
(g) "Exceptional children" means persons who are children with disabilities or gifted children and are school age, to be determined in accordance with rules and regulations adopted by the state board, which age may differ from the ages of children required to attend school under the provisions of K.S.A. 72-1111, and amendments thereto.
(h) "Gifted children" means exceptional children who are determined to be within the gifted category of exceptionality as such category is defined by the state board.
(i) "Special education" means specially designed instruction provided at no cost to parents to meet the unique needs of an exceptional child, including:
   (1) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and
   (2) instruction in physical education.
(j) "Special teacher" means a person, employed by or under contract with a school district or a state institution to provide special education or related services, who is: (1) Qualified to provide special education or
related services to exceptional children as determined pursuant to standards established by the state board; or (2) qualified to assist in the provision of special education or related services to exceptional children as determined pursuant to standards established by the state board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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


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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Converting all or parts of some types of licensed adult care homes from their existing licensure types to different licensure types to meet demonstrated changing service demands in their communities;
2. Converting private residences to licensed homes plus facilities, as defined by K.S.A. 39-923, and amendments thereto;
3. Converting space in rural hospitals to hospital-based long-term care facilities;
4. Improving quality in some types of licensed adult care homes;
5. Rural hospitals contracting for physician, physician assistant or licensed professional nurse services; or
6. Building congregate housing for seniors in Kansas cities with populations of 2,500 or less.

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

1. Type of loan – higher interest is preferable to lower interest and more secured is preferable to less secured;
2. Size of facility – facilities having less than 60 beds are preferable to facilities having 60 beds or more;
3. Availability and utilization of the same type of facilities or services in the proposed loan or project area;
4. Type of facility owner or borrower – unit of government, not-for-profit organizations, for-profit organizations, and individuals, in that order of preference; and
5. Type of research project organization – geriatric schools or programs in Kansas colleges or universities, Kansas colleges or
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universities, educational foundations, foreign colleges or universities, Kansas not-for-profit organizations, Kansas for-profit organizations, foreign not-for-profit organizations, foreign for-profit organizations, and individuals, in that order of preference.

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

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

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

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

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

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

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

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

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

1. Licensed adult care homes, excluding nursing facilities for mental health and intermediate care facilities for the mentally retarded, as defined in K.S.A. 39-923, and amendments thereto;

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

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

4. Congregate senior housing projects being built with loans in Kansas cities with a population of 2,500 or less.

(o) (1) There is hereby established the state Medicaid match fund – department on aging in the state treasury which shall be administered by the secretary of aging in accordance with this act. All expenditures from the state Medicaid match fund – department on aging shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of aging or the secretary’s designee. Moneys in the state Medicaid match fund – department on aging shall be used to match moneys for Federal Medicaid programs which are the most cost efficient in providing services.

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

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

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

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

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

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

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

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

(2) are in positions that are assigned to job classes or job class series
that are designated as direct care employee job classes or job class series
by the secretary of social and rehabilitation services for purposes of this
section, except that no such designation shall be effective until the
secretary of social and rehabilitation services has presented such
designation to the SRS transition oversight committee created by K.S.A. 1997 Supp. 46-2701, and amendments thereto.
Sec. 61. K.S.A. 2011 Supp. 75-5321a is hereby amended to read as follows: 75-5321a. The secretary of social and rehabilitation services shall take necessary actions to transfer the administration of certain long-term care programs and services to the secretary of aging. The programs shall include the nursing facility services payment program, the home and community based services for the frail elderly waiver program, the case management for the frail elderly program and the income eligible (home care) program. Excluding nursing facility programs, the programs to be transferred shall not include long-term care programs for individuals under the age of 65 with mental illness, mental retardation, intellectual disability, other mental disabilities or physical disabilities. All such transfers shall be made only in accordance with federal grant requirements related to such programs.
Sec. 62. K.S.A. 75-5399 is hereby amended to read as follows: 75-5399. When used in this act:
(a) "Individuals with disabilities" means individuals with mental retardation, intellectual disability, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments or specific learning disabilities.
(b) "Transition services" means a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post-school adult living objectives and, when appropriate, acquisition of daily living skills and functional vocational evaluation.
(c) "Transition planning services" means rehabilitation counseling, information and referral to community services for students age 16 and older in secondary special education programs.
(d) "Local education authority" means the special education interlocal or cooperative or school district responsible for the local special education program.
(e) "Special education program" means services that are provided pursuant to public law 94-142 (the education of all handicapped children's act) as implemented in Kansas through K.S.A. 72-961 et seq., and
amendments thereto, and public law 101-476 (the individuals with
disabilities education act).

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

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

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

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

(c) In the event that the Kansas state employees health care
commission designates by rules and regulations a group of persons on the
payroll of a county, township, city, special district or other local
governmental entity, public school district, licensed child care facility
operated by a not-for-profit corporation providing residential group foster
care for children and receiving reimbursement for all or part of such care
from the department of social and rehabilitation services, nonprofit
community mental health center, as provided in K.S.A. 19-4001 et seq.,
and amendments thereto, nonprofit community facility for the mentally-
retarded intellectually disabled, as provided in K.S.A. 19-4001 et seq., and
amendments thereto, or nonprofit independent living agency, as defined in
K.S.A. 65-5101, and amendments thereto, as qualified to participate in the
state health care benefits program, periodic deductions from payrolls of the
local governmental entity, public school district, licensed child care facility
operated by a not-for-profit corporation providing residential group foster
care for children and receiving reimbursement for all or part of such care
from the department of social and rehabilitation services, nonprofit
community mental health center, as provided in K.S.A. 19-4001 et seq.,
and amendments thereto, nonprofit community facility for the mentally-
retarded intellectually disabled, as provided in K.S.A. 19-4001 et seq., and
amendments thereto, or nonprofit independent living agency, as defined in
K.S.A. 65-5101, and amendments thereto, may be made to cover the costs
of the state health care benefits program payable by such persons when
authorized by such persons. All such moneys deducted from payrolls shall
be remitted to the Kansas state employees health care commission in
accordance with the directions of the commission.

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

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

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

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

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

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

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

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

Sec. 64. K.S.A. 75-6508 is hereby amended to read as follows: 75-
6508. (a) (1) Each state agency which has on its payroll persons
participating in the state health care benefits program shall pay from any
moneys available to the agency for such purpose an amount specified by
the Kansas state employees health care commission, including any
amounts prescribed under a cafeteria plan established under K.S.A. 75-
6512, and amendments thereto. All such payments shall continue on the
behalf of employees otherwise eligible for participation in the state health
care benefits program in accordance with the continuation provisions of
The commission may charge each state agency a uniform amount per
person as the cost to the agency for the state's contribution for persons
participating in the state health care benefits program. Such amounts may
include the costs of administering the program.

(2) In the event that the Kansas state employees health care
commission designates by rules and regulations a group of persons on the
payroll of a county, township, city, special district or other local
governmental entity, public school district, licensed child care facility
operated by a not-for-profit corporation providing residential group foster
care for children and receiving reimbursement for all or part of such care
from the department of social and rehabilitation services, nonprofit
community mental health center, as provided in K.S.A. 19-4001 et seq.,
and amendments thereto, nonprofit community facility for the mentally
retarded intellectually disabled, as provided in K.S.A. 19-4001 et seq., and
amendments thereto, or nonprofit independent living agency, as defined in
K.S.A. 65-5101, and amendments thereto, as qualified to participate in the
state health care benefits program, each local governmental entity, public
school district, licensed child care facility operated by a not-for-profit
corporation providing residential group foster care for children and
receiving reimbursement for all or part of such care from the department
of social and rehabilitation services, nonprofit community mental health
center, as provided in K.S.A. 19-4001 et seq., and amendments thereto,
nonprofit community facility for the mentally retarded intellectually
disabled, as provided in K.S.A. 19-4001 et seq., and amendments thereto,
or nonprofit independent living agency, as defined in K.S.A. 65-5101, and
amendments thereto, which has on its payroll persons participating in the
state health care benefits program shall pay from any moneys available to
the local governmental entity, public school district, licensed child care
facility operated by a not-for-profit corporation providing residential group
foster care for children and receiving reimbursement for all or part of such
care from the department of social and rehabilitation services, nonprofit
community mental health center, as provided in K.S.A. 19-4001 et seq.,
and amendments thereto, nonprofit community facility for the mentally
retarded intellectually disabled, as provided in K.S.A. 19-4001 et seq., and
amendments thereto, or nonprofit independent living agency, as defined in
K.S.A. 65-5101, and amendments thereto, for such purpose an amount
specified by the commission. The commission may charge each local
governmental entity, public school district, licensed child care facility
operated by a not-for-profit corporation providing residential group foster
care for children and receiving reimbursement for all or part of such care
from the department of social and rehabilitation services, nonprofit
community mental health center, as provided in K.S.A. 19-4001 et seq.,
and amendments thereto, nonprofit community facility for the mentally
retarded intellectually disabled, as provided in K.S.A. 19-4001 et seq., and
amendments thereto, or nonprofit independent living agency, as defined in
K.S.A. 65-5101, and amendments thereto, a uniform amount per person as
the cost to the local governmental entity, public school district, licensed
child care facility operated by a not-for-profit corporation providing
residential group foster care for children and receiving reimbursement for
all or part of such care from the department of social and rehabilitation
services, nonprofit community mental health center, as provided in K.S.A.
19-4001 et seq., and amendments thereto, nonprofit community facility for
the mentally retarded intellectually disabled, as provided in K.S.A. 19-
4001 et seq., and amendments thereto, or nonprofit independent living
agency, as defined in K.S.A. 65-5101, and amendments thereto, for the
contribution of the local governmental entity, public school district,
licensed child care facility operated by a not-for-profit corporation
providing residential group foster care for children and receiving
reimbursement for all or part of such care from the department of social
and rehabilitation services, nonprofit community mental health center, as
provided in K.S.A. 19-4001 et seq., and amendments thereto, nonprofit
community facility for the mentally retarded intellectually disabled, as
provided in K.S.A. 19-4001 et seq., and amendments thereto, or nonprofit
independent living agency, as defined in K.S.A. 65-5101, and amendments
thereto, for persons participating in the state health care benefits program.
Such amounts may include the costs of administering the program.
(b) Payments from public funds for coverage under the state health
care benefits program for persons participating in that program shall not be
deemed a payment or supplement of wages of such person notwithstanding
any other provision of law or rules and regulations relating to wages of any
such person.
Sec. 65. K.S.A. 2011 Supp. 75-6609 is hereby amended to read as
follows: 75-6609. (a) When used in this section, "surplus real estate"
means real estate which is no longer needed by the state agency which
owns such real estate as determined in accordance with this section.
(b) (1) The secretary of administration shall develop criteria for the
identification of surplus real estate, including but not limited to, a review
of any legal restrictions associated with the real estate and the reasons for
the state agency to keep the real estate. In accordance with such criteria,
the secretary shall assist state agencies in the identification of surplus real
estate. The secretary of administration shall periodically review the status
of all real estate of state agencies subject to this section to determine if any
of the real estate owned by state agencies is potentially surplus real estate.
If any real estate owned by a state agency is determined by the secretary of
administration, in consultation with the head of the state agency, to be
surplus real estate in accordance with the criteria developed under
subsection (a), then the secretary of administration shall recommend to the
governor that such real estate be sold under the procedures prescribed by
this section.
(2) The secretary of administration shall develop guidelines for the
sale of surplus real estate. In accordance with such guidelines and upon the
approval of the governor, after consultation with the head of the state agency which owns such surplus real estate, after consultation with the joint committee on state building construction and after approval by the state finance council under subsection (c), the secretary may offer such property for sale by one of the following means: (A) Public auction; (B) by listing the surplus property with a licensed real estate broker or salesperson; or (C) by sealed bid. Subject to the approval of the state finance council as required by subsection (c), the secretary of administration may sell surplus real estate and any improvements thereon on behalf of the state agency which owns such property.

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

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

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

(f) (1) Any proceeds from the sale of surplus real estate and any improvements thereon, after deduction of the expenses of such sale and any cost of appraisal of the surplus real estate, shall be deposited in the state treasury as prescribed by this subsection, unless otherwise authorized by law. On and after the effective date of this act, 20% of the proceeds from each such sale deposited in the state treasury shall be credited to the surplus real estate fund or another appropriate special revenue fund of the state agency which owned the surplus real estate, as is prescribed by law or as may be determined by the state agency, unless otherwise required by state or federal law or by the limitations or restrictions of the state’s title to the real estate being sold. In the case of proceeds from the sale of surplus
real estate at a state mental health institution or a state mental retardation
institution for the intellectually disabled, such portion of the proceeds shall
be credited to the client benefit fund of such institution or to another
special revenue fund of such institution for (A) rehabilitation and repair or
other capital improvements for such institution, or (B) one-time
expenditures for community mental health organizations if the real estate
sold was at a state mental health institution or for community
developmental disabilities organizations if the real estate sold was at a
state mental retardation institution for the intellectually disabled, and, in
any such case, shall be expended in accordance with the provisions of
appropriation acts. The remaining 80% of the proceeds from each such
sale deposited in the state treasury shall be credited to the state general
fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 68. K.S.A. 76-12b01 is hereby amended to read as follows: 76-
12b01. When used in this act:
(a) "Adaptive behavior" means the effectiveness or degree with which
an individual meets the standards of personal independence and social
responsibility expected of that person's age, cultural group and community.
(b) "Care" means supportive services, including, but not limited to,
provision of room and board, supervision, protection, assistance in
bathing, dressing, grooming, eating and other activities of daily living.
(c) "Institution" means a state institution for the mentally retarded
intellectually disabled including the following institutions: Kansas
neurological institute, Parsons state hospital and training center and
Winfield state hospital and training center.
(d) "Mental retardation Intellectual disability" means significantly
subaverage general intellectual functioning existing concurrently with
deficits in adaptive behavior and manifested during the period from birth
to age 18.
(e) "Respite care" means temporary, short-term care not exceeding 90
days per calendar year to provide relief from the daily pressures involved
in caring for a mentally retarded an intellectually disabled person.
(f) "Restrain" means the use of a totally enclosed crib or any material
to restrict or inhibit the free movement of one or more limbs of a person
except medical devices which limit movement for examination, treatment
or to insure the healing process.
(g) "Seclusion" means being placed alone in a locked room where the
individual's freedom to leave is thereby restricted and where such
placement is not under continuous observation.
(h) "Secretary" means the secretary of social and rehabilitation
services or the designee of the secretary.
(i) "Significantly subaverage general intellectual functioning" means
performance which is two or more standard deviations from the mean
score on a standardized intelligence test specified by the secretary.
(j) "Superintendent" means the chief administrative officer of the
institution or the designee of the chief administrative officer.
(k) "Training" means the provision of specific environmental,
physical, mental, social and educational interventions and therapies for the
purpose of halting, controlling or reversing processes that cause, aggravate
or complicate malfunctions or dysfunctions of development.

Sec. 69. K.S.A. 76-12b02 is hereby amended to read as follows: 76-
12b02. The admission of a mentally retarded or intellectually disabled person to an institution shall be at the discretion of the secretary.

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

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

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

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

2. Upon the sole consent of the superintendent of the institution which has the records after a written statement by the superintendent that the disclosure is necessary for the care, training or treatment of the proposed resident, resident or former resident. The superintendent may make the disclosure to the proposed resident, resident or former resident, the person's next of kin, any state or national accreditation agency or any scholarly investigator without making that determination, but, before the disclosure is made, the superintendent shall require a pledge from any state or national accreditation agency or scholarly investigator that such agency or investigator will not disclose the name of any proposed resident, resident or former resident to any person not otherwise authorized by law to receive that information.
(3) Upon the order of any court of record after a determination by the court that the records are necessary for the conduct of proceedings before it and are otherwise admissible as evidence.

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

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

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

(c) Except as provided in subsections (a) or (b), to the extent the provisions of K.S.A. 65-5601 to 65-5605, inclusive, and amendments thereto, are applicable to the records of any proposed resident, resident or former resident of a state institution for the mentally retarded intellectually disabled, training of personnel, and for research into the causes and prevention and proper methods of treatment and training of mentally retarded intellectually disabled persons.

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

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

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

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

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

(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school, a public or private nonprofit educational institution, state correctional institution including a privately constructed correctional institution contracted for state use and ownership, which would be exempt from taxation under the provisions of this act if purchased directly by such hospital or public hospital authority, public educational institution or a state correctional institution; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state or district described in subsection (s), the total cost of which is
paid from funds of such political subdivision or district and which would
be exempt from taxation under the provisions of this act if purchased
directly by such political subdivision or district. Nothing in this subsection
or in the provisions of K.S.A. 12-3418, and amendments thereto, shall be
deemed to exempt the purchase of any construction machinery, equipment
or tools used in the constructing, equipping, reconstructing, maintaining,
repairing, enlarging, furnishing or remodeling facilities for any political
subdivision of the state or any such district. As used in this subsection,
K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a
political subdivision" shall mean general tax revenues, the proceeds of any
bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the
purpose of constructing, equipping, reconstructing, repairing, enlarging,
furnishing or remodeling facilities which are to be leased to the donor.
When any political subdivision of the state, district described in subsection
(s), public or private nonprofit hospital or public hospital authority, public
or private elementary or secondary school, public or private nonprofit
educational institution, state correctional institution including a privately
constructed correctional institution contracted for state use and ownership
shall contract for the purpose of constructing, equipping, reconstructing,
maintaining, repairing, enlarging, furnishing or remodeling facilities, it
shall obtain from the state and furnish to the contractor an exemption
certificate for the project involved, and the contractor may purchase
materials for incorporation in such project. The contractor shall furnish the
number of such certificate to all suppliers from whom such purchases are
made, and such suppliers shall execute invoices covering the same bearing
the number of such certificate. Upon completion of the project the
contractor shall furnish to the political subdivision, district described in
subsection (s), hospital or public hospital authority, school, educational
institution or department of corrections concerned a sworn statement, on a
form to be provided by the director of taxation, that all purchases so made
were entitled to exemption under this subsection. As an alternative to the
foregoing procedure, any such contracting entity may apply to the
secretary of revenue for agent status for the sole purpose of issuing and
furnishing project exemption certificates to contractors pursuant to rules
and regulations adopted by the secretary establishing conditions and
standards for the granting and maintaining of such status. All invoices
shall be held by the contractor for a period of five years and shall be
subject to audit by the director of taxation. If any materials purchased
under such a certificate are found not to have been incorporated in the
building or other project or not to have been returned for credit or the sales
or compensating tax otherwise imposed upon such materials which will
not be so incorporated in the building or other project reported and paid by
such contractor to the director of taxation not later than the 20th day of the
month following the close of the month in which it shall be determined
that such materials will not be used for the purpose for which such
certificate was issued, the political subdivision, district described in
subsection (s), hospital or public hospital authority, school, educational
institution or the contractor contracting with the department of corrections
for a correctional institution concerned shall be liable for tax on all
materials purchased for the project, and upon payment thereof it may
recover the same from the contractor together with reasonable attorney
fees. Any contractor or any agent, employee or subcontractor thereof, who
shall use or otherwise dispose of any materials purchased under such a
certificate for any purpose other than that for which such a certificate is
issued without the payment of the sales or compensating tax otherwise
imposed upon such materials, shall be guilty of a misdemeanor and, upon
conviction therefor, shall be subject to the penalties provided for in
subsection (g) of K.S.A. 79-3615, and amendments thereto;
(e) all sales of tangible personal property or services purchased by a
contractor for the erection, repair or enlargement of buildings or other
projects for the government of the United States, its agencies or
instrumentalities, which would be exempt from taxation if purchased
directly by the government of the United States, its agencies or
instrumentalities. When the government of the United States, its agencies
or instrumentalities shall contract for the erection, repair, or enlargement
of any building or other project, it shall obtain from the state and furnish to
the contractor an exemption certificate for the project involved, and the
contractor may purchase materials for incorporation in such project. The
contractor shall furnish the number of such certificates to all suppliers
from whom such purchases are made, and such suppliers shall execute
invoices covering the same bearing the number of such certificate. Upon
completion of the project the contractor shall furnish to the government of
the United States, its agencies or instrumentalities concerned a sworn
statement, on a form to be provided by the director of taxation, that all
purchases so made were entitled to exemption under this subsection. As an
alternative to the foregoing procedure, any such contracting entity may
apply to the secretary of revenue for agent status for the sole purpose of
issuing and furnishing project exemption certificates to contractors
pursuant to rules and regulations adopted by the secretary establishing
conditions and standards for the granting and maintaining of such status.
All invoices shall be held by the contractor for a period of five years and
shall be subject to audit by the director of taxation. Any contractor or any
agent, employee or subcontractor thereof, who shall use or otherwise
dispose of any materials purchased under such a certificate for any purpose
other than that for which such a certificate is issued without the payment
of the sales or compensating tax otherwise imposed upon such materials,
shall be guilty of a misdemeanor and, upon conviction therefor, shall be
subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
and amendments thereto;
(f) tangible personal property purchased by a railroad or public utility
for consumption or movement directly and immediately in interstate
commerce;
(g) sales of aircraft including remanufactured and modified aircraft
sold to persons using directly or through an authorized agent such aircraft
as certified or licensed carriers of persons or property in interstate or
foreign commerce under authority of the laws of the United States or any
foreign government or sold to any foreign government or agency or
instrumentality of such foreign government and all sales of aircraft for use
outside of the United States and sales of aircraft repair, modification and
replacement parts and sales of services employed in the remanufacture,
modification and repair of aircraft;
(h) all rentals of nonsectarian textbooks by public or private
elementary or secondary schools;
(i) the lease or rental of all films, records, tapes, or any type of sound
or picture transcriptions used by motion picture exhibitors;
(j) meals served without charge or food used in the preparation of
such meals to employees of any restaurant, eating house, dining car, hotel,
drugstore or other place where meals or drinks are regularly sold to the
public if such employees' duties are related to the furnishing or sale of
such meals or drinks;
(k) any motor vehicle, semitrailer or pole trailer, as such terms are
defined by K.S.A. 8-126, and amendments thereto, or aircraft sold and
delivered in this state to a bona fide resident of another state, which motor
vehicle, semitrailer, pole trailer or aircraft is not to be registered or based
in this state and which vehicle, semitrailer, pole trailer or aircraft will not
remain in this state more than 10 days;
(l) all isolated or occasional sales of tangible personal property,
services, substances or things, except isolated or occasional sale of motor
vehicles specifically taxed under the provisions of subsection (o) of K.S.A.
79-3603, and amendments thereto;
(m) all sales of tangible personal property which become an
ingredient or component part of tangible personal property or services
produced, manufactured or compounded for ultimate sale at retail within
or without the state of Kansas; and any such producer, manufacturer or
compounder may obtain from the director of taxation and furnish to the
supplier an exemption certificate number for tangible personal property for
use as an ingredient or component part of the property or services
produced, manufactured or compounded;
(n) all sales of tangible personal property which is consumed in the
production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the treating of by-products or wastes derived from any such production process, the providing of services or the irrigation of crops for ultimate sale at retail within or without the state of Kansas; and any purchaser of such property may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for consumption in such production, manufacture, processing, mining, drilling, refining, compounding, treating, irrigation and in providing such services;

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

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

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

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

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

(t) all sales of farm machinery and equipment or aquaculture
machinery and equipment, repair and replacement parts therefor and
services performed in the repair and maintenance of such machinery and
equipment. For the purposes of this subsection the term "farm machinery
and equipment or aquaculture machinery and equipment" shall include a
work-site utility vehicle, as defined in K.S.A. 8-126, and amendments thereto,
and is equipped with a bed or cargo box for hauling materials, and
shall also include machinery and equipment used in the operation of
Christmas tree farming but shall not include any passenger vehicle, truck,
truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as
such terms are defined by K.S.A. 8-126, and amendments thereto. "Farm
machinery and equipment" includes precision farming equipment that is
portable or is installed or purchased to be installed on farm machinery and
equipment. "Precision farming equipment" includes the following items
used only in computer-assisted farming, ranching or aquaculture
production operations: Soil testing sensors, yield monitors, computers,
monitors, software, global positioning and mapping systems, guiding
systems, modems, data communications equipment and any necessary
mounting hardware, wiring and antennas. Each purchaser of farm
machinery and equipment or aquaculture machinery and equipment
exempted herein must certify in writing on the copy of the invoice or sales
ticket to be retained by the seller that the farm machinery and equipment
or aquaculture machinery and equipment purchased will be used only in
farming, ranching or aquaculture production. Farming or ranching shall
include the operation of a feedlot and farm and ranch work for hire and the
operation of a nursery;
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(u) all leases or rentals of tangible personal property used as a dwelling if such tangible personal property is leased or rented for a period of more than 28 consecutive days;

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

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

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

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

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

(aa) all sales of materials and services applied to equipment which is transported into the state from without the state for repair, service, alteration, maintenance, remanufacture or modification and which is subsequently transported outside the state for use in the transmission of liquids or natural gas by means of pipeline in interstate or foreign commerce under authority of the laws of the United States;
(bb) all sales of used mobile homes or manufactured homes. As used in this subsection: (1) "Mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 58-4202, and amendments thereto; and (2) "sales of used mobile homes or manufactured homes" means sales other than the original retail sale thereof;

(cc) all sales of tangible personal property or services purchased prior to January 1, 2012, except as otherwise provided, for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business or retail business which meets the requirements established in K.S.A. 74-50,115, and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business or retail business, and all sales of tangible personal property or services purchased on or after January 1, 2012, for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business which meets the requirements established in K.S.A. 74-50,115(e), and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business. When a person shall contract for the construction, reconstruction, enlargement or remodeling of any such business or retail business, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the owner of the business or retail business a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. As used in this subsection, "business" and "retail business" have the meanings respectively ascribed thereto by K.S.A. 74-50,114, and amendments thereto. Project exemption certificates that have been previously issued under this subsection by the department of revenue pursuant to K.S.A. 74-50,115, and amendments thereto, but not including K.S.A. 74-50,115(e), and amendments thereto, prior to January 1, 2012,
and have not expired will be effective for the term of the project or two years from the effective date of the certificate, whichever occurs earlier. Project exemption certificates that are submitted to the department of revenue prior to January 1, 2012, and are found to qualify will be issued a project exemption certificate that will be effective for a two-year period or for the term of the project, whichever occurs earlier;

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

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

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

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

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

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

(jj) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based mental retardation facility for the intellectually disabled or mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto, and licensed in
across with the provisions of K.S.A. 75-3307b, and amendments thereto, and all sales of tangible personal property or services purchased by contractors during the time period from July, 2003, through June, 2006, for the purpose of constructing, equipping, maintaining or furnishing a new facility for a community-based mental retardation facility for the intellectually disabled or mental health center located in Riverton, Cherokee County, Kansas, which would have been eligible for sales tax exemption pursuant to this subsection if purchased directly by such facility or center. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

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

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

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

(2) For purposes of this subsection:

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

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

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

(D) "manufacturing or processing business" means a business that
utilizes an integrated production operation to manufacture, process, fabricate, finish, or assemble items for wholesale and retail distribution as part of what is commonly regarded by the general public as an industrial manufacturing or processing operation or an agricultural commodity processing operation. (i) Industrial manufacturing or processing operations include, by way of illustration but not of limitation, the fabrication of automobiles, airplanes, machinery or transportation equipment, the fabrication of metal, plastic, wood, or paper products, electricity power generation, water treatment, petroleum refining, chemical production, wholesale bottling, newspaper printing, ready mixed concrete production, and the remanufacturing of used parts for wholesale or retail sale. Such processing operations shall include operations at an oil well, gas well, mine or other excavation site where the oil, gas, minerals, coal, clay, stone, sand or gravel that has been extracted from the earth is cleaned, separated, crushed, ground, milled, screened, washed, or otherwise treated or prepared before its transmission to a refinery or before any other wholesale or retail distribution. (ii) Agricultural commodity processing operations include, by way of illustration but not of limitation, meat packing, poultry slaughtering and dressing, processing and packaging farm and dairy products in sealed containers for wholesale and retail distribution, feed grinding, grain milling, frozen food processing, and grain handling, cleaning, blending, fumigation, drying and aeration operations engaged in by grain elevators or other grain storage facilities. (iii) Manufacturing or processing businesses do not include, by way of illustration but not of limitation, nonindustrial businesses whose operations are primarily retail and that produce or process tangible personal property as an incidental part of conducting the retail business, such as retailers who bake, cook or prepare food products in the regular course of their retail trade, grocery stores, meat lockers and meat markets that butcher or dress livestock or poultry in the regular course of their retail trade, contractors who alter, service, repair or improve real property, and retail businesses that clean, service or refurbish and repair tangible personal property for its owner; (E) "repair and replacement parts and accessories" means all parts and accessories for exempt machinery and equipment, including, but not limited to, dies, jigs, molds, patterns and safety devices that are attached to exempt machinery or that are otherwise used in production, and parts and accessories that require periodic replacement such as belts, drill bits, grinding wheels, grinding balls, cutting bars, saws, refractory brick and other refractory items for exempt kiln equipment used in production operations; (F) "primary" or "primarily" mean more than 50% of the time. (3) For purposes of this subsection, machinery and equipment shall be deemed to be used as an integral or essential part of an integrated
production operation when used:

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

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

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

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

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

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

(G) to produce energy for, lubricate, control the operating of or otherwise enable the functioning of other production machinery and equipment and the continuation of production operations;

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

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

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

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

(L) to treat, transport or store waste or other byproducts of production operations at the plant or facility; or

(M) to control pollution at the plant or facility where the pollution is produced by the manufacturing or processing operation.

(4) The following machinery, equipment and materials shall be deemed to be exempt even though it may not otherwise qualify as machinery and equipment used as an integral or essential part of an
integrated production operation: (A) Computers and related peripheral
equipment that are utilized by a manufacturing or processing business for
engineering of the finished product or for research and development or
product design; (B) machinery and equipment that is utilized by a
manufacturing or processing business to manufacture or rebuild tangible
personal property that is used in manufacturing or processing operations,
including tools, dies, molds, forms and other parts of qualifying machinery
and equipment; (C) portable plants for aggregate concrete, bulk cement
and asphalt including cement mixing drums to be attached to a motor
vehicle; (D) industrial fixtures, devices, support facilities and special
foundations necessary for manufacturing and production operations, and
materials and other tangible personal property sold for the purpose of
fabricating such fixtures, devices, facilities and foundations. An exemption
certificate for such purchases shall be signed by the manufacturer or
processor. If the fabricator purchases such material, the fabricator shall
also sign the exemption certificate; and (E) a manufacturing or processing
business' laboratory equipment that is not located at the plant or facility,
but that would otherwise qualify for exemption under subsection (3)(E).
(5) "Machinery and equipment used as an integral or essential part of
an integrated production operation" shall not include:
(A) Machinery and equipment used for nonproduction purposes,
including, but not limited to, machinery and equipment used for plant
security, fire prevention, first aid, accounting, administration, record
keeping, advertising, marketing, sales or other related activities, plant
cleaning, plant communications, and employee work scheduling;
(B) machinery, equipment and tools used primarily in maintaining
and repairing any type of machinery and equipment or the building and
plant;
(C) transportation, transmission and distribution equipment not
primarily used in a production, warehousing or material handling
operation at the plant or facility, including the means of conveyance of
natural gas, electricity, oil or water, and equipment related thereto, located
outside the plant or facility;
(D) office machines and equipment including computers and related
peripheral equipment not used directly and primarily to control or measure
the manufacturing process;
(E) furniture and other furnishings;
(F) buildings, other than exempt machinery and equipment that is
permanently affixed to or becomes a physical part of the building, and any
other part of real estate that is not otherwise exempt;
(G) building fixtures that are not integral to the manufacturing
operation, such as utility systems for heating, ventilation, air conditioning,
communications, plumbing or electrical;
(H) machinery and equipment used for general plant heating, cooling and lighting;
(I) motor vehicles that are registered for operation on public highways; or
(J) employee apparel, except safety and protective apparel that is purchased by an employer and furnished gratuitously to employees who are involved in production or research activities.

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

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

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

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

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

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

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

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

(rr) all sales of tangible personal property which will admit the purchaser thereof to any annual event sponsored by a nonprofit organization which is exempt from federal income taxation pursuant to
section 501(c)(3) of the federal internal revenue code of 1986;
  (ss) all sales of tangible personal property and services purchased by
a public broadcasting station licensed by the federal communications
commission as a noncommercial educational television or radio station;
  (tt) all sales of tangible personal property and services purchased by
or on behalf of a not-for-profit corporation which is exempt from federal
income taxation pursuant to section 501(c)(3) of the federal internal
revenue code of 1986, for the sole purpose of constructing a Kansas
Korean War memorial;
  (uu) all sales of tangible personal property and services purchased by
or on behalf of any rural volunteer fire-fighting organization for use
exclusively in the performance of its duties and functions;
  (vv) all sales of tangible personal property purchased by any of the
following organizations which are exempt from federal income taxation
pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
for the following purposes, and all sales of any such property by or on
behalf of any such organization for any such purpose:
    (1) The American Heart Association, Kansas Affiliate, Inc. for the
purposes of providing education, training, certification in emergency
cardiac care, research and other related services to reduce disability and
death from cardiovascular diseases and stroke;
    (2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of
advocacy for persons with mental illness and to education, research and
support for their families;
    (3) the Kansas Mental Illness Awareness Council for the purposes of
advocacy for persons who are mentally ill and to education, research and
support for them and their families;
    (4) the American Diabetes Association Kansas Affiliate, Inc. for the
purpose of eliminating diabetes through medical research, public education
focusing on disease prevention and education, patient education including
information on coping with diabetes, and professional education and
training;
    (5) the American Lung Association of Kansas, Inc. for the purpose of
eliminating all lung diseases through medical research, public education
including information on coping with lung diseases, professional education
and training related to lung disease and other related services to reduce the
incidence of disability and death due to lung disease;
    (6) the Kansas chapters of the Alzheimer's Disease and Related
Disorders Association, Inc. for the purpose of providing assistance and
support to persons in Kansas with Alzheimer's disease, and their families
and caregivers;
    (7) the Kansas chapters of the Parkinson's disease association for the
purpose of eliminating Parkinson's disease through medical research and
(8) the National Kidney Foundation of Kansas and Western Missouri for the purpose of eliminating kidney disease through medical research and public and private education related to such disease;

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

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

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

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

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

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

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

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

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

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

(19) the International Association of Lions Clubs for the purpose of creating and fostering a spirit of understanding among all people for humanitarian needs by providing voluntary services through community
involvement and international cooperation;
(20) the Johnson county young matrons, inc., for the purpose of promoting a positive future for members of the community through volunteerism, financial support and education through the efforts of an all volunteer organization;
(21) the American Cancer Society, Inc., for the purpose of eliminating cancer as a major health problem by preventing cancer, saving lives and diminishing suffering from cancer, through research, education, advocacy and service;
(22) the community services of Shawnee, inc., for the purpose of providing food and clothing to those in need;
(23) the angel babies association, for the purpose of providing assistance, support and items of necessity to teenage mothers and their babies; and
(24) the Kansas fairgrounds foundation for the purpose of the preservation, renovation and beautification of the Kansas state fairgrounds;
(ww) all sales of tangible personal property purchased by the Habitat for Humanity for the exclusive use of being incorporated within a housing project constructed by such organization;
(xx) all sales of tangible personal property and services purchased by a nonprofit zoo which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, or on behalf of such zoo by an entity itself exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986 contracted with to operate such zoo and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo which would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit zoo or the entity operating such zoo. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo. When any nonprofit zoo shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the nonprofit zoo concerned a sworn statement, on a form...
to be provided by the director of taxation, that all purchases so made were
entitled to exemption under this subsection. All invoices shall be held by
the contractor for a period of five years and shall be subject to audit by the
director of taxation. If any materials purchased under such a certificate are
found not to have been incorporated in the building or other project or not
to have been returned for credit or the sales or compensating tax otherwise
imposed upon such materials which will not be so incorporated in the
building or other project reported and paid by such contractor to the
director of taxation not later than the 20th day of the month following the
close of the month in which it shall be determined that such materials will
not be used for the purpose for which such certificate was issued, the
nonprofit zoo concerned shall be liable for tax on all materials purchased
for the project, and upon payment thereof it may recover the same from
the contractor together with reasonable attorney fees. Any contractor or
any agent, employee or subcontractor thereof, who shall use or otherwise
dispose of any materials purchased under such a certificate for any purpose
other than that for which such a certificate is issued without the payment
of the sales or compensating tax otherwise imposed upon such materials,
shall be guilty of a misdemeanor and, upon conviction therefor, shall be
subject to the penalties provided for in subsection (g) of K.S.A. 79-3615,
and amendments thereto;

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

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

(aaa) all sales of tangible personal property and services purchased by
a religious organization which is exempt from federal income taxation
pursuant to section 501(c)(3) of the federal internal revenue code, and used
exclusively for religious purposes, and all sales of tangible personal
property or services purchased by a contractor for the purpose of
constructing, equipping, reconstructing, maintaining, repairing, enlarging,
furnishing or remodeling facilities for any such organization which would
be exempt from taxation under the provisions of this section if purchased
directly by such organization. Nothing in this subsection shall be deemed
to exempt the purchase of any construction machinery, equipment or tools
used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after July 1, 1998, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;
(bbb) all sales of food for human consumption by an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, pursuant to a food distribution program which offers such food at a price below cost in exchange for the performance of community service by the purchaser thereof;

(ccc) on and after July 1, 1999, all sales of tangible personal property and services purchased by a primary care clinic or health center the primary purpose of which is to provide services to medically underserved individuals and families, and which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center which would be exempt from taxation under the provisions of this section if purchased directly by such clinic or center. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center. When any such clinic or center shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such clinic or center concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such clinic or center concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with
reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

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

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

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

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

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

(iii) all sales of personal property and services purchased by an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such personal property and services are used by any such organization in the collection, storage and distribution of food products to nonprofit organizations which distribute such food products to persons pursuant to a food distribution program on a charitable basis without fee or charge, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities used for the collection and storage of such food products for any such organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in such facilities reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax
on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after July 1, 2005, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

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

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

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

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

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

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

  (qqq) all sales of tangible personal property and services purchased by TLC for children and families, inc., hereinafter referred to as TLC, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of providing emergency shelter and treatment for abused and neglected children as well as meeting additional critical needs for children, juveniles and family, and all sales of any such property by or on behalf of TLC for any such purpose; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for TLC for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by TLC. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for TLC. When TLC contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The
contractor shall furnish the number of such certificate to all suppliers from
whom such purchases are made, and such suppliers shall execute invoices
covering the same bearing the number of such certificate. Upon
completion of the project the contractor shall furnish to TLC a sworn
statement, on a form to be provided by the director of taxation, that all
purchases so made were entitled to exemption under this subsection. All
invoices shall be held by the contractor for a period of five years and shall
be subject to audit by the director of taxation. If any materials purchased
under such a certificate are found not to have been incorporated in the
building or other project or not to have been returned for credit or the sales
or compensating tax otherwise imposed upon such materials which will
not be so incorporated in the building or other project reported and paid by
such contractor to the director of taxation not later than the 20th day of the
month following the close of the month in which it shall be determined
that such materials will not be used for the purpose for which such
certificate was issued, TLC shall be liable for tax on all materials
purchased for the project, and upon payment thereof it may recover the
same from the contractor together with reasonable attorney fees. Any
contractor or any agent, employee or subcontractor thereof, who shall use
or otherwise dispose of any materials purchased under such a certificate
for any purpose other than that for which such a certificate is issued
without the payment of the sales or compensating tax otherwise imposed
upon such materials, shall be guilty of a misdemeanor and, upon
conviction therefor, shall be subject to the penalties provided for in
subsection (g) of K.S.A. 79-3615, and amendments thereto;
(rrr) all sales of tangible personal property and services purchased by
any county law library maintained pursuant to law and sales of tangible
personal property and services purchased by an organization which would
have been exempt from taxation under the provisions of this subsection if
purchased directly by the county law library for the purpose of providing
legal resources to attorneys, judges, students and the general public, and
all sales of any such property by or on behalf of any such county law
library;
(sss) all sales of tangible personal property and services purchased by
catholic charities or youthville, hereinafter referred to as charitable family
providers, which is exempt from federal income taxation pursuant to
section 501(c)(3) of the federal internal revenue code of 1986, and which
such property and services are used for the purpose of providing
emergency shelter and treatment for abused and neglected children as well
as meeting additional critical needs for children, juveniles and family, and
all sales of any such property by or on behalf of charitable family
providers for any such purpose; and all sales of tangible personal property
or services purchased by a contractor for the purpose of constructing,
maintaining, repairing, enlarging, furnishing or remodeling facilities for
the operation of services for charitable family providers for any such
purpose which would be exempt from taxation under the provisions of this
section if purchased directly by charitable family providers. Nothing in
this subsection shall be deemed to exempt the purchase of any construction
machinery, equipment or tools used in the constructing, maintaining,
repairing, enlarging, furnishing or remodeling such facilities for charitable
family providers. When charitable family providers contracts for the
purpose of constructing, maintaining, repairing, enlarging, furnishing or
remodeling such facilities, it shall obtain from the state and furnish to the
contractor an exemption certificate for the project involved, and the
contractor may purchase materials for incorporation in such project. The
contractor shall furnish the number of such certificate to all suppliers from
whom such purchases are made, and such suppliers shall execute invoices
covering the same bearing the number of such certificate. Upon
completion of the project the contractor shall furnish to charitable family
providers a sworn statement, on a form to be provided by the director of
taxation, that all purchases so made were entitled to exemption under this
subsection. All invoices shall be held by the contractor for a period of five
years and shall be subject to audit by the director of taxation. If any
materials purchased under such a certificate are found not to have been
incorporated in the building or other project or not to have been returned
for credit or the sales or compensating tax otherwise imposed upon such
materials which will not be so incorporated in the building or other project
reported and paid by such contractor to the director of taxation not later
than the 20th day of the month following the close of the month in which it
shall be determined that such materials will not be used for the purpose for
which such certificate was issued, charitable family providers shall be
liable for tax on all materials purchased for the project, and upon payment
thereof it may recover the same from the contractor together with
reasonable attorney fees. Any contractor or any agent, employee or
subcontractor thereof, who shall use or otherwise dispose of any materials
purchased under such a certificate for any purpose other than that for
which such a certificate is issued without the payment of the sales or
compensating tax otherwise imposed upon such materials, shall be guilty
of a misdemeanor and, upon conviction therefor, shall be subject to the
penalties provided for in subsection (g) of K.S.A. 79-3615, and
amendments thereto;

(tt) all sales of tangible personal property or services purchased by a
contractor for a project for the purpose of restoring, constructing,
equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
remodeling a home or facility owned by a nonprofit museum which has
been granted an exemption pursuant to subsection (qq), which such home
or facility is located in a city which has been designated as a qualified hometown pursuant to the provisions of K.S.A. 75-5071 et seq., and amendments thereto, and which such project is related to the purposes of K.S.A. 75-5071 et seq., and amendments thereto, and which would be exempt from taxation under the provisions of this section if purchased directly by such nonprofit museum. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility for any such nonprofit museum. When any such nonprofit museum shall contract for the purpose of restoring, constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling a home or facility, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project, the contractor shall furnish to such nonprofit museum a sworn statement on a form to be provided by the director of taxation that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in a home or facility or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such nonprofit museum shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(uuu) all sales of tangible personal property and services purchased by Kansas children's service league, hereinafter referred to as KCSL,
which is exempt from federal income taxation pursuant to section 501(c)
(3) of the federal internal revenue code of 1986, and which such property
and services are used for the purpose of providing for the prevention and
treatment of child abuse and maltreatment as well as meeting additional
critical needs for children, juveniles and family, and all sales of any such
property by or on behalf of KCSL for any such purpose; and all sales of
tangible personal property or services purchased by a contractor for the
purpose of constructing, maintaining, repairing, enlarging, furnishing or
remodeling facilities for the operation of services for KCSL for any such
purpose which would be exempt from taxation under the provisions of this
section if purchased directly by KCSL. Nothing in this subsection shall be
deemed to exempt the purchase of any construction machinery, equipment
or tools used in the constructing, maintaining, repairing, enlarging,
furnishing or remodeling such facilities for KCSL. When KCSL contracts
for the purpose of constructing, maintaining, repairing, enlarging,
furnishing or remodeling such facilities, it shall obtain from the state and
furnish to the contractor an exemption certificate for the project involved,
and the contractor may purchase materials for incorporation in such
project. The contractor shall furnish the number of such certificate to all
suppliers from whom such purchases are made, and such suppliers shall
execute invoices covering the same bearing the number of such certificate.
Upon completion of the project the contractor shall furnish to KCSL a
sworn statement, on a form to be provided by the director of taxation, that
all purchases so made were entitled to exemption under this subsection.
All invoices shall be held by the contractor for a period of five years and
shall be subject to audit by the director of taxation. If any materials
purchased under such a certificate are found not to have been incorporated
in the building or other project or not to have been returned for credit or
the sales or compensating tax otherwise imposed upon such materials
which will not be so incorporated in the building or other project reported
and paid by such contractor to the director of taxation not later than the the
20th day of the month following the close of the month in which it shall be
determined that such materials will not be used for the purpose for which
such certificate was issued, KCSL shall be liable for tax on all materials
purchased for the project, and upon payment thereof it may recover the
same from the contractor together with reasonable attorney fees. Any
contractor or any agent, employee or subcontractor thereof, who shall use
or otherwise dispose of any materials purchased under such a certificate
for any purpose other than that for which such a certificate is issued
without the payment of the sales or compensating tax otherwise imposed
upon such materials, shall be guilty of a misdemeanor and, upon
conviction therefor, shall be subject to the penalties provided for in
subsection (g) of K.S.A. 79-3615, and amendments thereto;
(vvv) all sales of tangible personal property or services, including the renting and leasing of tangible personal property or services, purchased by Jazz in the Woods, Inc., a Kansas corporation which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing Jazz in the Woods, an event benefiting children-in-need and other nonprofit charities assisting such children, and all sales of any such property by or on behalf of such organization for such purpose;

(www) all sales of tangible personal property purchased by or on behalf of the Frontenac Education Foundation, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing education support for students, and all sales of any such property by or on behalf of such organization for such purpose;

(xxx) all sales of personal property and services purchased by the booth theatre foundation, inc., an organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and which such personal property and services are used by any such organization in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling of the booth theatre, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling the booth theatre for such organization, which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in such
facilities or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in such facilities reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after January 1, 2007, but prior to the effective date of this act upon the gross receipts received from any sale which would have been exempted by the provisions of this subsection had such sale occurred after the effective date of this act shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(yyy) all sales of tangible personal property and services purchased by TLC charities foundation, inc., hereinafter referred to as TLC charities, which is exempt from federal income taxation pursuant to section 501(c) (3) of the federal internal revenue code of 1986, and which such property and services are used for the purpose of encouraging private philanthropy to further the vision, values, and goals of TLC for children and families, inc.; and all sales of such property and services by or on behalf of TLC charities for any such purpose and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for the operation of services for TLC charities for any such purpose which would be exempt from taxation under the provisions of this section if purchased directly by TLC charities. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities for TLC charities. When TLC
charities contracts for the purpose of constructing, maintaining, repairing, enlarging, furnishing or remodeling such facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to TLC charities a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be incorporated into the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, TLC charities shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(zzz) all sales of tangible personal property purchased by the rotary club of shawnee foundation which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, as amended, used for the purpose of providing contributions to community service organizations and scholarships;

(aaaa) all sales of personal property and services purchased by or on behalf of victory in the valley, inc., which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, for the purpose of providing a cancer support group and services for persons with cancer, and all sales of any such property by or on behalf of any such organization for any such purpose;

(bbbb) all sales of entry or participation fees, charges or tickets by guadalupe health foundation, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code,
for such organization's annual fundraising event which purpose is to
provide health care services for uninsured workers;

(ccce) all sales of tangible personal property or services purchased by
or on behalf of wayside waifs, inc., which is exempt from federal income
taxation pursuant to section 501(c)(3) of the federal internal revenue code,
for the purpose of providing such organization's annual fundraiser, an
event whose purpose is to support the care of homeless and abandoned
animals, animal adoption efforts, education programs for children and
efforts to reduce animal over-population and animal welfare services, and
all sales of any such property, including entry or participation fees or
charges, by or on behalf of such organization for such purpose;

(dddd) all sales of tangible personal property or services purchased
by or on behalf of Goodwill Industries or Easter Seals of Kansas, Inc.,
both of which are exempt from federal income taxation pursuant to section
501(c)(3) of the federal internal revenue code, for the purpose of providing
education, training and employment opportunities for people with
disabilities and other barriers to employment;

(eeee) all sales of tangible personal property or services purchased by
or on behalf of All American Beef Battalion, Inc., which is exempt from
federal income taxation pursuant to section 501(c)(3) of the federal
internal revenue code, for the purpose of educating, promoting and
participating as a contact group through the beef cattle industry in order to
carry out such projects that provide support and morale to members of the
United States armed forces and military services; and

(ffff) all sales of tangible personal property and services purchased by
sheltered living, inc., which is exempt from federal income taxation
pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
and which such property and services are used for the purpose of
providing residential and day services for people with developmental
disabilities or mental retardation intellectual disabilities, or both, and all
sales of any such property by or on behalf of sheltered living, inc. for any
such purpose; and all sales of tangible personal property or services
purchased by a contractor for the purpose of rehabilitating, constructing,
maintaining, repairing, enlarging, furnishing or remodeling homes and
facilities for sheltered living, inc. for any such purpose which would be
exempt from taxation under the provisions of this section if purchased
directly by sheltered living, inc. Nothing in this subsection shall be
deemed to exempt the purchase of any construction machinery, equipment
or tools used in the constructing, maintaining, repairing, enlarging,
furnishing or remodeling such homes and facilities for sheltered living,
inc. When sheltered living, inc. contracts for the purpose of rehabilitating,
constructing, maintaining, repairing, enlarging, furnishing or remodeling
such homes and facilities, it shall obtain from the state and furnish to the
contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to sheltered living, inc. a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, sheltered living, inc. shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto; and all sales of game birds for which the primary purpose is use in hunting.


Sec. 76. This act shall take effect and be in force from and after its publication in the statute book.