

**SENATE BILL No. 217**

By Committee on Ways and Means

3-6

1 AN ACT concerning the Kansas department for aging and disability  
2 services; updating certain statutory references and making technical  
3 changes related thereto; amending K.S.A. 19-4016, 40-2,116, 40-12a01  
4 and 74-3292 and K.S.A. 2016 Supp. 12-736, 21-5417, 21-6109, 22-  
5 4612, 36-501, 39-1430, 39-1431, 39-1433, 39-1602, 39-1903, 40-  
6 2,105, 40-2,105a, 40-3401, 40-3403, 59-2946, 59-29b46, 59-3077, 65-  
7 1626, 65-1669, 65-2895, 65-4412, 65-4432, 65-4915, 65-4921, 65-  
8 5601, 65-6805, 75-5923, 75-6102, 79-201b and 79-3606 and repealing  
9 the existing sections.

10  
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. K.S.A. 2016 Supp. 12-736 is hereby amended to read as  
13 follows: 12-736. (a) It is hereby declared to be the policy of the state of  
14 Kansas that persons with a disability shall not be excluded from the  
15 benefits of single family residential surroundings by any municipal zoning  
16 ordinance, resolution or regulation.

17 (b) For the purpose of this act:

18 (1) "Group home" means any dwelling occupied by not more than 10  
19 persons, including eight or fewer persons with a disability who need not be  
20 related by blood or marriage and not to exceed two staff residents who  
21 need not be related by blood or marriage to each other or to the residents  
22 of the home, which dwelling is licensed by a regulatory agency of this  
23 state;

24 (2) "municipality" means any township, city or county located in  
25 Kansas;

26 (3) "disability" means, with respect to a person:

27 (A) A physical or mental impairment ~~which~~ *that* substantially limits  
28 one or more of such person's major life activities;

29 (B) a record of having such an impairment; or

30 (C) being regarded as having such an impairment. Such term does not  
31 include current, illegal use of or addiction to a controlled substance, as  
32 defined in section 102 of the controlled substance act, (21 U.S.C. § 802);

33 (4) "licensed provider" means a person or agency who provides  
34 mental health services and is licensed by:

35 (A) The Kansas department for aging and disability services pursuant  
36 to K.S.A. ~~75-3307b~~ or 65-425 et seq. *or K.S.A. 2016 Supp. 39-2001 et*

1 *seq.*, and amendments thereto; or

2 (B) the behavioral sciences regulatory board pursuant to K.S.A. 75-  
3 5346 et seq. or 74-5301 et seq., and amendments thereto; or

4 (C) the state board of healing arts pursuant to K.S.A. 65-2801 et seq.,  
5 and amendments thereto.

6 (c) (1) No mentally ill person shall be eligible for placement in a  
7 group home unless such person has been evaluated by a licensed provider  
8 and such provider determines that the mentally ill person is not dangerous  
9 to others and is suitable for group-home placement. A group home shall  
10 not be a licensed provider for the purposes of evaluating or approving for  
11 placement a mentally ill person in a group home.

12 (2) No person shall be eligible for placement in a group home if such  
13 person is: (A) Assigned to a community corrections program or a diversion  
14 program; (B) on parole from a correctional institution or on probation for a  
15 felony offense; or (C) in a state mental institution following a finding of  
16 mental disease or defect excluding criminal responsibility, pursuant to  
17 K.S.A. 22-3220 and 22-3221, and amendments thereto.

18 (d) No person shall be placed in a group home under this act unless  
19 such dwelling is licensed as a group home by the *Kansas* department for  
20 aging and disability services or the department of health and environment.

21 (e) No municipality shall prohibit the location of a group home in any  
22 zone or area where single family dwellings are permitted. Any zoning  
23 ordinance, resolution or regulation ~~which~~ *that* prohibits the location of a  
24 group home in such zone or area or ~~which~~ *that* subjects group homes to  
25 regulations not applicable to other single family dwellings in the same  
26 zone or area is invalid. Notwithstanding the provisions of this act, group  
27 homes shall be subject to all other regulations applicable to other property  
28 and buildings located in the zone or area that are imposed by any  
29 municipality through zoning ordinance, resolution or regulation, its  
30 building regulatory codes, subdivision regulations or other  
31 nondiscriminatory regulations.

32 (f) No person or entity shall contract or enter into a contract,  
33 restrictive covenant, equitable servitude or such similar restriction, ~~which~~  
34 *that* would restrict group homes or their location in a manner inconsistent  
35 with the provisions of subsection (e).

36 Sec. 2. K.S.A. 19-4016 is hereby amended to read as follows: 19-  
37 4016. (a) The governing board of a community mental health center ~~which~~  
38 *that* is organized pursuant to K.S.A. 19-4001 et seq., and amendments  
39 thereto, and ~~which~~ *that* is licensed under K.S.A. ~~75-3307b~~ *2016 Supp. 39-*  
40 *2001 et seq.*, and amendments thereto, is hereby authorized to expend  
41 funds of the community mental health center to provide loans or  
42 scholarships to aid in financing the education of persons studying to  
43 become licensed psychologists or licensed in one of the social work

1 specialties and who agree, upon completion of their education and  
2 attainment of such licensure, to become members of the staff of the  
3 community mental health center.

4 (b) Every agreement entered into under this section shall be in  
5 writing; *and* shall specify the amount of financial assistance to be  
6 provided, the terms of eligibility for such financial assistance, the length of  
7 employment with the community mental health center required as a  
8 condition to the receipt of such financial assistance, the circumstances  
9 under which such employment obligation may be discharged or forgiven  
10 and such other additional provisions as the parties to the agreement may  
11 include as part of the agreement.

12 Sec. 3. K.S.A. 2016 Supp. 21-5417 is hereby amended to read as  
13 follows: 21-5417. (a) Mistreatment of a dependent adult is knowingly  
14 committing one or more of the following acts:

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

17 (2) taking the personal property or financial resources of a dependent  
18 adult for the benefit of the defendant or another person by taking control,  
19 title, use or management of the personal property or financial resources of  
20 a dependent adult through:

21 (A) Undue influence, coercion, harassment, duress, deception, false  
22 representation, false pretense or without adequate consideration to such  
23 dependent adult;

24 (B) a violation of the Kansas power of attorney act, K.S.A. 58-650 et  
25 seq., and amendments thereto; or

26 (C) a violation of the Kansas uniform trust code, K.S.A. 58a-101 et  
27 seq., and amendments thereto; or

28 (3) omission or deprivation of treatment, goods or services that are  
29 necessary to maintain physical or mental health of such dependent adult.

30 (b) Mistreatment of an elder person is knowingly committing one or  
31 more of the following acts:

32 (1) Taking the personal property or financial resources of an elder  
33 person for the benefit of the defendant or another person by taking control,  
34 title, use or management of the personal property or financial resources of  
35 an elder person through:

36 (A) Undue influence, coercion, harassment, duress, deception, false  
37 representation, false pretense or without adequate consideration to such  
38 elder person;

39 (B) a violation of the Kansas power of attorney act, K.S.A. 58-650 et  
40 seq., and amendments thereto; or

41 (C) a violation of the Kansas uniform trust code, K.S.A. 58a-101 et  
42 seq., and amendments thereto; or

43 (2) omission or deprivation of treatment, goods or services that are

1 necessary to maintain physical or mental health of such elder person.

2 (c) Mistreatment of a dependent adult as defined in:

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

4 (2) subsection (a)(2) if the aggregate amount of the value of the  
5 personal property or financial resources is:

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

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

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

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

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

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

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

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

22 (d) Mistreatment of an elder person as defined in:

23 (1) Subsection (b)(1) if the aggregate amount of the value of the  
24 personal property or financial resources is:

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

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

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

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

32 (E) at least \$5,000 but less than \$25,000 is a severity level 7, person  
33 felony;

34 (F) less than \$5,000 is a class A person misdemeanor, except as  
35 provided in subsection (d)(1)(G); and

36 (G) less than \$5,000 and committed by a person who has, within five  
37 years immediately preceding commission of the crime, been convicted of  
38 mistreatment of an elder person two or more times is a severity level 7,  
39 person felony; and

40 (2) subsection (b)(2) is a severity level 8, person felony.

41 (e) It shall be an affirmative defense to any prosecution for  
42 mistreatment of a dependent adult or mistreatment of an elder person as  
43 described in subsections (a)(2) and (b)(1) that:

1 (1) The personal property or financial resources were given as a gift  
2 consistent with a pattern of gift giving to the person that existed before the  
3 dependent adult or elder person became vulnerable;

4 (2) the personal property or financial resources were given as a gift  
5 consistent with a pattern of gift giving to a class of individuals that existed  
6 before the dependent adult or elder person became vulnerable;

7 (3) the personal property or financial resources were conferred as a  
8 gift by the dependent adult or elder person to the benefit of a person or  
9 class of persons, and such gift was reasonable under the circumstances; or

10 (4) a court approved the transaction before the transaction occurred.

11 (f) No dependent adult or elder person is considered to be mistreated  
12 under subsection (a)(1), (a)(3) or (b)(2) for the sole reason that such  
13 dependent adult or elder person relies upon or is being furnished treatment  
14 by spiritual means through prayer in lieu of medical treatment in  
15 accordance with the tenets and practices of a recognized church or  
16 religious denomination of which such dependent adult or elder person is a  
17 member or adherent.

18 (g) As used in this section:

19 (1) "Adequate consideration" means the personal property or  
20 financial resources were given to the person as payment for bona fide  
21 goods or services provided by such person and the payment was at a rate  
22 customary for similar goods or services in the community that the  
23 dependent adult or elder person resided in at the time of the transaction.

24 (2) "Dependent adult" means an individual 18 years of age or older  
25 who is unable to protect the individual's own interest. Such term shall  
26 include, but is not limited to, any:

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

29 (B) adult cared for in a private residence;

30 (C) individual kept, cared for, treated, boarded, confined or otherwise  
31 accommodated in a medical care facility;

32 (D) individual with intellectual disability or a developmental  
33 disability receiving services through a community facility for people with  
34 intellectual disability or residential facility licensed under K.S.A.—75-  
35 ~~3307b~~ 2016 *Supp.* 39-2001 *et seq.*, and amendments thereto;

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

39 (F) individual kept, cared for, treated, boarded, confined or otherwise  
40 accommodated in a state psychiatric hospital or state institution for people  
41 with intellectual disability.

42 (3) "Elder person" means a person 70 years of age or older.

43 (h) An offender who violates the provisions of this section may also

1 be prosecuted for, convicted of, and punished for any other offense in  
2 article 54, 55, 56 or 58 of chapter 21 of the Kansas Statutes Annotated; or  
3 K.S.A. 2016 Supp. 21-6418, and amendments thereto.

4 Sec. 4. K.S.A. 2016 Supp. 21-6109 is hereby amended to read as  
5 follows: 21-6109. As used in K.S.A. 2016 Supp. 21-6109 through 21-6116,  
6 and amendments thereto:

7 (a) "Access point" means the area within a ten foot radius outside of  
8 any doorway, open window or air intake leading into a building or facility  
9 that is not exempted pursuant to ~~subsection (d)~~ of K.S.A. 2016 Supp. 21-  
10 6110(d), and amendments thereto.

11 (b) "Bar" means any indoor area that is operated and licensed for the  
12 sale and service of alcoholic beverages, including alcoholic liquor as  
13 defined in K.S.A. 41-102, and amendments thereto, or cereal malt  
14 beverages as defined in K.S.A. 41-2701, and amendments thereto, for on-  
15 premises consumption.

16 (c) "Employee" means any person who is employed by an employer  
17 in consideration for direct or indirect monetary wages or profit; and any  
18 person who volunteers their services for a nonprofit entity.

19 (d) "Employer" means any person, partnership, corporation,  
20 association or organization, including municipal or nonprofit entities,  
21 ~~which~~ that employs one or more individual persons.

22 (e) "Enclosed area" means all space between a floor and ceiling  
23 ~~which~~ that is enclosed on all sides by solid walls, windows or doorways  
24 ~~which~~ that extend from the floor to the ceiling, including all space therein  
25 screened by partitions ~~which~~ that do not extend to the ceiling or are not  
26 solid or similar structures. For purposes of this section, the following shall  
27 not be considered an "enclosed area": (1) Rooms or areas, enclosed by  
28 walls, windows or doorways, having neither a ceiling nor a roof and ~~which~~  
29 that are completely open to the elements and weather at all times; and (2)  
30 rooms or areas, enclosed by walls, fences, windows or doorways and a  
31 roof or ceiling, having openings that are permanently open to the elements  
32 and weather and ~~which~~ that comprise an area that is at least 30% of the  
33 total perimeter wall area of such room or area.

34 (f) "Food service establishment" means any place in which food is  
35 served or is prepared for sale or service on the premises. Such term shall  
36 include, but not be limited to, fixed or mobile restaurants, coffee shops,  
37 cafeterias, short-order cafes, luncheonettes, grills, tea rooms, sandwich  
38 shops, soda fountains, taverns, private clubs, roadside kitchens,  
39 commissaries and any other private, public or nonprofit organization or  
40 institution routinely serving food and any other eating or drinking  
41 establishment or operation where food is served or provided for the public  
42 with or without charge.

43 (g) "Gaming floor" means the area of a lottery gaming facility or

1 racetrack gaming facility, as those terms are defined in K.S.A. 74-8702,  
2 and amendments thereto, where patrons engage in Class III gaming. The  
3 gaming floor shall not include any areas used for accounting, maintenance,  
4 surveillance, security, administrative offices, storage, cash or cash  
5 counting, records, food service, lodging or entertainment, except that the  
6 gaming floor may include a bar where alcoholic beverages are served so  
7 long as the bar is located entirely within the area where Class III gaming is  
8 conducted.

9 (h) "Medical care facility" means a physician's office, general  
10 hospital, special hospital, ambulatory surgery center or recuperation center,  
11 as defined by K.S.A. 65-425, and amendments thereto, and any psychiatric  
12 hospital licensed under K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and  
13 amendments thereto.

14 (i) "Outdoor recreational facility" means a hunting, fishing, shooting  
15 or golf club, business or enterprise operated primarily for the benefit of its  
16 owners, members and their guests and not normally open to the general  
17 public.

18 (j) "Place of employment" means any enclosed area under the control  
19 of a public or private employer, including, but not limited to, work areas,  
20 auditoriums, elevators, private offices, employee lounges and restrooms,  
21 conference and meeting rooms, classrooms, employee cafeterias, stairwells  
22 and hallways, that is used by employees during the course of employment.  
23 For purposes of this section, a private residence shall not be considered a  
24 "place of employment" unless such residence is used as a day care home,  
25 as defined in K.S.A. 65-530, and amendments thereto.

26 (k) "Private club" means an outdoor recreational facility operated  
27 primarily for the use of its owners, members and their guests that in its  
28 ordinary course of business is not open to the general public for which use  
29 of its facilities has substantial dues or membership fee requirements for its  
30 members.

31 (l) "Public building" means any building owned or operated by: (1)  
32 The state, including any branch, department, agency, bureau, commission,  
33 authority or other instrumentality thereof; (2) any county, city, township,  
34 other political subdivision, including any commission, authority, agency or  
35 instrumentality thereof; or (3) any other separate corporate instrumentality  
36 or unit of the state or any municipality.

37 (m) "Public meeting" means any meeting open to the public pursuant  
38 to K.S.A. 75-4317 et seq., and amendments thereto, or any other law of  
39 this state.

40 (n) "Public place" means any enclosed areas open to the public or  
41 used by the general public including, but not limited to: Banks, bars, food  
42 service establishments, retail service establishments, retail stores, public  
43 means of mass transportation, passenger elevators, health care institutions

1 or any other place where health care services are provided to the public,  
2 medical care facilities, educational facilities, libraries, courtrooms, public  
3 buildings, restrooms, grocery stores, school buses, museums, theaters,  
4 auditoriums, arenas and recreational facilities. For purposes of this section,  
5 a private residence shall not be considered a "public place" unless such  
6 residence is used as a day care home, as defined in K.S.A. 65-530, and  
7 amendments thereto.

8 (o) "Smoking" means possession of a lighted cigarette, cigar, pipe or  
9 burning tobacco in any other form or device designed for the use of  
10 tobacco.

11 (p) "Tobacco shop" means any indoor area operated primarily for the  
12 retail sale of tobacco, tobacco products or smoking devices or accessories,  
13 and ~~which~~ *that* derives not less than 65% of its gross receipts from the sale  
14 of tobacco.

15 (q) "Substantial dues or membership fee requirements" means  
16 initiation costs, dues or fees proportional to the cost of membership in  
17 similarly-situated outdoor recreational facilities that are not considered  
18 nominal and implemented to otherwise avoid or evade restrictions of a  
19 statewide ban on smoking.

20 Sec. 5. K.S.A. 2016 Supp. 22-4612 is hereby amended to read as  
21 follows: 22-4612. (a) Except as otherwise provided in this section, a  
22 county, a city, a county or city law enforcement agency, a county  
23 department of corrections or the Kansas highway patrol shall be liable to  
24 pay a health care provider for health care services rendered to persons in  
25 the custody of such agencies the lesser of the actual amount billed by such  
26 health care provider or the medicaid rate. The provisions of this section  
27 shall not apply if a person in the custody of a county or city law  
28 enforcement agency, a county department of corrections or the Kansas  
29 highway patrol is covered under a current individual or group accident and  
30 health insurance policy, medical service plan contract, hospital service  
31 corporation contract, hospital and medical service corporation contract,  
32 fraternal benefit society or health maintenance organization contract.

33 (b) Nothing in this section shall prevent a county or city law  
34 enforcement agency, a county department of corrections, the Kansas  
35 highway patrol or such agencies' authorized vendors from entering into  
36 agreements with health care providers for the provision of health care  
37 services at terms, conditions and amounts ~~which~~ *that* are different than the  
38 medicaid rate.

39 (c) It shall be the responsibility of the custodial county or city law  
40 enforcement agency, county department of corrections or the Kansas  
41 highway patrol or such agencies' agents, to determine, under agreement  
42 with the secretary of health and environment, the amount payable for the  
43 services provided and to communicate that determination along with the



1 remittance advice and payment for the services provided.

2 (d) Nothing in this section shall be construed to create a duty on the  
3 part of a health care provider to render health care services to a person in  
4 the custody of a county or city law enforcement agency, a county  
5 department of corrections or the Kansas highway patrol.

6 (e) As used in this section:

7 (1) "County or city law enforcement agency" means a city police  
8 department, a county sheriff's department, a county law enforcement  
9 department as defined in K.S.A. 19-4401, and amendments thereto, or a  
10 law enforcement agency established pursuant to the consolidated city-  
11 county powers in K.S.A. 12-345, and amendments thereto.

12 (2) "Health care provider" means a person licensed to practice any  
13 branch of the healing arts by the state board of healing arts, a person who  
14 holds a temporary permit to practice any branch of the healing arts issued  
15 by the state board of healing arts, a person engaged in a postgraduate  
16 training program approved by the state board of healing arts, a licensed  
17 physician assistant, a person licensed by the behavioral sciences regulatory  
18 board, a medical care facility licensed by the department of health and  
19 environment, a podiatrist licensed by the state board of healing arts, an  
20 optometrist licensed by the board of examiners in optometry, a registered  
21 nurse, and advanced nurse practitioner, a licensed professional nurse who  
22 is authorized to practice as a registered nurse anesthetist, a licensed  
23 practical nurse, a licensed physical therapist, a professional corporation  
24 organized pursuant to the professional corporation law of Kansas by  
25 persons who are authorized by such law to form such a corporation and  
26 who are health care providers as defined by this subsection, a Kansas  
27 limited liability company organized for the purpose of rendering  
28 professional services by its members who are health care providers as  
29 defined by this subsection and who are legally authorized to render the  
30 professional services for which the limited liability company is organized,  
31 a partnership of persons who are health care providers under this  
32 subsection, a Kansas not-for-profit corporation organized for the purpose  
33 of rendering professional services by persons who are health care  
34 providers as defined by this subsection, a dentist certified by the state  
35 board of healing arts to administer anesthetics under K.S.A. 65-2899, and  
36 amendments thereto, a psychiatric hospital licensed under K.S.A.—75-  
37 ~~3307b~~ 2016 Supp. 39-2001 et seq., and amendments thereto, a licensed  
38 social worker or a mental health center or mental health clinic licensed by  
39 the secretary for aging and disability services and any health care provider  
40 licensed by the appropriate regulatory body in another state that has a  
41 current approved provider agreement with the secretary of health and  
42 environment.

43 (3) "Medicaid rate" means the terms, conditions and amounts a health

1 care provider would be paid for health care services rendered pursuant to a  
2 contract or provider agreement with the secretary of health and  
3 environment.

4 Sec. 6. K.S.A. 2016 Supp. 36-501 is hereby amended to read as  
5 follows: 36-501. (a) K.S.A. 36-501 through 36-520, and amendments  
6 thereto, shall be known and may be cited as the lodging inspection act.

7 (b) As used in the lodging inspection act, the following words and  
8 phrases shall have the following meanings:

9 (1) "Hotel" means every building or other structure ~~which~~ *that* is  
10 kept, used, maintained, advertised or held out to the public as a place  
11 where sleeping accommodations are offered for pay primarily to transient  
12 guests and in which four or more rooms are used for the accommodation  
13 of such guests, regardless of whether such building or structure is  
14 designated as a cabin camp, tourist cabin, motel or other type of lodging  
15 unit.

16 (2) "Rooming house" means every building or other structure ~~which~~  
17 *that* is kept, used, maintained, advertised or held out to the public to be a  
18 place where sleeping accommodations are furnished for pay to transient or  
19 permanent guests and in which eight or more guests may be  
20 accommodated, but ~~which~~ *that* does not maintain common facilities for the  
21 serving or preparation of food for such guests.

22 (3) "Boarding house" means every building or other structure ~~which~~  
23 *that* is kept, maintained, advertised or held out to the public to be a place  
24 where sleeping accommodations are furnished for pay to transient or  
25 permanent guests and in which eight or more guests may be  
26 accommodated, and ~~which~~ *that* maintains common facilities for the  
27 serving or preparation of food for such guests. The term "boarding house"  
28 shall not include facilities licensed under ~~paragraph (5) of subsection (a) of~~  
29 *K.S.A. 2015 Supp. 75-3307b(a)(5), and amendments thereto prior to its*  
30 *repeal, or facilities licensed by the Kansas department for aging and*  
31 *disability services that are: (A) Facilities for developmentally disabled*  
32 *persons receiving assistance through the department and that receive or*  
33 *have received after June 30, 1967, any state or federal funds; or (B)*  
34 *facilities where developmentally disabled persons who require supervision*  
35 *or limited assistance with the taking of medication reside.*

36 (4) "Lodging establishment" means a hotel, rooming house, guest  
37 house or boarding house.

38 (5) "Food" ~~has the same meaning~~ *means the same* as provided in  
39 K.S.A. 65-656, and amendments thereto.

40 (6) "Guest house" means every building or other structure ~~which~~ *that*  
41 is kept, used, maintained, advertised or held out to the public to be a place  
42 where sleeping accommodations are furnished for pay to transient or  
43 permanent guests. A guest house shall accommodate no more than seven

1 guests in no more than three rooms furnished with sleeping  
2 accommodations, regardless of whether common facilities for the serving  
3 or preparation of food are maintained.

4 (7) "Person" means an individual, partnership, corporation or other  
5 association of persons.

6 (8) "Municipality" means any city or county of this state.

7 (9) "Secretary" means the secretary of agriculture and the secretary's  
8 authorized representatives.

9 (10) "Department" means the Kansas department of agriculture.

10 Sec. 7. K.S.A. 2016 Supp. 39-1430 is hereby amended to read as  
11 follows: 39-1430. As used in this act:

12 (a) "Adult" means an individual 18 years of age or older alleged to be  
13 unable to protect their own interest and who is harmed or threatened with  
14 harm, whether financial, mental or physical in nature, through action or  
15 inaction by either another individual or through their own action or  
16 inaction when: (1) Such person is residing in such person's own home, the  
17 home of a family member or the home of a friend; (2) such person resides  
18 in an adult family home as defined in K.S.A. 39-1501, and amendments  
19 thereto; or (3) such person is receiving services through a provider of  
20 community services and affiliates thereof operated or funded by the  
21 Kansas department for children and families or the Kansas department for  
22 aging and disability services or a residential facility licensed pursuant to  
23 K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and amendments thereto.  
24 Such term shall not include persons to whom K.S.A. 39-1401 et seq., and  
25 amendments thereto, apply.

26 (b) "Abuse" means any act or failure to act performed intentionally or  
27 recklessly that causes or is likely to cause harm to an adult, including:

28 (1) Infliction of physical or mental injury;

29 (2) any sexual act with an adult when the adult does not consent or  
30 when the other person knows or should know that the adult is incapable of  
31 resisting or declining consent to the sexual act due to mental deficiency or  
32 disease or due to fear of retribution or hardship;

33 (3) unreasonable use of a physical restraint, isolation or medication  
34 that harms or is likely to harm an adult;

35 (4) unreasonable use of a physical or chemical restraint, medication  
36 or isolation as punishment, for convenience, in conflict with a physician's  
37 orders or as a substitute for treatment, except where such conduct or  
38 physical restraint is in furtherance of the health and safety of the adult;

39 (5) a threat or menacing conduct directed toward an adult that results  
40 or might reasonably be expected to result in fear or emotional or mental  
41 distress to an adult;

42 (6) fiduciary abuse; or

43 (7) omission or deprivation by a caretaker or another person of goods

1 or services ~~which~~ *that* are necessary to avoid physical or mental harm or  
2 illness.

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

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

12 (e) "Fiduciary abuse" means a situation in which any person who is  
13 the caretaker of, or who stands in a position of trust to, an adult, takes,  
14 secretes, or appropriates their money or property, to any use or purpose not  
15 in the due and lawful execution of such person's trust or benefit.

16 (f) "In need of protective services" means that an adult is unable to  
17 provide for or obtain services ~~which~~ *that* are necessary to maintain  
18 physical or mental health or both.

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

30 (h) "Protective services" means services provided by the state or other  
31 governmental agency or by private organizations or individuals ~~which~~ *that*  
32 are necessary to prevent abuse, neglect or exploitation. Such protective  
33 services shall include, but shall not be limited to, evaluation of the need for  
34 services, assistance in obtaining appropriate social services; and assistance  
35 in securing medical and legal services.

36 (i) "Caretaker" means a person who has assumed the responsibility,  
37 whether legally or not, for an adult's care or financial management or both.

38 (j) "Secretary" means the secretary ~~for the Kansas department for~~  
39 children and families.

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

43 (l) "Law enforcement" means the public office ~~which~~ *that* is vested

1 by law with the duty to maintain public order, make arrests for crimes,  
2 investigate criminal acts and file criminal charges, whether that duty  
3 extends to all crimes or is limited to specific crimes.

4 (m) "Involved adult" means the adult who is the subject of a report of  
5 abuse, neglect or exploitation under this act.

6 (n) "Legal representative," "financial institution" and "governmental  
7 assistance provider"—~~shall have the meanings ascribed thereto~~ *mean the*  
8 *same as defined* in K.S.A. 39-1401, and amendments thereto.

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

14 Sec. 8. K.S.A. 2016 Supp. 39-1431 is hereby amended to read as  
15 follows: 39-1431. (a) Any person who is licensed to practice any branch of  
16 the healing arts, a licensed psychologist, a licensed master level  
17 psychologist, a licensed clinical psychotherapist, the chief administrative  
18 officer of a medical care facility, a teacher, a licensed social worker, a  
19 licensed professional nurse, a licensed practical nurse, a licensed dentist, a  
20 licensed marriage and family therapist, a licensed clinical marriage and  
21 family therapist, licensed professional counselor, licensed clinical  
22 professional counselor, registered alcohol and drug abuse counselor, a law  
23 enforcement officer, a case manager, a rehabilitation counselor, a bank  
24 trust officer or any other officers of financial institutions, a legal  
25 representative, a governmental assistance provider, an owner or operator of  
26 a residential care facility, an independent living counselor and the chief  
27 administrative officer of a licensed home health agency, the chief  
28 administrative officer of an adult family home and the chief administrative  
29 officer of a provider of community services and affiliates thereof operated  
30 or funded by the Kansas department for aging and disability services or  
31 licensed under K.S.A.—~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and  
32 amendments thereto, who has reasonable cause to believe that an adult is  
33 being or has been abused, neglected or exploited or is in need of protective  
34 services shall report, immediately from receipt of the information, such  
35 information or cause a report of such information to be made in any  
36 reasonable manner. An employee of a domestic violence center shall not  
37 be required to report information or cause a report of information to be  
38 made under this subsection. Other state agencies receiving reports that are  
39 to be referred to the Kansas department for children and families and the  
40 appropriate law enforcement agency, shall submit the report to the  
41 department and agency within six hours, during normal work days, of  
42 receiving the information. Reports shall be made to the Kansas department  
43 for children and families during the normal working week days and hours

1 of operation. Reports shall be made to law enforcement agencies during  
2 the time the Kansas department for children and families is not in  
3 operation. Law enforcement shall submit the report and appropriate  
4 information to the Kansas department for children and families on the first  
5 working day that the Kansas department for children and families is in  
6 operation after receipt of such information.

7 (b) The report made pursuant to subsection (a) shall contain the name  
8 and address of the person making the report and of the caretaker caring for  
9 the involved adult, the name and address of the involved adult, information  
10 regarding the nature and extent of the abuse, neglect or exploitation, the  
11 name of the next of kin of the involved adult, if known, and any other  
12 information ~~which~~ *that* the person making the report believes might be  
13 helpful in the investigation of the case and the protection of the involved  
14 adult.

15 (c) Any other person, not listed in subsection (a), having reasonable  
16 cause to suspect or believe that an adult is being or has been abused,  
17 neglected or exploited or is in need of protective services may report such  
18 information to the Kansas department for children and families. Reports  
19 shall be made to law enforcement agencies during the time the Kansas  
20 department for children and families is not in operation.

21 (d) A person making a report under subsection (a) shall not be  
22 required to make a report under K.S.A. 39-1401 ~~to~~ *through* 39-1410,  
23 ~~inclusive~~, and amendments thereto.

24 (e) Any person required to report information or cause a report of  
25 information to be made under subsection (a) who knowingly fails to make  
26 such report or cause such report not to be made shall be guilty of a class B  
27 misdemeanor.

28 (f) Notice of the requirements of this act and the department to which  
29 a report is to be made under this act shall be posted in a conspicuous  
30 public place in every adult family home as defined in K.S.A. 39-1501, and  
31 amendments thereto, and every provider of community services and  
32 affiliates thereof operated or funded by the Kansas department for aging  
33 and disability services or other facility licensed under K.S.A. ~~75-3307b-~~  
34 *2016 Supp. 39-2001 et seq.*, and amendments thereto, and other  
35 institutions included in subsection (a).

36 Sec. 9. K.S.A. 2016 Supp. 39-1433 is hereby amended to read as  
37 follows: 39-1433. (a) The Kansas department for children and families  
38 upon receiving a report that an adult is being, or has been abused,  
39 neglected, or exploited or is in need of protective services, shall:

40 (1) When a criminal act has occurred or has appeared to have  
41 occurred, immediately notify, in writing, the appropriate law enforcement  
42 agency;

43 (2) make a personal visit with the involved adult:

1 (A) Within 24 hours when the information from the reporter indicates  
2 imminent danger to the health or welfare of the involved adult;

3 (B) within three working days for all reports of suspected abuse,  
4 when the information from the reporter indicates no imminent danger;

5 (C) within five working days for all reports of neglect or exploitation  
6 when the information from the reporter indicates no imminent danger.

7 (3) Complete, within 30 working days of receiving a report, a  
8 thorough investigation and evaluation to determine the situation relative to  
9 the condition of the involved adult and what action and services, if any, are  
10 required. The evaluation shall include, but not be limited to, consultation  
11 with those individuals having knowledge of the facts of the particular case.  
12 If conducting the investigation within 30 working days would interfere  
13 with an ongoing criminal investigation, the time period for the  
14 investigation shall be extended, but the investigation and evaluation shall  
15 be completed within 90 working days. If a finding is made prior to the  
16 conclusion of the criminal investigation, the investigation and evaluation  
17 may be reopened and a new finding made based on any additional  
18 evidence provided as a result of the criminal investigation. If the alleged  
19 perpetrator is licensed, registered or otherwise regulated by a state agency,  
20 such state agency also shall be notified upon completion of the  
21 investigation or sooner if such notification does not compromise the  
22 investigation.

23 (4) Prepare, upon completion of the investigation of each case, a  
24 written assessment ~~which~~ *that* shall include an analysis of whether there is  
25 or has been abuse, neglect or exploitation, recommended action, a  
26 determination of whether protective services are needed; and any follow-  
27 up.

28 (b) The secretary for children and families shall forward any finding  
29 of abuse, neglect or exploitation alleged to have been committed by a  
30 provider of services licensed, registered or otherwise authorized to provide  
31 services in this state to the appropriate state authority ~~which~~ *that* regulates  
32 such provider. The appropriate state regulatory authority may consider the  
33 finding in any disciplinary action taken with respect to the provider of  
34 services under the jurisdiction of such authority.

35 (c) The Kansas department for children and families shall inform the  
36 complainant, upon request of the complainant, that an investigation has  
37 been made and if the allegations of abuse, neglect or exploitation have  
38 been substantiated, that corrective measures will be taken, upon  
39 completion of the investigation or sooner, if such measures do not  
40 jeopardize the investigation.

41 (d) The Kansas department for children and families may inform the  
42 chief administrative officer of community facilities licensed pursuant to  
43 K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and amendments thereto, of

1 confirmed findings of resident abuse, neglect or exploitation.

2 Sec. 10. K.S.A. 2016 Supp. 39-1602 is hereby amended to read as  
3 follows: 39-1602. As used in K.S.A. 39-1601 through 39-1612, and  
4 amendments thereto:

5 (a) "Targeted population" means the population group designated by  
6 rules and regulations of the secretary as most in need of mental health  
7 services ~~which~~ *that* are funded, in whole or in part, by state or other public  
8 funding sources, ~~which and such~~ group shall include adults with severe  
9 and persistent mental illness, severely emotionally disturbed children and  
10 adolescents; and other individuals at risk of requiring institutional care.

11 (b) "Community based mental health services" includes, but is not  
12 limited to, evaluation and diagnosis, case management services, mental  
13 health inpatient and outpatient services, prescription and management of  
14 psychotropic medication, prevention, education, consultation, treatment  
15 and rehabilitation services, ~~twenty-four~~ 24-hour emergency services, and  
16 any facilities required therefor, ~~which that~~ are provided within one or more  
17 local communities in order to provide a continuum of care and support  
18 services to enable mentally ill persons, including targeted population  
19 members, to function outside of inpatient institutions to the extent of their  
20 capabilities. Community based mental health services also include  
21 assistance in securing employment services, housing services, medical and  
22 dental care; and other support services.

23 (c) "Mental health center" means any community mental health  
24 center ~~organized pursuant to the provisions of K.S.A. 19-4001 to 19-4015,~~  
25 ~~inclusive, and amendments thereto, or mental health clinic organized~~  
26 ~~pursuant to the provisions of K.S.A. 65-211 to 65-215, inclusive, and~~  
27 ~~amendments thereto, and licensed in accordance with the provisions of~~  
28 ~~K.S.A. 75-3307b~~ *as defined in K.S.A. 2016 Supp. 39-2002*, and  
29 amendments thereto.

30 (d) "Secretary" means the secretary for aging and disability services.

31 (e) "Department" means the Kansas department for aging and  
32 disability services.

33 (f) "State psychiatric hospital" means Osawatomie state hospital,  
34 Rainbow mental health facility or Larned state hospital.

35 (g) "Mental health reform phased program" means the program in  
36 three phases for the implementation of mental health reform in Kansas as  
37 follows:

38 (1) The first phase covers the counties in the Osawatomie state  
39 hospital catchment area and is to commence on July 1, 1990, and is to be  
40 completed by June 30, 1994;

41 (2) the second phase covers the counties in the Topeka state hospital  
42 catchment area and is to commence on July 1, 1992, and is to be  
43 completed by June 30, 1996; and



1 (3) the third phase covers the counties in the Larned state hospital  
2 catchment area and is to commence on July 1, 1993, and is to be  
3 completed by June 30, 1997.

4 (h) "Screening" means the process performed by a participating  
5 community mental health center, pursuant to a contract entered into with  
6 the secretary under K.S.A. 39-1610, and amendments thereto, to determine  
7 whether a person, under either voluntary or involuntary procedures, can be  
8 evaluated or treated, or can be both evaluated and treated, in the  
9 community or should be referred to the appropriate state psychiatric  
10 hospital for such treatment or evaluation or for both treatment and  
11 evaluation.

12 (i) "Osawatomie state hospital catchment area" means, except as  
13 otherwise defined by rules and regulations of the secretary adopted  
14 pursuant to K.S.A. 39-1613, and amendments thereto, the area composed  
15 of the following counties: Allen, Anderson, Atchison, Bourbon, Brown,  
16 Butler, Chase, Chautauqua, Cherokee, Clay, Coffey, Cowley, Crawford,  
17 Doniphan, Douglas, Elk, Franklin, Geary, Greenwood, Jackson, Jefferson,  
18 Jewell, Johnson, Labette, Leavenworth, Linn, Lyon, Marshall, Miami,  
19 Mitchell, Montgomery, Morris, Nemaha, Neosho, Osage, Pottawatomie,  
20 Republic, Riley, Sedgwick, Shawnee, Wabaunsee, Washington, Wilson,  
21 Woodson and Wyandotte.

22 (j) "Larned state hospital catchment area" means, except as otherwise  
23 defined by rules and regulations of the secretary adopted pursuant to  
24 K.S.A. 39-1613, and amendments thereto, the area composed of the  
25 following counties: Barber, Barton, Cheyenne, Clark, Comanche, Decatur,  
26 Dickinson, Edwards, Ellis, Ellsworth, Finney, Ford, Gove, Graham, Grant,  
27 Gray, Greeley, Hamilton, Harper, Harvey, Haskell, Hodgeman, Kearny,  
28 Kingman, Kiowa, Lane, Lincoln, Logan, Marion, McPherson, Meade,  
29 Morton, Ness, Norton, Osborne, Pawnee, Phillips, Pratt, Rawlins, Reno,  
30 Rice, Rooks, Rush, Russell, Saline, Scott, Seward, Sheridan, Sherman,  
31 Smith, Stafford, Stanton, Stevens, Sumner, Thomas, Trego, Wallace and  
32 Wichita.

33 (k) "Catchment area" means the Osawatomie state hospital catchment  
34 area or the Larned state hospital catchment area.

35 (l) "Participating mental health center" means a mental health center  
36 ~~which~~ *that* has entered into a contract with the secretary for aging and  
37 disability services to provide screening, treatment and evaluation, court  
38 ordered evaluation and other treatment services pursuant to the care and  
39 treatment act for mentally ill persons, in keeping with the phased concept  
40 of the mental health reform act.

41 Sec. 11. K.S.A. 2016 Supp. 39-1903 is hereby amended to read as  
42 follows: 39-1903. (a) The disability and behavioral health services section  
43 of the Kansas department for children and families is hereby transferred to

1 the Kansas department for aging and disability services and shall be a part  
2 thereof. The disability and behavioral health services section transferred to  
3 the Kansas department for aging and disability services by K.S.A. 2016  
4 Supp. 39-1901 through 39-1914, and amendments thereto, shall be  
5 administered by the secretary for aging and disability services.

6 The programs to be transferred by this section are:

7 (1) Mental health and substance abuse, serious emotionally disturbed,  
8 developmental disability, physical disability, traumatic brain injury,  
9 autism, technology assistance and money-follows-the-person medicaid  
10 waivers and programs;

11 (2) licensure and regulation of community mental health centers, as  
12 defined by K.S.A. ~~75-3307b~~ 2016 Supp. 39-2002, and amendments  
13 thereto;

14 (3) regulation of community developmental disability organizations,  
15 ~~as defined by K.S.A. 75-3307b~~ pursuant to K.S.A. 2016 Supp. 39-2001 et  
16 seq., and amendments thereto;

17 (4) licensure of private psychiatric hospitals, ~~as defined by K.S.A. 75-~~  
18 ~~3307b~~ pursuant to K.S.A. 2016 Supp. 39-2001 et seq., and amendments  
19 thereto;

20 (5) licensure and regulation of facilities and providers of residential  
21 services, ~~as defined by K.S.A. 75-3307b~~ pursuant to K.S.A. 2016 Supp.  
22 39-2001 et seq., and amendments thereto;

23 (6) licensure and regulation of providers of addiction and prevention  
24 services, as defined by K.S.A. 75-5375 et seq., and amendments thereto;  
25 and

26 (7) any other programs and related grants administered by the  
27 disability and behavioral health services section of the Kansas department  
28 for children and families prior to the effective date of K.S.A. 2016 Supp.  
29 39-1901 through 39-1914, and amendments thereto.

30 (b) Except as otherwise provided by K.S.A. 2016 Supp. 39-1901  
31 through 39-1914, and amendments thereto, all powers, duties and  
32 functions of the secretary for children and families pertaining to the  
33 disability and behavioral health services section transferred by K.S.A.  
34 2016 Supp. 39-1901 through 39-1914, and amendments thereto, including  
35 that agency's designation as the medicaid single state authority for  
36 substance abuse and for mental health, are hereby transferred to and  
37 imposed upon the secretary for aging and disability services.

38 (c) The Kansas department for aging and disability services shall be  
39 the successor in every way to the powers, duties and functions of the  
40 Kansas department for children and families pertaining to the disability  
41 and behavioral health services section transferred by K.S.A. 2016 Supp.  
42 39-1901 through 39-1914, and amendments thereto. Every act performed  
43 in the exercise of such transferred powers, duties and functions by or under

1 the authority of the Kansas department for aging and disability services  
2 shall be deemed to have the same force and effect as if performed by the  
3 Kansas department for children and families in which such powers, duties  
4 and functions were vested prior to the effective date of K.S.A. 2016 Supp.  
5 39-1901 through 39-1914, and amendments thereto.

6 Sec. 12. K.S.A. 2016 Supp. 40-2,105 is hereby amended to read as  
7 follows: 40-2,105. (a) On or after the effective date of this act, every  
8 insurer ~~which~~ *that* issues any individual policy of accident and sickness  
9 insurance or group policy of accident and sickness insurance to a small  
10 employer as defined in K.S.A. 40-2209d, and amendments thereto, ~~which~~  
11 *that* provides medical, surgical or hospital expense coverage for other than  
12 specific diseases or accidents only and ~~which~~ *that* provides for  
13 reimbursement or indemnity for services rendered to a person covered by  
14 such policy in a medical care facility, must provide for reimbursement or  
15 indemnity under such individual policy or under such small employer  
16 group policy, except as provided in subsection (d), ~~which~~ *that* shall be  
17 limited to not less than 45 days per year for in-patient treatment of mental  
18 illness in a medical care facility licensed under the provisions of K.S.A.  
19 65-429, and amendments thereto, and not less than 30 days per year when  
20 such person is confined for treatment of alcoholism, drug abuse or  
21 substance use disorders in a treatment facility for alcoholics licensed under  
22 the provisions of K.S.A. 65-4014, and amendments thereto, a treatment  
23 facility for drug abusers licensed under the provisions of K.S.A. 65-4605,  
24 and amendments thereto, a community mental health center or clinic  
25 licensed under the provisions of K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et*  
26 *seq.*, and amendments thereto, or a psychiatric hospital licensed under the  
27 provisions of K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and  
28 amendments thereto. Such individual policy or such small employer group  
29 policy shall also provide for reimbursement or indemnity, except as  
30 provided in subsection (d), of the costs of treatment of such person for  
31 mental illness, alcoholism, drug abuse and substance use disorders subject  
32 to the same deductibles, copayments, coinsurance, out-of-pocket expenses  
33 and treatment limitations as apply to other covered services, limited to not  
34 less than \$15,000 in such person's lifetime, with no annual limits, in the  
35 facilities enumerated when in-patient treatment is not necessary for the  
36 treatment or by a physician licensed or psychologist licensed to practice  
37 under the laws of the state of Kansas.

38 (b) For the purposes of this section "mental illness, alcoholism, drug  
39 abuse or substance use" means disorders specified in the diagnostic and  
40 statistical manual of mental disorders, fourth edition, (DSM-IV, 1994) of  
41 the American psychiatric association.

42 (c) The provisions of this section shall be applicable to health  
43 maintenance organizations organized under article 32 of chapter 40 of the

1 Kansas Statutes Annotated, *and amendments thereto.*

2 (d) There shall be no coverage under the provisions of this section for  
3 any assessment against any person required by a diversion agreement or by  
4 order of a court to attend an alcohol and drug safety action program  
5 certified pursuant to K.S.A. 8-1008, and amendments thereto, or for  
6 evaluations and diagnostic tests ordered or requested in connection with  
7 criminal actions, divorce, child custody or child visitation proceedings.

8 (e) The provisions of this section shall not apply to any medicare  
9 supplement policy of insurance, as defined by the commissioner of  
10 insurance by rule and regulation.

11 (f) Treatment limitations include limits on the frequency of treatment,  
12 number of visits, days of coverage or other similar limits on the scope or  
13 duration of treatment.

14 (g) Utilization review for mental illness shall be consistent with  
15 provisions in K.S.A. 40-22a01 through 40-22a12, and amendments  
16 thereto.

17 Sec. 13. K.S.A. 2016 Supp. 40-2,105a is hereby amended to read as  
18 follows: 40-2,105a. (a) (1) Any group health insurance policy, medical  
19 service plan, contract, hospital service corporation contract, hospital and  
20 medical service corporation contract, fraternal benefit society or health  
21 maintenance organization ~~which~~ *that* provides medical, surgical or hospital  
22 expense coverage shall include; coverage for diagnosis and treatment of  
23 mental illnesses and alcoholism, drug abuse or other substance use  
24 disorders. Reimbursement or indemnity shall be provided for treatment in  
25 a medical care facility licensed under the provisions of K.S.A. 65-429, and  
26 amendments thereto, treatment facilities licensed under K.S.A. 65-4605,  
27 and amendments thereto, a community mental health center or clinic  
28 licensed under the provisions of K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et*  
29 *seq.*, and amendments thereto, a psychiatric hospital licensed under the  
30 provisions of K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and  
31 amendments thereto, or by a physician or psychologist licensed to practice  
32 under the laws of the state of Kansas. Such coverage shall be subject to the  
33 same deductibles, copayments, coinsurance, out-of-pocket expenses,  
34 treatment limitations and other limitations as apply to other covered  
35 services.

36 (2) The coverage shall include treatment for in-patient care and out-  
37 patient care for mental illness, alcoholism, drug abuse or substance use  
38 disorders.

39 (b) For the purposes of this section, "mental illness, alcoholism, drug  
40 abuse or substance use" means any disorder as such terms are defined in  
41 the diagnostic and statistical manual of mental disorders, fourth edition,  
42 (DSM-IV, 1994) of the American psychiatric association.

43 (c) The provisions of this section shall be applicable to health

1 maintenance organizations organized under article 32 of chapter 40 of the  
2 Kansas Statutes Annotated, *and amendments thereto*.

3 (d) The provisions of this section shall not apply to any small  
4 employer group policy, as defined under K.S.A. 40-2209, and amendments  
5 thereto, providing medical, surgical or hospital expense coverage or to any  
6 medicare supplement policy of insurance, as defined by the commissioner  
7 of insurance by rule and regulation.

8 (e) The provisions of this section shall be applicable to the Kansas  
9 state employees health care benefits program and municipal funded pools.

10 (f) The provisions of this section shall not apply to any policy or  
11 certificate—~~which~~ *that* provides coverage for any specified disease,  
12 specified accident or accident only coverage, credit, dental, disability  
13 income, hospital indemnity, long-term care insurance as defined by K.S.A.  
14 40-2227, and amendments thereto, vision care or any other limited  
15 supplemental benefit nor to any medicare supplement policy of insurance  
16 as defined by the commissioner of insurance by rule and regulation, any  
17 coverage issued as a supplement to liability insurance, workers  
18 compensation or similar insurance, automobile medical-payment insurance  
19 or any insurance under which benefits are payable with or without regard  
20 to fault, whether written on a group, blanket or individual basis.

21 (g) Treatment limitations include limits on the frequency of  
22 treatment, number of visits, days of coverage or other similar limits on the  
23 scope or duration of treatment.

24 (h) There shall be no coverage under the provisions of this section for  
25 any assessment against any person required by a diversion agreement or by  
26 order of a court to attend an alcohol and drug safety action program  
27 certified pursuant to K.S.A. 8-1008, and amendments thereto, or for  
28 evaluations and diagnostic tests ordered or requested in connection with  
29 criminal actions, divorce, child custody or child visitation proceedings.

30 (i) Utilization review for mental illness shall be consistent with  
31 provisions in K.S.A. 40-22a01 through 40-22a12, and amendments  
32 thereto.

33 Sec. 14. K.S.A. 40-2,116 is hereby amended to read as follows: 40-  
34 2,116. As used in this act:

35 (a) "Contracting facility" means a health facility—~~which~~ *that* has  
36 entered into a contract with a service corporation to provide services to  
37 subscribers of the service corporation.

38 (b) "Contracting professional provider" means a professional provider  
39 who has entered into a contract with a service corporation to provide  
40 services to subscribers of the service corporation.

41 (c) "Health facility" means a medical care facility as defined in  
42 K.S.A. 65-425, and amendments thereto; psychiatric hospital licensed  
43 under K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and amendments

1 thereto; adult care home, ~~which~~ *but such* term shall be limited to nursing  
2 facility, assisted living facility and residential health care facility as such  
3 terms are defined in K.S.A. 39-923, and amendments thereto; and kidney  
4 disease treatment center, including centers not located in a medical care  
5 facility.

6 (d) "Professional provider" means a provider, other than a contracting  
7 facility, of services for which benefits are provided under contracts issued  
8 by a service corporation.

9 (e) "Service corporation" means a nonprofit medical and hospital  
10 service corporation organized under the provisions of K.S.A. 40-19c01 et  
11 seq., and amendments thereto.

12 Sec. 15. K.S.A. 40-12a01 is hereby amended to read as follows: 40-  
13 12a01. As used in this act: (a) "Health care provider" means any person  
14 licensed to practice any branch of the healing arts by the *state* board of  
15 healing arts or any hospital licensed under the provisions of K.S.A. 65-425  
16 et seq., and amendments thereto, or a private psychiatric hospital  
17 authorized under K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and  
18 amendments thereto;

19 (b) "person" means an individual, corporation, partnership,  
20 association, joint stock company, trust, unincorporated organization or any  
21 similar entity;

22 (c) "affiliate" means a person that directly or indirectly, through one  
23 or more intermediaries, employs, controls or is controlled by, or is under  
24 common control with a health care provider;

25 (d) "commissioner" means the commissioner of insurance; and

26 (e) "association" means any organization whose income is exempt  
27 from taxation pursuant to section 501(a) of the internal revenue code of  
28 1986, and amendments thereto, as in effect on the effective date of this act,  
29 due to such association's compliance with section 501(c)(6) of such code,  
30 and amendments thereto, as in effect on the effective date of this act.

31 Sec. 16. K.S.A. 2016 Supp. 40-3401 is hereby amended to read as  
32 follows: 40-3401. As used in this act ~~the following terms shall have the~~  
33 ~~meanings respectively ascribed to them herein:~~

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

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

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

39 (d) "Fiscal year" means the year commencing on the effective date of  
40 this act and each year, commencing on the first day of July thereafter.

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

43 (f) "Health care provider" means a person licensed to practice any

1 branch of the healing arts by the state board of healing arts, a person who  
2 holds a temporary permit to practice any branch of the healing arts issued  
3 by the state board of healing arts, a person engaged in a postgraduate  
4 training program approved by the state board of healing arts, a medical  
5 care facility licensed by the state of Kansas, a podiatrist licensed by the  
6 state board of healing arts, a health maintenance organization issued a  
7 certificate of authority by the commissioner, an optometrist licensed by the  
8 board of examiners in optometry, a pharmacist licensed by the state board  
9 of pharmacy, a licensed professional nurse who is authorized to practice as  
10 a registered nurse anesthetist, a licensed professional nurse who has been  
11 granted a temporary authorization to practice nurse anesthesia under  
12 K.S.A. 65-1153, and amendments thereto, a professional corporation  
13 organized pursuant to the professional corporation law of Kansas by  
14 persons who are authorized by such law to form such a corporation and  
15 who are health care providers as defined by this subsection, a Kansas  
16 limited liability company organized for the purpose of rendering  
17 professional services by its members who are health care providers as  
18 defined by this subsection and who are legally authorized to render the  
19 professional services for which the limited liability company is organized,  
20 a partnership of persons who are health care providers under this  
21 subsection, a Kansas not-for-profit corporation organized for the purpose  
22 of rendering professional services by persons who are health care  
23 providers as defined by this subsection, a nonprofit corporation organized  
24 to administer the graduate medical education programs of community  
25 hospitals or medical care facilities affiliated with the university of Kansas  
26 school of medicine, a dentist certified by the state board of healing arts to  
27 administer anesthetics under K.S.A. 65-2899, and amendments thereto, a  
28 psychiatric hospital licensed prior to January 1, 1988, and continuously  
29 thereafter under K.S.A. 2015 *Supp.* 75-3307b, *prior to its repeal, and*  
30 *K.S.A. 2016 Supp. 39-2001 et seq.*, and amendments thereto, or a mental  
31 health center or mental health clinic licensed by the state of Kansas. On  
32 and after January 1, 2015, "health care provider" also means a physician  
33 assistant licensed by the state board of healing arts, a licensed advanced  
34 practice registered nurse who is authorized by the ~~state~~ board of nursing to  
35 practice as an advanced practice registered nurse in the classification of a  
36 nurse-midwife, a licensed advanced practice registered nurse who has been  
37 granted a temporary authorization by the ~~state~~ board of nursing to practice  
38 as an advanced practice registered nurse in the classification of a nurse-  
39 midwife, a nursing facility licensed by the state of Kansas, an assisted  
40 living facility licensed by the state of Kansas or a residential health care  
41 facility licensed by the state of Kansas. "Health care provider" does not  
42 include: (1) Any state institution for people with intellectual disability; (2)  
43 any state psychiatric hospital; (3) any person holding an exempt license

1 issued by the state board of healing arts or the ~~state~~ board of nursing; (4)  
2 any person holding a visiting clinical professor license from the state board  
3 of healing arts; (5) any person holding an inactive license issued by the  
4 state board of healing arts; (6) any person holding a federally active  
5 license issued by the state board of healing arts; (7) an advanced practice  
6 registered nurse who is authorized by the ~~state~~ board of nursing to practice  
7 as an advanced practice registered nurse in the classification of nurse-  
8 midwife or nurse anesthetist and who practices solely in the course of  
9 employment or active duty in the United States government or any of its  
10 departments, bureaus or agencies or who provides professional services as  
11 a charitable health care provider as defined under K.S.A. 75-6102, and  
12 amendments thereto; or (8) a physician assistant licensed by the state  
13 board of healing arts who practices solely in the course of employment or  
14 active duty in the United States government or any of its departments,  
15 bureaus or agencies or who provides professional services as a charitable  
16 health care provider as defined under K.S.A. 75-6102, and amendments  
17 thereto.

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

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

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

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

39 (k) "Rating organization" means a corporation, an unincorporated  
40 association, a partnership or an individual licensed pursuant to K.S.A. 40-  
41 956, and amendments thereto, to make rates for professional liability  
42 insurance.

43 (l) "Self-insurer" means a health care provider who qualifies as a self-



1 insurer pursuant to K.S.A. 40-3414, and amendments thereto.

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

9 (n) "Mental health center" means a mental health center licensed by  
10 the state of Kansas under K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*,  
11 and amendments thereto, except that as used in the health care provider  
12 insurance availability act such term, as it relates to insurance coverage  
13 under the health care provider insurance availability act, also includes any  
14 director, trustee, officer or administrator of a mental health center.

15 (o) "Mental health clinic" means a mental health clinic licensed by  
16 the state of Kansas under K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*,  
17 and amendments thereto, except that as used in the health care provider  
18 insurance availability act such term, as it relates to insurance coverage  
19 under the health care provider insurance availability act, also includes any  
20 director, trustee, officer or administrator of a mental health clinic.

21 (p) "State institution for people with intellectual disability" means  
22 Winfield state hospital and training center, Parsons state hospital and  
23 training center and the Kansas neurological institute.

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

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

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

37 (2) a person engaged in a postgraduate training program approved by  
38 the state board of healing arts who is employed by a nonprofit corporation  
39 organized to administer the graduate medical education programs of  
40 community hospitals or medical care facilities affiliated with the university  
41 of Kansas school of medicine or who is employed by an affiliate of the  
42 university of Kansas school of medicine as defined in K.S.A. 76-367, and  
43 amendments thereto, only when such person is engaged in medical

1 activities—~~which~~ *that* do not include extracurricular, extra-institutional  
2 medical service for which such person receives extra compensation and  
3 ~~which~~ *that* have not been approved by the chief operating officer of the  
4 nonprofit corporation or the chief operating officer of the affiliate and the  
5 executive vice-chancellor of the university of Kansas medical center.

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

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

13 (u) "Board" means the board of governors created by K.S.A. 40-3403,  
14 and amendments thereto.

15 (v) "Board of directors" means the governing board created by K.S.A.  
16 40-3413, and amendments thereto.

17 (w) "Locum tenens contract" means a temporary agreement not  
18 exceeding 182 days per calendar year that employs a health care provider  
19 to actively render professional services in this state.

20 (x) "Professional services" means patient care or other services  
21 authorized under the act governing licensure of a health care provider.

22 (y) "Health care facility" means a nursing facility, an assisted living  
23 facility or a residential health care facility as all such terms are defined in  
24 K.S.A. 39-923, and amendments thereto.

25 Sec. 17. K.S.A. 2016 Supp. 40-3403 is hereby amended to read as  
26 follows: 40-3403. (a) For the purpose of paying damages for personal  
27 injury or death arising out of the rendering of or the failure to render  
28 professional services by a health care provider, self-insurer or inactive  
29 health care provider subsequent to the time that such health care provider  
30 or self-insurer has qualified for coverage under the provisions of this act,  
31 there is hereby established the health care stabilization fund. The fund  
32 shall be held in trust in the state treasury and accounted for separately from  
33 other state funds. The board of governors shall administer the fund or  
34 contract for the administration of the fund with an insurance company  
35 authorized to do business in this state.

36 (b) (1) There is hereby created a board of governors—~~which~~ *that* shall  
37 be composed of such members and shall have such powers, duties and  
38 functions as are prescribed by this act. The board of governors shall:

39 (A) Administer the fund and exercise and perform other powers,  
40 duties and functions required of the board under the health care provider  
41 insurance availability act;

42 (B) provide advice, information and testimony to the appropriate  
43 licensing or disciplinary authority regarding the qualifications of a health

1 care provider;

2 (C) prepare and publish, on or before October 1 of each year, a  
3 summary of the fund's activity during the preceding fiscal year, including,  
4 but not limited to, the amount collected from surcharges, the highest and  
5 lowest surcharges assessed, the amount paid from the fund, the number of  
6 judgments paid from the fund, the number of settlements paid from the  
7 fund and the amount in the fund at the end of the fiscal year; and

8 (D) have the authority to grant temporary exemptions from the  
9 provisions of K.S.A. 40-3402 and 40-3404, and amendments thereto, to  
10 health care providers who have exceptional circumstances and verify in  
11 writing that the health care provider will not render professional services  
12 in this state during the period of exemption. Whenever the board grants  
13 such an exemption, the board shall notify the state agency—~~which~~ *that*  
14 licenses the exempted health care provider.

15 (2) The board shall consist of 11 persons appointed by the  
16 commissioner of insurance, as provided by this subsection—~~(b)~~ and as  
17 follows:

18 (A) Three members who are licensed to practice medicine and  
19 surgery in Kansas who are doctors of medicine and who are on a list of  
20 nominees submitted to the commissioner by the Kansas medical society;

21 (B) three members who are representatives of Kansas hospitals and  
22 who are on a list of nominees submitted to the commissioner by the  
23 Kansas hospital association;

24 (C) two members who are licensed to practice medicine and surgery  
25 in Kansas who are doctors of osteopathic medicine and who are on a list of  
26 nominees submitted to the commissioner by the Kansas association of  
27 osteopathic medicine;

28 (D) one member who is licensed to practice chiropractic in Kansas  
29 and who is on a list of nominees submitted to the commissioner by the  
30 Kansas chiropractic association;

31 (E) one member who is a licensed professional nurse authorized to  
32 practice as a registered nurse anesthetist who is on a list of nominees  
33 submitted to the commissioner by the Kansas association of nurse  
34 anesthetists; *and*

35 (F) one member who is a representative of adult care homes who is  
36 on a list of nominees submitted to the commissioner by statewide  
37 associations comprised of members who represent adult care homes.

38 (3) When a vacancy occurs in the membership of the board of  
39 governors created by this act, the commissioner shall appoint a successor  
40 of like qualifications from a list of three nominees submitted to the  
41 commissioner by the professional society or association prescribed by this  
42 section for the category of health care provider required for the vacant  
43 position on the board of governors. All appointments made shall be for a

1 term of office of four years, but no member shall be appointed for more  
2 than two successive four-year terms. Each member shall serve until a  
3 successor is appointed and qualified. Whenever a vacancy occurs in the  
4 membership of the board of governors created by this act for any reason  
5 other than the expiration of a member's term of office, the commissioner  
6 shall appoint a successor of like qualifications to fill the unexpired term. In  
7 each case of a vacancy occurring in the membership of the board of  
8 governors, the commissioner shall notify the professional society or  
9 association—~~which~~ *that* represents the category of health care provider  
10 required for the vacant position and request a list of three nominations of  
11 health care providers from which to make the appointment.

12 (4) The board of governors shall organize in July of each year and  
13 shall elect a chairperson and vice-chairperson from among its membership.  
14 Meetings shall be called by the chairperson or by a written notice signed  
15 by three members of the board.

16 (5) The board of governors, in addition to other duties imposed by  
17 this act, shall study and evaluate the operation of the fund and make such  
18 recommendations to the legislature as may be appropriate to ensure the  
19 viability of the fund.

20 (6) (A) The board shall appoint an executive director who shall be in  
21 the unclassified service under the Kansas civil service act and may employ  
22 attorneys and other employees who shall also be in the unclassified service  
23 under the Kansas civil service act. Such executive director, attorneys and  
24 other employees shall receive compensation fixed by the board, in  
25 accordance with appropriation acts of the legislature, not subject to  
26 approval of the governor.

27 (B) The board may provide all office space, services, equipment,  
28 materials and supplies, and all budgeting, personnel, purchasing and  
29 related management functions required by the board in the exercise of the  
30 powers, duties and functions imposed or authorized by the health care  
31 provider insurance availability act or may enter into a contract with the  
32 commissioner of insurance for the provision, by the commissioner, of all  
33 or any part thereof.

34 (7) The commissioner shall:

35 (A) Provide technical and administrative assistance to the board of  
36 governors with respect to administration of the fund upon request of the  
37 board;

38 (B) provide such expertise as the board may reasonably request with  
39 respect to evaluation of claims or potential claims.

40 (c) Except as otherwise provided by any other provision of this act,  
41 the fund shall be liable to pay: (1) Any amount due from a judgment or  
42 settlement—~~which~~ *that* is in excess of the basic coverage liability of all  
43 liable resident health care providers or resident self-insurers for any

1 personal injury or death arising out of the rendering of or the failure to  
2 render professional services within or without this state;

3 (2) subject to the provisions of subsections (f) and (m), any amount  
4 due from a judgment or settlement—~~which~~ *that* is in excess of the basic  
5 coverage liability of all liable nonresident health care providers or  
6 nonresident self-insurers for any such injury or death arising out of the  
7 rendering or the failure to render professional services within this state but  
8 in no event shall the fund be obligated for claims against nonresident  
9 health care providers or nonresident self-insurers who have not complied  
10 with this act or for claims against nonresident health care providers or  
11 nonresident self-insurers that arose outside of this state;

12 (3) subject to the provisions of subsections (f) and (m), any amount  
13 due from a judgment or settlement against a resident inactive health care  
14 provider for any such injury or death arising out of the rendering of or  
15 failure to render professional services;

16 (4) subject to the provisions of subsections (f) and (m), any amount  
17 due from a judgment or settlement against a nonresident inactive health  
18 care provider for any injury or death arising out of the rendering or failure  
19 to render professional services within this state, but in no event shall the  
20 fund be obligated for claims against: (A) Nonresident inactive health care  
21 providers who have not complied with this act; or (B) nonresident inactive  
22 health care providers for claims that arose outside of this state, unless such  
23 health care provider was a resident health care provider or resident self-  
24 insurer at the time such act occurred;

25 (5) subject to ~~subsection (b)~~ of K.S.A. 40-3411(b), and amendments  
26 thereto, reasonable and necessary expenses for attorney fees, depositions,  
27 expert witnesses and other costs incurred in defending the fund against  
28 claims, ~~which~~ *and such* expenditures shall not be subject to the provisions  
29 of K.S.A. 75-3738 through 75-3744, and amendments thereto;

30 (6) any amounts expended for reinsurance obtained to protect the best  
31 interests of the fund purchased by the board of governors, which purchase  
32 shall be subject to the provisions of K.S.A. 75-3738 through 75-3744, and  
33 amendments thereto, but shall not be subject to the provisions of K.S.A.  
34 75-4101, and amendments thereto;

35 (7) reasonable and necessary actuarial expenses incurred in  
36 administering the act, including expenses for any actuarial studies  
37 contracted for by the legislative coordinating council, ~~which~~ *and such*  
38 expenditures shall not be subject to the provisions of K.S.A. 75-3738  
39 through 75-3744, and amendments thereto;

40 (8) periodically to the plan or plans, any amount due pursuant to  
41 ~~subsection (a)(3)~~ of K.S.A. 40-3413(a)(3), and amendments thereto;

42 (9) reasonable and necessary expenses incurred by the board of  
43 governors in the administration of the fund or in the performance of other

1 powers, duties or functions of the board under the health care provider  
2 insurance availability act;

3 (10) surcharge refunds payable when the notice of cancellation  
4 requirements of K.S.A. 40-3402, and amendments thereto, are met;

5 (11) subject to ~~subsection (b)~~ of K.S.A. 40-3411(b), and amendments  
6 thereto, reasonable and necessary expenses for attorney fees and other  
7 costs incurred in defending a person engaged or who was engaged in  
8 residency training or the private practice corporations or foundations and  
9 their full-time physician faculty employed by the university of Kansas  
10 medical center or any nonprofit corporation organized to administer the  
11 graduate medical education programs of community hospitals or medical  
12 care facilities affiliated with the university of Kansas school of medicine  
13 from claims for personal injury or death arising out of the rendering of or  
14 the failure to render professional services by such health care provider;

15 (12) notwithstanding the provisions of subsection (m), any amount  
16 due from a judgment or settlement for an injury or death arising out of the  
17 rendering of or failure to render professional services by a person engaged  
18 or who was engaged in residency training or the private practice  
19 corporations or foundations and their full-time physician faculty employed  
20 by the university of Kansas medical center or any nonprofit corporation  
21 organized to administer the graduate medical education programs of  
22 community hospitals or medical care facilities affiliated with the university  
23 of Kansas school of medicine;

24 (13) subject to the provisions of K.S.A. 65-429, and amendments  
25 thereto, reasonable and necessary expenses for the development and  
26 promotion of risk management education programs and for the medical  
27 care facility licensure and risk management survey functions carried out  
28 under K.S.A. 65-429, and amendments thereto;

29 (14) notwithstanding the provisions of subsection (m), any amount,  
30 but not less than the required basic coverage limits, owed pursuant to a  
31 judgment or settlement for any injury or death arising out of the rendering  
32 of or failure to render professional services by a person, other than a  
33 person described in paragraph (12) ~~of this subsection (e)~~, who was  
34 engaged in a postgraduate program of residency training approved by the  
35 state board of healing arts but who, at the time the claim was made, was no  
36 longer engaged in such residency program;

37 (15) subject to ~~subsection (b)~~ of K.S.A. 40-3411(b), and amendments  
38 thereto, reasonable and necessary expenses for attorney fees and other  
39 costs incurred in defending a person described in paragraph (14) ~~of this~~  
40 ~~subsection (e)~~;

41 (16) expenses incurred by the commissioner in the performance of  
42 duties and functions imposed upon the commissioner by the health care  
43 provider insurance availability act, and expenses incurred by the

1 commissioner in the performance of duties and functions under contracts  
2 entered into between the board and the commissioner as authorized by this  
3 section; and

4 (17) periodically to the state general fund reimbursements of amounts  
5 paid to members of the health care stabilization fund oversight committee  
6 for compensation, travel expenses and subsistence expenses pursuant to  
7 ~~subsection (e) of~~ K.S.A. 40-3403b(e), and amendments thereto.

8 (d) All amounts for which the fund is liable pursuant to subsection (c)  
9 shall be paid promptly and in full except that, if the amount for which the  
10 fund is liable is \$300,000 or more, it shall be paid; by installment  
11 payments of \$300,000 or 10% of the amount of the judgment including  
12 interest thereon, whichever is greater, per fiscal year, the first installment  
13 to be paid within 60 days after the fund becomes liable and each  
14 subsequent installment to be paid annually on the same date of the year the  
15 first installment was paid, until the claim has been paid in full.

16 (e) In no event shall the fund be liable to pay in excess of \$3,000,000  
17 pursuant to any one judgment or settlement against any one health care  
18 provider relating to any injury or death arising out of the rendering of or  
19 the failure to render professional services on and after July 1, 1984, and  
20 before July 1, 1989, subject to an aggregate limitation for all judgments or  
21 settlements arising from all claims made in any one fiscal year in the  
22 amount of \$6,000,000 for each health care provider.

23 (f) In no event shall the fund be liable to pay in excess of the amounts  
24 specified in the option selected by an active or inactive health care  
25 provider pursuant to subsection (l) for judgments or settlements relating to  
26 injury or death arising out of the rendering of or failure to render  
27 professional services by such health care provider on or after July 1, 1989.

28 (g) A health care provider shall be deemed to have qualified for  
29 coverage under the fund:

30 (1) On and after July 1, 1976, if basic coverage is then in effect;

31 (2) subsequent to July 1, 1976, at such time as basic coverage  
32 becomes effective; or

33 (3) upon qualifying as a self-insurer pursuant to K.S.A. 40-3414, and  
34 amendments thereto.

35 (h) A health care provider who is qualified for coverage under the  
36 fund shall have no vicarious liability or responsibility for any injury or  
37 death arising out of the rendering of or the failure to render professional  
38 services inside or outside this state by any other health care provider who  
39 is also qualified for coverage under the fund. The provisions of this  
40 subsection shall apply to all claims filed on or after July 1, 1986.

41 (i) Notwithstanding the provisions of K.S.A. 40-3402, and  
42 amendments thereto, if the board of governors determines due to the  
43 number of claims filed against a health care provider or the outcome of

1 those claims that an individual health care provider presents a material risk  
2 of significant future liability to the fund, the board of governors is  
3 authorized by a vote of a majority of the members thereof, after notice and  
4 an opportunity for hearing in accordance with the provisions of the Kansas  
5 administrative procedure act, to terminate the liability of the fund for all  
6 claims against the health care provider for damages for death or personal  
7 injury arising out of the rendering of or the failure to render professional  
8 services after the date of termination. The date of termination shall be 30  
9 days after the date of the determination by the board of governors. The  
10 board of governors, upon termination of the liability of the fund under this  
11 subsection, shall notify the licensing or other disciplinary board having  
12 jurisdiction over the health care provider involved of the name of the  
13 health care provider and the reasons for the termination.

14 (j) (1) Subject to the provisions of paragraph (7) ~~of this subsection (j)~~,  
15 upon the payment of moneys from the health care stabilization fund  
16 pursuant to subsection (c)(11), the board of governors shall certify to the  
17 secretary of administration the amount of such payment, and the secretary  
18 of administration shall transfer an amount equal to the amount certified,  
19 reduced by any amount transferred pursuant to paragraph (3) or (4) ~~of this~~  
20 ~~subsection (j)~~, from the state general fund to the health care stabilization  
21 fund.

22 (2) Subject to the provisions of paragraph (7) ~~of this subsection (j)~~,  
23 upon the payment of moneys from the health care stabilization fund  
24 pursuant to subsection (c)(12), the board of governors shall certify to the  
25 secretary of administration the amount of such payment ~~which that~~ is  
26 equal to the basic coverage liability of self-insurers, and the secretary of  
27 administration shall transfer an amount equal to the amount certified,  
28 reduced by any amount transferred pursuant to paragraph (3) or (4) ~~of this~~  
29 ~~subsection (j)~~, from the state general fund to the health care stabilization  
30 fund.

31 (3) The university of Kansas medical center private practice  
32 foundation reserve fund is hereby established in the state treasury. If the  
33 balance in such reserve fund is less than \$500,000 on July 1 of any year,  
34 the private practice corporations or foundations referred to in ~~subsection~~  
35 ~~(e)~~ of K.S.A. 40-3402(c), and amendments thereto, shall remit the amount  
36 necessary to increase such balance to \$500,000 to the state treasurer for  
37 credit to such reserve fund as soon after such July 1 date as is practicable.  
38 Upon receipt of each such remittance, the state treasurer shall credit the  
39 same to such reserve fund. When compliance with the foregoing  
40 provisions of this paragraph have been achieved on or after July 1 of any  
41 year in which the same are applicable, the state treasurer shall certify to  
42 the board of governors that such reserve fund has been funded for the year  
43 in the manner required by law. Moneys in such reserve fund may be



1 invested or reinvested in accordance with the provisions of K.S.A. 40-  
2 3406, and amendments thereto, and any income or interest earned by such  
3 investments shall be credited to such reserve fund. Upon payment of  
4 moneys from the health care stabilization fund pursuant to subsection (c)  
5 (11) or (c)(12) with respect to any private practice corporation or  
6 foundation or any of its full-time physician faculty employed by the  
7 university of Kansas, the secretary of administration shall transfer an  
8 amount equal to the amount paid from the university of Kansas medical  
9 center private practice foundation reserve fund to the health care  
10 stabilization fund or, if the balance in such reserve fund is less than the  
11 amount so paid, an amount equal to the balance in such reserve fund.

12 (4) The graduate medical education administration reserve fund is  
13 hereby established in the state treasury. If the balance in such reserve fund  
14 is less than \$40,000 on July 1 of any year, the nonprofit corporations  
15 organized to administer the graduate medical education programs of  
16 community hospitals or medical care facilities affiliated with the university  
17 of Kansas school of medicine shall remit the amount necessary to increase  
18 such balance to \$40,000 to the state treasurer for credit to such reserve  
19 fund as soon after such July 1 date as is practicable. Upon receipt of each  
20 such remittance, the state treasurer shall credit the same to such reserve  
21 fund. When compliance with the foregoing provisions of this paragraph  
22 have been achieved on or after July 1 of any year in which the same are  
23 applicable, the state treasurer shall certify to the board of governors that  
24 such reserve fund has been funded for the year in the manner required by  
25 law. Moneys in such reserve fund may be invested or reinvested in  
26 accordance with the provisions of K.S.A. 40-3406, and amendments  
27 thereto, and any income or interest earned by such investments shall be  
28 credited to such reserve fund. Upon payment of moneys from the health  
29 care stabilization fund pursuant to subsection (c)(11) or (c)(12) with  
30 respect to any nonprofit corporations organized to administer the graduate  
31 medical education programs of community hospitals or medical care  
32 facilities affiliated with the university of Kansas school of medicine the  
33 secretary of administration shall transfer an amount equal to the amount  
34 paid from the graduate medical education administration reserve fund to  
35 the health care stabilization fund or, if the balance in such reserve fund is  
36 less than the amount so paid, an amount equal to the balance in such  
37 reserve fund.

38 (5) Upon payment of moneys from the health care stabilization fund  
39 pursuant to subsection (c)(14) or (c)(15), the board of governors shall  
40 certify to the secretary of administration the amount of such payment, and  
41 the secretary of administration shall transfer an amount equal to the  
42 amount certified from the state general fund to the health care stabilization  
43 fund.

1 (6) Transfers from the state general fund to the health care  
2 stabilization fund pursuant to *this* subsection~~(j)~~ shall not be subject to the  
3 provisions of K.S.A. 75-3722, and amendments thereto.

4 (7) The funds required to be transferred from the state general fund to  
5 the health care stabilization fund pursuant to paragraphs (1) and (2)~~of this~~  
6 ~~subsection (j)~~ for the fiscal years ending June 30, 2010, June 30, 2011,  
7 June 30, 2012, and June 30, 2013, shall not be transferred prior to July 1,  
8 2013. The secretary of administration shall maintain a record of the  
9 amounts certified by the board of governors pursuant to paragraphs (1) and  
10 (2)~~of this subsection (j)~~ for the fiscal years ending June 30, 2010, June 30,  
11 2011, June 30, 2012, and June 30, 2013. Beginning July 1, 2013, in  
12 addition to any other transfers required pursuant to subsection (j), the state  
13 general fund transfers~~which~~ *that* are deferred pursuant to this paragraph  
14 shall be transferred from the state general fund to the health care  
15 stabilization fund in the following manner: On July 1, 2013, and annually  
16 thereafter through July 1, 2017, an amount equal to 20% of the total  
17 amount of state general fund transfers deferred pursuant to this paragraph  
18 for the fiscal years ending June 30, 2010, June 30, 2011, June 30, 2012,  
19 and June 30, 2013. The amounts deferred pursuant to this paragraph shall  
20 not accrue interest thereon.

21 (k) Notwithstanding any other provision of the health care provider  
22 insurance availability act, no psychiatric hospital licensed under K.S.A.  
23 ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and amendments thereto, shall be  
24 assessed a premium surcharge or be entitled to coverage under the fund if  
25 such hospital has not paid any premium surcharge pursuant to K.S.A. 40-  
26 3404, and amendments thereto, prior to January 1, 1988.

27 (l) On or after July 1, 1989, every health care provider shall make an  
28 election to be covered by one of the following options provided in this  
29 subsection~~(l)~~~~which~~ *that* shall limit the liability of the fund with respect to  
30 judgments or settlements relating to injury or death arising out of the  
31 rendering of or failure to render professional services on or after July 1,  
32 1989. Such election shall be made at the time the health care provider  
33 renews the basic coverage in effect on July 1, 1989, or, if basic coverage is  
34 not in effect, such election shall be made at the time such coverage is  
35 acquired pursuant to K.S.A. 40-3402, and amendments thereto. Notice of  
36 the election shall be provided by the insurer providing the basic coverage  
37 in the manner and form prescribed by the board of governors and shall  
38 continue to be effective from year to year unless modified by a subsequent  
39 election made prior to the anniversary date of the policy. The health care  
40 provider may at any subsequent election reduce the dollar amount of the  
41 coverage for the next and subsequent fiscal years, but may not increase the  
42 same, unless specifically authorized by the board of governors. Any  
43 election of fund coverage limits, whenever made, shall be with respect to

1 judgments or settlements relating to injury or death arising out of the  
2 rendering of or failure to render professional services on or after the  
3 effective date of such election of fund coverage limits. Such election shall  
4 be made for persons engaged in residency training and persons engaged in  
5 other postgraduate training programs approved by the state board of  
6 healing arts at medical care facilities or mental health centers in this state  
7 by the agency or institution paying the surcharge levied under K.S.A. 40-  
8 3404, and amendments thereto, for such persons. The election of fund  
9 coverage limits for a nonprofit corporation organized to administer the  
10 graduate medical education programs of community hospitals or medical  
11 care facilities affiliated with the university of Kansas school of medicine  
12 shall be deemed to be effective at the highest option. Such options shall be  
13 as follows:

14 (1) *OPTION 1.* The fund shall not be liable to pay in excess of  
15 \$100,000 pursuant to any one judgment or settlement for any party against  
16 such health care provider, subject to an aggregate limitation for all  
17 judgments or settlements arising from all claims made in the fiscal year in  
18 an amount of \$300,000 for such provider.

19 (2) *OPTION 2.* The fund shall not be liable to pay in excess of  
20 \$300,000 pursuant to any one judgment or settlement for any party against  
21 such health care provider, subject to an aggregate limitation for all  
22 judgments or settlements arising from all claims made in the fiscal year in  
23 an amount of \$900,000 for such provider.

24 (3) *OPTION 3.* The fund shall not be liable to pay in excess of  
25 \$800,000 pursuant to any one judgment or settlement for any party against  
26 such health care provider, subject to an aggregate limitation for all  
27 judgments or settlements arising from all claims made in the fiscal year in  
28 an amount of \$2,400,000 for such health care provider.

29 (m) The fund shall not be liable for any amounts due from a judgment  
30 or settlement against resident or nonresident inactive health care providers  
31 who first qualify as an inactive health care provider on or after July 1,  
32 1989, unless such health care provider has been in compliance with K.S.A.  
33 40-3402, and amendments thereto, for a period of not less than five years.  
34 If a health care provider has not been in compliance for five years, such  
35 health care provider may make application and payment for the coverage  
36 for the period while they are nonresident health care providers, nonresident  
37 self-insurers or resident or nonresident inactive health care providers to the  
38 fund. Such payment shall be made within 30 days after the health care  
39 provider ceases being an active health care provider and shall be made in  
40 an amount determined by the board of governors to be sufficient to fund  
41 anticipated claims based upon reasonably prudent actuarial principles. The  
42 provisions of this subsection shall not be applicable to any health care  
43 provider ~~which~~ that becomes inactive through death or retirement, or

1 through disability or circumstances beyond such health care provider's  
2 control, if such health care provider notifies the board of governors and  
3 receives approval for an exemption from the provisions of this subsection.  
4 Any period spent in a postgraduate program of residency training  
5 approved by the state board of healing arts shall not be included in  
6 computation of time spent in compliance with the provisions of K.S.A. 40-  
7 3402, and amendments thereto. The provisions of this subsection shall  
8 expire on July 1, 2014.

9 (n) In the event of a claim against a health care provider for personal  
10 injury or death arising out of the rendering of or the failure to render  
11 professional services by such health care provider, the liability of the fund  
12 shall be limited to the amount of coverage selected by the health care  
13 provider at the time of the incident giving rise to the claim.

14 (o) Notwithstanding anything in article 34 of chapter 40 of the  
15 Kansas Statutes Annotated, and amendments thereto, to the contrary, the  
16 fund shall in no event be liable for any claims against any health care  
17 provider based upon or relating to the health care provider's sexual acts or  
18 activity, but in such cases the fund may pay reasonable and necessary  
19 expenses for attorney fees incurred in defending the fund against such  
20 claim. The fund may recover all or a portion of such expenses for attorney  
21 fees if an adverse judgment is returned against the health care provider for  
22 damages resulting from the health care provider's sexual acts or activity.

23 Sec. 18. K.S.A. 2016 Supp. 59-2946 is hereby amended to read as  
24 follows: 59-2946. When used in the care and treatment act for mentally ill  
25 persons:

26 (a) "Discharge" means the final and complete release from treatment,  
27 by either the head of a treatment facility acting pursuant to K.S.A. 59-  
28 2950, and amendments thereto, or by an order of a court issued pursuant to  
29 K.S.A. 59-2973, and amendments thereto.

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

32 (c) "Law enforcement officer" ~~shall have the meaning ascribed to it~~  
33 ~~means the same as defined~~ in K.S.A. 22-2202, and amendments thereto.

34 (d) (1) "Mental health center" means any community mental health  
35 center organized pursuant to the provisions of K.S.A. 19-4001 through 19-  
36 4015, and amendments thereto, or mental health clinic organized pursuant  
37 to the provisions of K.S.A. 65-211 through 65-215 as defined in K.S.A.  
38 2016 Supp. 39-2002, and amendments thereto, or a mental health clinic  
39 organized as a not-for-profit or a for-profit corporation pursuant to K.S.A.  
40 17-1701 through 17-1775, and amendments thereto, or K.S.A. 17-6001  
41 through 17-6010, and amendments thereto, and licensed in accordance  
42 with the provisions of K.S.A. ~~75-3307b~~ 2016 Supp. 39-2001 et seq., and  
43 amendments thereto.

1 (2) "Participating mental health center" means a mental health center  
2 ~~which~~ *that* has entered into a contract with the secretary for aging and  
3 disability services pursuant to the provisions of K.S.A. 39-1601 through  
4 39-1612, and amendments thereto.

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

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

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

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

37 No person who is being treated by prayer in the practice of the religion  
38 of any church—~~which~~ *that* teaches reliance on spiritual means alone through  
39 prayer for healing shall be determined to be a mentally ill person subject to  
40 involuntary commitment for care and treatment under this act unless  
41 substantial evidence is produced upon which the district court finds that  
42 the proposed patient is likely in the reasonably foreseeable future to cause  
43 substantial physical injury or physical abuse to self or others or substantial

1 damage to another's property, as evidenced by behavior threatening,  
2 attempting or causing such injury, abuse or damage; except that if the harm  
3 threatened, attempted or caused is only harm to the property of another, the  
4 harm must be of such a value and extent that the state's interest in  
5 protecting the property from such harm outweighs the person's interest in  
6 personal liberty.

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

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

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

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

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

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

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

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

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

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

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

5 (5) "Registered nurse" means a person licensed as a registered  
6 professional nurse by the board of nursing under K.S.A. 65-1113 through  
7 65-1164, and amendments thereto.

8 (k) "Secretary" means the secretary for aging and disability services.

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

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

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

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

22 Sec. 19. K.S.A. 2016 Supp. 59-29b46 is hereby amended to read as  
23 follows: 59-29b46. When used in the care and treatment act for persons  
24 with an alcohol or substance abuse problem:

25 (a) "Discharge" means the final and complete release from treatment,  
26 by either the head of a treatment facility acting pursuant to K.S.A. 59-  
27 29b50, and amendments thereto, or by an order of a court issued pursuant  
28 to K.S.A. 59-29b73, and amendments thereto.

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

31 (c) "Law enforcement officer" means the same as defined in K.S.A.  
32 22-2202, and amendments thereto.

33 (d) "Licensed addiction counselor" means a person who engages in  
34 the practice of addiction counseling limited to substance use disorders and  
35 who is licensed by the behavioral sciences regulatory board. Such person  
36 shall engage in the practice of addiction counseling in a state-licensed or  
37 certified alcohol and other drug treatment program or while completing a  
38 Kansas domestic violence offender assessment for participants in a  
39 certified batterer intervention program pursuant to K.S.A. 2016 Supp. 75-  
40 7d01 through 75-7d13, and amendments thereto, unless otherwise exempt  
41 from licensure under subsection (n).

42 (e) "Licensed clinical addiction counselor" means a person who  
43 engages in the independent practice of addiction counseling and diagnosis

1 and treatment of substance use disorders specified in the edition of the  
2 American psychiatric association's diagnostic and statistical manual of  
3 mental disorders (DSM) designated by the board by rules and regulations  
4 and is licensed by the behavioral sciences regulatory board.

5 (f) "Licensed master's addiction counselor" means a person who  
6 engages in the practice of addiction counseling limited to substance use  
7 disorders and who is licensed under this act. Such person may diagnose  
8 substance use disorders only under the direction of a licensed clinical  
9 addiction counselor, a licensed psychologist, a person licensed to practice  
10 medicine and surgery or a person licensed to provide mental health  
11 services as an independent practitioner and whose licensure allows for the  
12 diagnosis and treatment of substance abuse disorders or mental disorders.

13 (g) "Other facility for care or treatment" means any mental health  
14 clinic, medical care facility, nursing home, the detox units at either  
15 Osawatomie state hospital or Larned state hospital, any physician or any  
16 other institution or individual authorized or licensed by law to give care or  
17 treatment to any person.

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

20 (1) "Voluntary patient" means a person who is receiving treatment at  
21 a treatment facility pursuant to K.S.A. 59-29b49, and amendments thereto.

22 (2) "Proposed patient" means a person for whom a petition pursuant  
23 to K.S.A. 59-29b52 or 59-29b57, and amendments thereto, has been filed.

24 (3) "Involuntary patient" means a person who is receiving treatment  
25 under order of a court or a person admitted and detained by a treatment  
26 facility pursuant to an application filed pursuant to K.S.A. 59-29b54(b) or  
27 (c), and amendments thereto.

28 (i) "Person with an alcohol or substance abuse problem" means a  
29 person who: (1) Lacks self-control as to the use of alcoholic beverages or  
30 any substance as defined in subsection (m); or

31 (2) uses alcoholic beverages or any substance to the extent that the  
32 person's health may be substantially impaired or endangered without  
33 treatment.

34 (j) (1) "Person with an alcohol or substance abuse problem subject to  
35 involuntary commitment for care and treatment" means a person with an  
36 alcohol or substance abuse problem who also is incapacitated by alcohol or  
37 any substance and is likely to cause harm to self or others.

38 (2) "Incapacitated by alcohol or any substance" means that the  
39 person, as the result of the use of alcohol or any substance, has impaired  
40 judgment resulting in the person:

41 (A) Being incapable of realizing and making a rational decision with  
42 respect to the need for treatment; or

43 (B) lacking sufficient understanding or capability to make or



1 communicate responsible decisions concerning either the person's well-  
2 being or estate.

3 (3) "Likely to cause harm to self or others" means that the person, by  
4 reason of the person's use of alcohol or any substance: (A) Is likely, in the  
5 reasonably foreseeable future, to cause substantial physical injury or  
6 physical abuse to self or others or substantial damage to another's property,  
7 as evidenced by behavior threatening, attempting or causing such injury,  
8 abuse or damage; except that if the harm threatened, attempted or caused is  
9 only harm to the property of another, the harm must be of such a value and  
10 extent that the state's interest in protecting the property from such harm  
11 outweighs the person's interest in personal liberty; or

12 (B) is substantially unable, except for reason of indigency, to provide  
13 for any of the person's basic needs, such as food, clothing, shelter, health  
14 or safety, causing a substantial deterioration of the person's ability to  
15 function on the person's own.

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

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

23 (m) "Substance" means: (1) The same as the term "controlled  
24 substance" as defined in K.S.A. 2016 Supp. 21-5701, and amendments  
25 thereto; or

26 (2) fluorocarbons, toluene or volatile hydrocarbon solvents.

27 (n) "Treatment" means the broad range of emergency, outpatient,  
28 intermediate and inpatient services and care, including diagnostic  
29 evaluation, medical, psychiatric, psychological and social service care,  
30 vocational rehabilitation and career counseling, which may be extended to  
31 persons with an alcohol or substance abuse problem.

32 (o) (1) "Treatment facility" means a treatment program, public or  
33 private treatment facility, or any facility of the United States government  
34 available to treat a person for an alcohol or other substance abuse problem,  
35 but such term ~~shall~~ does not include a licensed medical care facility, a  
36 licensed adult care home, a facility licensed under K.S.A. 2015 Supp. 75-  
37 3307b, *prior to its repeal or under K.S.A. 2016 Supp. 39-2001 et seq.*, and  
38 amendments thereto, a community-based alcohol and drug safety action  
39 program certified under K.S.A. 8-1008, and amendments thereto, and  
40 performing only those functions for which the program is certified to  
41 perform under K.S.A. 8-1008, and amendments thereto, or a professional  
42 licensed by the behavioral sciences regulatory board to diagnose and treat  
43 mental disorders at the independent level or a physician, who may treat in

1 the usual course of the behavioral sciences regulatory board licensee's or  
2 physician's professional practice individuals incapacitated by alcohol or  
3 other substances, but who are not primarily engaged in the usual course of  
4 the individual's professional practice in treating such individuals, or any  
5 state institution, even if detoxification services may have been obtained at  
6 such institution.

7 (2) "Private treatment facility" means a private agency providing  
8 facilities for the care and treatment or lodging of persons with either an  
9 alcohol or other substance abuse problem and meeting the standards  
10 prescribed in either K.S.A. 65-4013 or 65-4603, and amendments thereto,  
11 and licensed under either K.S.A. 65-4014 or 65-4607, and amendments  
12 thereto.

13 (3) "Public treatment facility" means a treatment facility owned and  
14 operated by any political subdivision of the state of Kansas and licensed  
15 under either K.S.A. 65-4014 or 65-4603, and amendments thereto, as an  
16 appropriate place for the care and treatment or lodging of persons with an  
17 alcohol or other substance abuse problem.

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

20 Sec. 20. K.S.A. 2016 Supp. 59-3077 is hereby amended to read as  
21 follows: 59-3077. (a) At any time after the filing of the petition provided  
22 for in K.S.A. 59-3058, 59-3059, 59-3060 or 59-3061, and amendments  
23 thereto, any person may file in addition to that original petition, or as a  
24 part thereof, or at any time after the appointment of a temporary guardian  
25 as provided for in K.S.A. 59-3073, and amendments thereto, or a guardian  
26 as provided for in K.S.A. 59-3067, and amendments thereto, the temporary  
27 guardian or guardian may file; a verified petition requesting that the court  
28 grant authority to the temporary guardian or guardian to admit the  
29 proposed ward or ward to a treatment facility, as defined in subsection (h),  
30 and to consent to the care and treatment of the proposed ward or ward  
31 therein. The petition shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (h) As used herein, "treatment facility" means the Kansas  
10 neurological institute, Larned state hospital, Osawatomie state hospital,  
11 Parsons state hospital and training center, the Rainbow mental health  
12 facility, any intermediate care facility for people with intellectual  
13 disability, any psychiatric hospital licensed pursuant to K.S.A. ~~75-3307b~~  
14 *2016 Supp. 39-2001 et seq.*, and amendments thereto, and any other  
15 facility for mentally ill persons or people with intellectual or  
16 developmental disabilities licensed pursuant to K.S.A. ~~75-3307b~~ *2016*  
17 *Supp. 39-2001 et seq.*, and amendments thereto, if the proposed ward or  
18 ward is to be admitted as an inpatient or resident of that facility.

19 Sec. 21. K.S.A. 2016 Supp. 65-1626 is hereby amended to read as  
20 follows: 65-1626. For the purposes of this act:

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

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

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

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

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

34 (c) "Application service provider" means an entity that sells  
35 electronic prescription or pharmacy prescription applications as a hosted  
36 service where the entity controls access to the application and maintains  
37 the software and records on its server.

38 (d) "Authorized distributor of record" means a wholesale distributor  
39 with whom a manufacturer has established an ongoing relationship to  
40 distribute the manufacturer's prescription drug. An ongoing relationship is  
41 deemed to exist between such wholesale distributor and a manufacturer  
42 when the wholesale distributor, including any affiliated group of the  
43 wholesale distributor, as defined in section 1504 of the internal revenue

1 code, complies with any one of the following: (1) The wholesale  
2 distributor has a written agreement currently in effect with the  
3 manufacturer evidencing such ongoing relationship; and (2) the wholesale  
4 distributor is listed on the manufacturer's current list of authorized  
5 distributors of record, ~~which~~ *that* is updated by the manufacturer on no less  
6 than a monthly basis.

7 (e) "Board" means the state board of pharmacy created by K.S.A. 74-  
8 1603, and amendments thereto.

9 (f) "Brand exchange" means the dispensing of a different drug  
10 product of the same dosage form and strength and of the same generic  
11 name as the brand name drug product prescribed.

12 (g) "Brand name" means the registered trademark name given to a  
13 drug product by its manufacturer, labeler or distributor.

14 (h) "Chain pharmacy warehouse" means a permanent physical  
15 location for drugs or devices, or both, that acts as a central warehouse and  
16 performs intracompany sales or transfers of prescription drugs or devices  
17 to chain pharmacies that have the same ownership or control. Chain  
18 pharmacy warehouses must be registered as wholesale distributors.

19 (i) "Co-licensee" means a pharmaceutical manufacturer that has  
20 entered into an agreement with another pharmaceutical manufacturer to  
21 engage in a business activity or occupation related to the manufacture or  
22 distribution of a prescription drug and the national drug code on the drug  
23 product label shall be used to determine the identity of the drug  
24 manufacturer.

25 (j) "DEA" means the U.S. department of justice, drug enforcement  
26 administration.

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

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

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

38 (n) "Dispenser" means a practitioner or pharmacist who dispenses  
39 prescription medication, or a physician assistant who has authority to  
40 dispense prescription-only drugs in accordance with K.S.A. 65-28a08(b),  
41 and amendments thereto.

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

1 (p) "Distributor" means a person who distributes a drug.

2 (q) "Drop shipment" means the sale; by a manufacturer, that  
3 manufacturer's co-licensee, that manufacturer's third party logistics  
4 provider; or that manufacturer's exclusive distributor, of the manufacturer's  
5 prescription drug; to a wholesale distributor whereby the wholesale  
6 distributor takes title but not possession of such prescription drug and the  
7 wholesale distributor invoices the pharmacy, the chain pharmacy  
8 warehouse; or other designated person authorized by law to dispense or  
9 administer such prescription drug, and the pharmacy, the chain pharmacy  
10 warehouse; or other designated person authorized by law to dispense or  
11 administer such prescription drug receives delivery of the prescription  
12 drug directly from the manufacturer, that manufacturer's co-licensee, that  
13 manufacturer's third party logistics provider; or that manufacturer's  
14 exclusive distributor, of such prescription drug. Drop shipment shall be  
15 part of the "normal distribution channel."

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

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

40 (t) "Electronic prescription" means an electronically prepared  
41 prescription that is authorized and transmitted from the prescriber to the  
42 pharmacy by means of electronic transmission.

43 (u) "Electronic prescription application" means software that is used



1 to create electronic prescriptions and that is intended to be installed on the  
2 prescriber's computers and servers where access and records are controlled  
3 by the prescriber.

4 (v) "Electronic signature" means a confidential personalized digital  
5 key, code, number or other method for secure electronic data transmissions  
6 which identifies a particular person as the source of the message,  
7 authenticates the signatory of the message and indicates the person's  
8 approval of the information contained in the transmission.

9 (w) "Electronic transmission" means the transmission of an electronic  
10 prescription, formatted as an electronic data file, from a prescriber's  
11 electronic prescription application to a pharmacy's computer, where the  
12 data file is imported into the pharmacy prescription application.

13 (x) "Electronically prepared prescription" means a prescription that is  
14 generated using an electronic prescription application.

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

23 (z) "Facsimile transmission" or "fax transmission" means the  
24 transmission of a digital image of a prescription from the prescriber or the  
25 prescriber's agent to the pharmacy. "Facsimile transmission" includes, but  
26 is not limited to, transmission of a written prescription between the  
27 prescriber's fax machine and the pharmacy's fax machine; transmission of  
28 an electronically prepared prescription from the prescriber's electronic  
29 prescription application to the pharmacy's fax machine, computer or  
30 printer; or transmission of an electronically prepared prescription from the  
31 prescriber's fax machine to the pharmacy's fax machine, computer or  
32 printer.

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

35 (bb) (1) "Institutional drug room" means any location where  
36 prescription-only drugs are stored and from which prescription-only drugs  
37 are administered or dispensed and ~~which~~ *that* is maintained or operated for  
38 the purpose of providing the drug needs of:

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

40 (B) residents of a juvenile detention facility, as defined by the revised  
41 Kansas code for care of children and the revised Kansas juvenile justice  
42 code;

43 (C) students of a public or private university or college, a community

1 college or any other institution of higher learning ~~which~~ *that* is located in  
2 Kansas;

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

4 (E) persons receiving inpatient hospice services.

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

6 (A) Any registered pharmacy;

7 (B) any office of a practitioner; or

8 (C) a location where no prescription-only drugs are dispensed and no  
9 prescription-only drugs other than individual prescriptions are stored or  
10 administered.

11 (cc) "Intermediary" means any technology system that receives and  
12 transmits an electronic prescription between the prescriber and the  
13 pharmacy.

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

18 (ee) "Medical care facility" ~~shall have the meaning provided~~ *means*  
19 *the same as defined* in K.S.A. 65-425, and amendments thereto, except  
20 that the term shall also include facilities licensed under the provisions of  
21 K.S.A. 2015 Supp. 75-3307b, *prior to its repeal, or the same facilities*  
22 *licensed under K.S.A. 2016 Supp. 39-2001 et seq.*, and amendments  
23 thereto, except community mental health centers and facilities for people  
24 with intellectual disability.

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

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

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

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

43 (gg) "Manufacturer" means a person licensed or approved by the

1 FDA to engage in the manufacture of drugs and devices.

2 (hh) "Mid-level practitioner" means a certified nurse-midwife  
3 engaging in the independent practice of midwifery under the independent  
4 practice of midwifery act, an advanced practice registered nurse issued a  
5 license pursuant to K.S.A. 65-1131, and amendments thereto, who has  
6 authority to prescribe drugs pursuant to a written protocol with a  
7 responsible physician under K.S.A. 65-1130, and amendments thereto, or a  
8 physician assistant licensed pursuant to the physician assistant licensure  
9 act who has authority to prescribe drugs pursuant to a written agreement  
10 with a supervising physician under K.S.A. 65-28a08, and amendments  
11 thereto.

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

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

20 (2) a wholesale distributor to a pharmacy to a patient or other  
21 designated persons authorized by law to dispense or administer such drug  
22 to a patient;

23 (3) a wholesale distributor to a chain pharmacy warehouse to that  
24 chain pharmacy warehouse's intracompany pharmacy to a patient or other  
25 designated persons authorized by law to dispense or administer such drug  
26 to a patient; or

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

30 (jj) "Person" means individual, corporation, government,  
31 governmental subdivision or agency, partnership, association or any other  
32 legal entity.

33 (kk) "Pharmacist" means any natural person licensed under this act to  
34 practice pharmacy.

35 (ll) "Pharmacist-in-charge" means the pharmacist who is responsible  
36 to the board for a registered establishment's compliance with the laws and  
37 regulations of this state pertaining to the practice of pharmacy,  
38 manufacturing of drugs and the distribution of drugs. The pharmacist-in-  
39 charge shall supervise such establishment on a full-time or a part-time  
40 basis and perform such other duties relating to supervision of a registered  
41 establishment as may be prescribed by the board by rules and regulations.  
42 Nothing in this definition shall relieve other pharmacists or persons from  
43 their responsibility to comply with state and federal laws and regulations.

1 (mm) "Pharmacist intern" means: (1) A student currently enrolled in  
2 an accredited pharmacy program; (2) a graduate of an accredited pharmacy  
3 program serving an internship; or (3) a graduate of a pharmacy program  
4 located outside of the United States ~~which~~ *that* is not accredited and who  
5 has successfully passed equivalency examinations approved by the board.

6 (nn) "Pharmacy," "drugstore" or "apothecary" means premises,  
7 laboratory, area or other place: (1) Where drugs are offered for sale where  
8 the profession of pharmacy is practiced and where prescriptions are  
9 compounded and dispensed; or (2) ~~which~~ *that* has displayed upon it or  
10 within it the words "pharmacist," "pharmaceutical chemist," "pharmacy,"  
11 "apothecary," "drugstore," "druggist," "drugs," "drug sundries" or any of  
12 these words or combinations of these words or words of similar import  
13 either in English or any sign containing any of these words; or (3) where  
14 the characteristic symbols of pharmacy or the characteristic prescription  
15 sign "Rx" may be exhibited. As used in this subsection, premises refers  
16 only to the portion of any building or structure leased, used or controlled  
17 by the licensee in the conduct of the business registered by the board at the  
18 address for which the registration was issued.

19 (oo) "Pharmacy prescription application" means software that is used  
20 to process prescription information, is installed on a pharmacy's computers  
21 or servers, and is controlled by the pharmacy.

22 (pp) "Pharmacy technician" means an individual who, under the  
23 direct supervision and control of a pharmacist, may perform packaging,  
24 manipulative, repetitive or other nondiscretionary tasks related to the  
25 processing of a prescription or medication order and who assists the  
26 pharmacist in the performance of pharmacy related duties, but who does  
27 not perform duties restricted to a pharmacist.

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

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

37 (ss) "Prescriber" means a practitioner or a mid-level practitioner.

38 (tt) "Prescription" or "prescription order" means: (1) An order to be  
39 filled by a pharmacist for prescription medication issued and signed by a  
40 prescriber in the authorized course of such prescriber's professional  
41 practice; or (2) an order transmitted to a pharmacist through word of  
42 mouth, note, telephone or other means of communication directed by such  
43 prescriber, regardless of whether the communication is oral, electronic,

1 facsimile or in printed form.

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

5 (vv) "Prescription-only drug" means any drug whether intended for  
6 use by human or animal, required by federal or state law, including 21  
7 U.S.C. § 353, to be dispensed only pursuant to a written or oral  
8 prescription or order of a practitioner or is restricted to use by practitioners  
9 only.

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

17 (xx) "Professional incompetency" means:

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

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

24 (3) a pattern of pharmacy practice or other behavior—~~which~~ *that*  
25 demonstrates a manifest incapacity or incompetence to practice pharmacy.

26 (yy) "Readily retrievable" means that records kept by automatic data  
27 processing applications or other electronic or mechanized record-keeping  
28 systems can be separated out from all other records within a reasonable  
29 time not to exceed 48 hours of a request from the board or other authorized  
30 agent or that hard-copy records are kept on which certain items are  
31 asterisked, redlined or in some other manner visually identifiable apart  
32 from other items appearing on the records.

33 (zz) "Retail dealer" means a person selling at retail nonprescription  
34 drugs—~~which~~ *that* are prepackaged, fully prepared by the manufacturer or  
35 distributor for use by the consumer and labeled in accordance with the  
36 requirements of the state and federal food, drug and cosmetic acts. Such  
37 nonprescription drugs shall not include: (1) A controlled substance; (2) a  
38 prescription-only drug; or (3) a drug intended for human use by  
39 hypodermic injection.

40 (aaa) "Secretary" means the executive secretary of the board.

41 (bbb) "Third party logistics provider" means an entity that: (1)  
42 Provides or coordinates warehousing, distribution or other services on  
43 behalf of a manufacturer, but does not take title to the prescription drug or

1 have general responsibility to direct the prescription drug's sale or  
2 disposition; (2) is registered as a wholesale distributor under the pharmacy  
3 act of the state of Kansas; and (3) to be considered part of the normal  
4 distribution channel, must also be an authorized distributor of record.

5 (ccc) "Unprofessional conduct" means:

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

23 (ddd) "Vaccination protocol" means a written protocol, agreed to by a  
24 pharmacist and a person licensed to practice medicine and surgery by the  
25 state board of healing arts,—~~which~~ *that* establishes procedures and  
26 recordkeeping and reporting requirements for administering a vaccine by  
27 the pharmacist for a period of time specified therein, not to exceed two  
28 years.

29 (eee) "Valid prescription order" means a prescription that is issued for  
30 a legitimate medical purpose by an individual prescriber licensed by law to  
31 administer and prescribe drugs and acting in the usual course of such  
32 prescriber's professional practice. A prescription issued solely on the basis  
33 of an internet-based questionnaire or consultation without an appropriate  
34 prescriber-patient relationship is not a valid prescription order.

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

39 (ggg) "Wholesale distributor" means any person engaged in  
40 wholesale distribution of prescription drugs or devices in or into the state,  
41 including, but not limited to, manufacturers, repackagers, own-label  
42 distributors, private-label distributors, jobbers, brokers, warehouses,  
43 including manufacturers' and distributors' warehouses, co-licensees,

1 exclusive distributors, third party logistics providers, chain pharmacy  
2 warehouses that conduct wholesale distributions, and wholesale drug  
3 warehouses, independent wholesale drug traders and retail pharmacies that  
4 conduct wholesale distributions. Wholesale distributor shall not include  
5 persons engaged in the sale of durable medical equipment to consumers or  
6 patients.

7 (hhh) "Wholesale distribution" means the distribution of prescription  
8 drugs or devices by wholesale distributors to persons other than consumers  
9 or patients, and includes the transfer of prescription drugs by a pharmacy  
10 to another pharmacy if the total number of units of transferred drugs  
11 during a twelve-month period does not exceed 5% of the total number of  
12 all units dispensed by the pharmacy during the immediately preceding  
13 ~~twelve~~ 12-month period. Wholesale distribution does not include:

14 (1) The sale, purchase or trade of a prescription drug or device, an  
15 offer to sell, purchase or trade a prescription drug or device or the  
16 dispensing of a prescription drug or device pursuant to a prescription;

17 (2) the sale, purchase or trade of a prescription drug or device or an  
18 offer to sell, purchase or trade a prescription drug or device for emergency  
19 medical reasons;

20 (3) intracompany transactions, as defined in this section, unless in  
21 violation of own use provisions;

22 (4) the sale, purchase or trade of a prescription drug or device or an  
23 offer to sell, purchase or trade a prescription drug or device among  
24 hospitals, chain pharmacy warehouses, pharmacies or other health care  
25 entities that are under common control;

26 (5) the sale, purchase or trade of a prescription drug or device or the  
27 offer to sell, purchase or trade a prescription drug or device by a charitable  
28 organization described in 503(c)(3) of the internal revenue code of 1954 to  
29 a nonprofit affiliate of the organization to the extent otherwise permitted  
30 by law;

31 (6) the purchase or other acquisition by a hospital or other similar  
32 health care entity that is a member of a group purchasing organization of a  
33 prescription drug or device for its own use from the group purchasing  
34 organization or from other hospitals or similar health care entities that are  
35 members of these organizations;

36 (7) the transfer of prescription drugs or devices between pharmacies  
37 pursuant to a centralized prescription processing agreement;

38 (8) the sale, purchase or trade of blood and blood components  
39 intended for transfusion;

40 (9) the return of recalled, expired, damaged or otherwise non-salable  
41 prescription drugs, when conducted by a hospital, health care entity,  
42 pharmacy, chain pharmacy warehouse or charitable institution in  
43 accordance with the board's rules and regulations;

1 (10) the sale, transfer, merger or consolidation of all or part of the  
2 business of a retail pharmacy or pharmacies from or with another retail  
3 pharmacy or pharmacies, whether accomplished as a purchase and sale of  
4 stock or business assets, in accordance with the board's rules and  
5 regulations;

6 (11) the distribution of drug samples by manufacturers' and  
7 authorized distributors' representatives;

8 (12) the sale of minimal quantities of drugs by retail pharmacies to  
9 licensed practitioners for office use; or

10 (13) the sale or transfer from a retail pharmacy or chain pharmacy  
11 warehouse of expired, damaged, returned or recalled prescription drugs to  
12 the original manufacturer, originating wholesale distributor or to a third  
13 party returns processor in accordance with the board's rules and  
14 regulations.

15 Sec. 22. K.S.A. 2016 Supp. 65-1669 is hereby amended to read as  
16 follows: 65-1669. As used in the utilization of unused medications act:

17 (a) "Adult care home" ~~has the same meaning as such term is~~ *means*  
18 *the same as* defined in K.S.A. 39-923, and amendments thereto.

19 (b) "Community mental health center" ~~has the same meaning as such~~  
20 ~~term is~~ *means the same as* defined in K.S.A. ~~75-3307e~~ 2016 Supp. 39-  
21 2002, and amendments thereto.

22 (c) "Donating entities" means adult care homes, mail service  
23 pharmacies, institutional drug rooms and medical care facilities who elect  
24 to participate in the program.

25 (d) "Drug" ~~has the same meaning as such term is~~ *means the same as*  
26 defined in K.S.A. 65-1626, and amendments thereto.

27 (e) "Federally qualified health center" means a center ~~which that~~  
28 meets the requirements for federal funding under 42 U.S.C. § 1396d(1) of  
29 the public health service act, ~~and amendments thereto,~~ and ~~which that~~ has  
30 been designated as a "federally qualified health center" by the federal  
31 government.

32 (f) "Indigent health care clinic" ~~has the same meaning as such term is~~  
33 *means the same as* defined in K.S.A. 75-6102, and amendments thereto.

34 (g) "Institutional drug room" ~~has the meaning as such term is~~ *means*  
35 *the same as* defined in K.S.A. 65-1626(bb), and amendments thereto.

36 (h) "Mail service pharmacy" means a licensed Kansas pharmacy that  
37 ships, mails or delivers by any lawful means a lawfully dispensed  
38 medication in tamper-resistant packaging to residents of this state or  
39 another state.

40 (i) "Medical care facility" ~~has the same meaning as such term is~~  
41 *means the same as* defined in K.S.A. 65-425, and amendments thereto.

42 (j) "Medically indigent" ~~has the same meaning as such term is~~ *means*  
43 *the same as* defined in K.S.A. 75-6102, and amendments thereto.



1 (k) "Medication" means a prescription drug or drug as defined by this  
2 section.

3 (l) "Mid-level practitioner" ~~has the same meaning as such term is~~  
4 *means the same as* defined in K.S.A. 65-1626, and amendments thereto.

5 (m) "Practitioner" ~~has the same meaning as such term is~~ *means the*  
6 *same as* defined in K.S.A. 65-1626, and amendments thereto.

7 (n) "Prescription drug" means a drug ~~which~~ *that* may be dispensed  
8 only upon prescription of a practitioner or mid-level practitioner  
9 authorized by law and ~~which~~ *that* is approved for safety and effectiveness  
10 as a prescription drug under section 505 or 507 of the federal food, drug  
11 and cosmetic act, 52 Stat. 1040 (1938), 21 U.S.C.A. § 301.

12 (o) "Qualifying center or clinic" means an indigent health care clinic,  
13 federally qualified health center or community mental health center.

14 (p) "Samples of medications or injectables" means a unit of drug that  
15 is not intended to be sold and is intended to promote the sale of the drug.

16 Sec. 23. K.S.A. 2016 Supp. 65-2895 is hereby amended to read as  
17 follows: 65-2895. (a) There is hereby created an institutional license ~~which~~  
18 *that* may be issued by the board to a person who:

19 (1) Is a graduate of an accredited school of medicine or osteopathic  
20 medicine or a school ~~which~~ *the whose* graduates have been licensed in  
21 another state or states ~~which~~ *that* have standards similar to Kansas;

22 (2) has completed at least two years in a postgraduate training  
23 program in the United States approved by the board; and

24 (3) who is employed as provided in this section.

25 (b) Subject to the restrictions of this section, the institutional license  
26 shall confer upon the holder the right and privilege to practice medicine  
27 and surgery and shall obligate the holder to comply with all requirements  
28 of such license.

29 (c) The practice privileges of institutional license holders are  
30 restricted and shall be valid only during the period in which:

31 (1) The holder is employed by any institution within the Kansas  
32 department for aging and disability services, employed by any institution  
33 within the department of corrections or employed pursuant to a contract  
34 entered into by the Kansas department for aging and disability services or  
35 the department of corrections with a third party, and only within the  
36 institution to which the holder is assigned; and

37 (2) the holder has been employed for at least three years as described  
38 in subsection (c)(1) and is employed to provide mental health services in  
39 Kansas in the employ of a Kansas licensed community mental health  
40 center, or one of its contracted affiliates, or a federal, state, county or  
41 municipal agency, or other political subdivision, or a contractor of a  
42 federal, state, county or municipal agency, or other political subdivision, or  
43 a duly chartered educational institution, or a medical care facility licensed

1 under K.S.A. 65-425 et seq., and amendments thereto, in a psychiatric  
2 hospital licensed under K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and  
3 amendments thereto, or a contractor of such educational institution,  
4 medical care facility or psychiatric hospital, and whose practice, in any  
5 such employment, is limited to providing mental health services, is a part  
6 of the duties of such licensee's paid position and is performed solely on  
7 behalf of the employer.

8 (d) An institutional license shall be canceled on the date established  
9 by rules and regulations of the board ~~which~~ *that* may provide for renewal  
10 throughout the year on a continuing basis. In each case in which an  
11 institutional license is renewed for a period of time of more or less than 12  
12 months, the board may prorate the amount of the fee established under  
13 K.S.A. 65-2852, and amendments thereto. The request for renewal shall be  
14 on a form provided by the board and shall be accompanied by the  
15 prescribed fee, ~~which~~ *that* shall be paid not later than the renewal date of  
16 the license. An institutional license may be renewed for an additional one-  
17 year period if the applicant for renewal meets the requirements under  
18 subsection (c), has submitted an application for renewal on a form  
19 provided by the board, has paid the renewal fee established by rules and  
20 regulations of the board of not to exceed \$500 and has submitted evidence  
21 of satisfactory completion of a program of continuing education required  
22 by the board. In addition, an applicant for renewal who is employed as  
23 described in subsection (c)(1) shall submit with the application for renewal  
24 a recommendation that the institutional license be renewed signed by the  
25 superintendent of the institution to which the institutional license holder is  
26 assigned.

27 (e) Nothing in this section shall prohibit any person who was issued  
28 an institutional license prior to the effective date of this section from  
29 having the institutional license reinstated by the board if the person meets  
30 the requirements for an institutional license described in subsection (a).

31 (f) This section shall be a part of and supplemental to the Kansas  
32 healing arts act.

33 Sec. 24. K.S.A. 2016 Supp. 65-4412 is hereby amended to read as  
34 follows: 65-4412. (a) "Community facilities for people with intellectual  
35 disability" means: (1) Any community facility for people with intellectual  
36 disability organized pursuant to the provisions of K.S.A. 19-4001 ~~to~~  
37 *through* 19-4015, ~~inclusive~~, and amendments thereto, and licensed in  
38 accordance with the provisions of K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et*  
39 *seq.*, and amendments thereto; or (2) any intellectual disability governing  
40 board ~~which~~ *that* contracts with a nonprofit corporation to provide services  
41 for people with intellectual disability.

42 (b) "Secretary" means secretary for aging and disability services.

43 Sec. 25. K.S.A. 2016 Supp. 65-4432 is hereby amended to read as

1 follows: 65-4432. (a) "Mental health center" means any community mental  
2 health center ~~organized pursuant to the provisions of K.S.A. 19-4001 to~~  
3 ~~19-4015, inclusive as defined in K.S.A. 2016 Supp. 39-2002,~~ and  
4 amendments thereto, or mental health clinics organized pursuant to the  
5 provisions of K.S.A. 65-211 ~~to through 65-215, inclusive,~~ and  
6 amendments thereto, and licensed in accordance with the provisions of  
7 K.S.A. ~~75-3307b~~ 2016 Supp. 39-2001 *et seq.*, and amendments thereto.

8 (b) "Secretary" means the secretary for aging and disability services.

9 Sec. 26. K.S.A. 2016 Supp. 65-4915 is hereby amended to read as  
10 follows: 65-4915. (a) As used in this section:

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

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

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

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

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

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

33 (E) an organized medical staff of a licensed medical care facility as  
34 defined by K.S.A. 65-425, and amendments thereto, an organized medical  
35 staff of a private psychiatric hospital licensed under K.S.A. ~~75-3307b~~  
36 2016 Supp. 39-2001 *et seq.*, and amendments thereto, or an organized  
37 medical staff of a state psychiatric hospital or state institution for people  
38 with intellectual disability, as follows: Larned state hospital, Osawatomie  
39 state hospital, Rainbow mental health facility, Kansas neurological  
40 institute and Parsons state hospital and training center;

41 (F) a health care provider;

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

- 1 (H) a Kansas corporation whose stockholders or members are health  
2 care providers or an association of health care providers, which  
3 corporation evaluates medical and health care services;
- 4 (I) an insurance company, health maintenance organization or  
5 administrator of a health benefits plan which engages in any of the  
6 functions defined as peer review under this section; or
- 7 (J) the university of Kansas medical center.
- 8 (3) "Peer review" means any of the following functions:
- 9 (A) Evaluate and improve the quality of health care services rendered  
10 by health care providers;
- 11 (B) determine that health services rendered were professionally  
12 indicated or were performed in compliance with the applicable standard of  
13 care;
- 14 (C) determine that the cost of health care rendered was considered  
15 reasonable by the providers of professional health services in this area;
- 16 (D) evaluate the qualifications, competence and performance of the  
17 providers of health care or to act upon matters relating to the discipline of  
18 any individual provider of health care;
- 19 (E) reduce morbidity or mortality;
- 20 (F) establish and enforce guidelines designed to keep within  
21 reasonable bounds the cost of health care;
- 22 (G) conduct of research;
- 23 (H) determine if a hospital's facilities are being properly utilized;
- 24 (I) supervise, discipline, admit, determine privileges or control  
25 members of a hospital's medical staff;
- 26 (J) review the professional qualifications or activities of health care  
27 providers;
- 28 (K) evaluate the quantity, quality and timeliness of health care  
29 services rendered to patients in the facility;
- 30 (L) evaluate, review or improve methods, procedures or treatments  
31 being utilized by the medical care facility or by health care providers in a  
32 facility rendering health care.
- 33 (4) "Peer review officer or committee" means:
- 34 (A) An individual employed, designated or appointed by, or a  
35 committee of or employed, designated or appointed by, a health care  
36 provider group and authorized to perform peer review; or
- 37 (B) a health care provider monitoring the delivery of health care at  
38 correctional institutions under the jurisdiction of the secretary of  
39 corrections.
- 40 (b) Except as provided by K.S.A. 60-437, and amendments thereto,  
41 and by subsections (c) and (d), the reports, statements, memoranda,  
42 proceedings, findings and other records submitted to or generated by peer  
43 review committees or officers shall be privileged and shall not be subject

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

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

43 (d) Nothing in this section shall limit the authority, ~~which~~ *that* may

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

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

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

27 Sec. 27. K.S.A. 2016 Supp. 65-4921 is hereby amended to read as  
28 follows: 65-4921. As used in K.S.A. 65-4921 through 65-4930, and  
29 amendments thereto:

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

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

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

1 and a respiratory therapist licensed by the state board of healing arts.

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

4 (e) "Medical care facility" means: (1) A medical care facility licensed  
5 under K.S.A. 65-425 et seq., and amendments thereto; (2) a private  
6 psychiatric hospital licensed under K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001*  
7 *et seq.*, and amendments thereto; and (3) state psychiatric hospitals and  
8 state institutions for people with intellectual disability, as follows: Larned  
9 state hospital, Osawatomie state hospital, Rainbow mental health facility,  
10 Kansas neurological institute and Parsons state hospital and training  
11 center.

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

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

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

20 Sec. 28. K.S.A. 2016 Supp. 65-5601 is hereby amended to read as  
21 follows: 65-5601. As used in K.S.A. 65-5601—~~to~~ *through* 65-5605,—  
22 ~~inclusive~~, and amendments thereto:

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

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

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

32 (d) "Treatment facility" means a community mental health center,  
33 community service provider, psychiatric hospital and state institution for  
34 people with intellectual disability.

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

37 (f) "Community mental health center" means ~~a mental health clinic or~~  
38 ~~community mental health center licensed under K.S.A. 75-3307b~~ *the same*  
39 *as defined in K.S.A. 2016 Supp. 39-2002*, and amendments thereto.

40 (g) "Psychiatric hospital" means Larned state hospital, Osawatomie  
41 state hospital, Rainbow mental health facility, Topeka state hospital and  
42 hospitals licensed under K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and  
43 amendments thereto.

1 (h) "State institution for people with intellectual disability" means  
2 Winfield state hospital and training center, Parsons state hospital and  
3 training center and the Kansas neurological institute.

4 (i) "Community service provider" means: (1) A community facility  
5 for people with intellectual disability organized pursuant to the provisions  
6 of K.S.A. 19-4001 through 19-4015, and amendments thereto, and  
7 licensed in accordance with the provisions of K.S.A. ~~75-3307b~~ 2016 Supp.  
8 39-2001 *et seq.*, and amendments thereto; (2) community service provider  
9 as provided in the developmental disabilities reform act; or (3) a nonprofit  
10 corporation ~~which~~ *that* provides services for people with intellectual  
11 disability pursuant to a contract with an intellectual disability governing  
12 board.

13 Sec. 29. K.S.A. 2016 Supp. 65-6805 is hereby amended to read as  
14 follows: 65-6805. Each medical care facility as defined by ~~subsection (h)~~  
15 ~~of~~ K.S.A. 65-425(h), and amendments thereto; health care provider as  
16 defined in K.S.A. 40-3401, and amendments thereto; providers of health  
17 care as defined in ~~subsection (f)~~ of K.S.A. 65-5001(f), and amendments  
18 thereto; health care personnel as defined in ~~subsection (e)~~ of K.S.A. 65-  
19 5001(e), and amendments thereto; home health agency as defined ~~by~~  
20 ~~subsection (b)~~ ~~of~~ *in* K.S.A. 65-5101(b), and amendments thereto;  
21 psychiatric hospitals licensed under K.S.A. ~~75-3307b~~ 2016 Supp. 39-2001  
22 *et seq.*, and amendments thereto; state institutions for people with  
23 intellectual disability; community facilities for people with intellectual  
24 disability as defined under K.S.A. 65-4412, and amendments thereto;  
25 community mental health center as defined under K.S.A. 65-4432, and  
26 amendments thereto; adult care homes as defined by K.S.A. 39-923, and  
27 amendments thereto; laboratories described in K.S.A. 65-1,107, and  
28 amendments thereto; pharmacies; board of nursing; Kansas dental board;  
29 board of examiners in optometry; state board of pharmacy; state board of  
30 healing arts and third-party payors, including, but not limited to, licensed  
31 insurers, medical and hospital service corporations, health maintenance  
32 organizations, fiscal intermediaries for government-funded programs and  
33 self-funded employee health plans, shall file health care data with the  
34 department of health and environment as prescribed by the secretary of  
35 health and environment. The provisions of this section shall not apply to  
36 any individual, facility or other entity under this section ~~which~~ *that* uses  
37 spiritual means through prayer alone in accordance with the tenets and  
38 practices of a recognized church or religious denomination for the  
39 treatment or cure of disease.

40 Sec. 30. K.S.A. 74-3292 is hereby amended to read as follows: 74-  
41 3292. As used in this act:

42 (a) "Committee" means the nursing service scholarship review  
43 committee established under K.S.A. 74-3299, and amendments thereto.



1 (b) "Executive officer" means the chief executive officer of the state  
2 board of regents appointed under K.S.A. 74-3203a, and amendments  
3 thereto.

4 (c) "Rural area" means any county of this state other than Douglas,  
5 Johnson, Sedgwick, Shawnee and Wyandotte counties.

6 (d) "School of nursing" means a school within the state of Kansas  
7 ~~which~~ *that* is approved by the ~~state~~ board of nursing to grant an associate  
8 degree or a baccalaureate degree in professional nursing or a certificate of  
9 completion in practical nursing.

10 (e) "Sponsor" means any adult care home licensed under the adult  
11 care home licensure act, any medical care facility licensed under K.S.A.  
12 65-425 et seq., and amendments thereto, any psychiatric hospital licensed  
13 under K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and amendments  
14 thereto, any home health agency licensed under K.S.A. 65-5101 et seq.,  
15 and amendments thereto, any local health department as defined in K.S.A.  
16 65-241, and amendments thereto, and any state agency which employs  
17 licensed practical nurses or licensed professional nurses.

18 Sec. 31. K.S.A. 2016 Supp. 75-5923 is hereby amended to read as  
19 follows: 75-5923. (a) The secretary for aging and disability services shall  
20 establish a telephone system to assist older Kansans, friends and relatives  
21 of older Kansans and other persons in obtaining information about and  
22 access to services available to both institutionalized and non-  
23 institutionalized older Kansans. The telephone system shall be designed to  
24 permit any person in the state to place a toll-free call into the system.

25 (b) The secretary for aging and disability services shall:

26 (1) Publicize the existence and purpose of the toll-free telephone  
27 system established by this section and the telephone number of such  
28 system;

29 (2) develop policies and procedures to document requests for  
30 assistance and monitor follow-up on such requests;

31 (3) develop policies and procedures to maintain confidentiality of  
32 requests for assistance;

33 (4) develop a program to train and coordinate the use of older  
34 Kansans within the toll-free telephone system;

35 (5) provide as part of the toll-free telephone system a call-forward  
36 system to assist in providing access to information; and

37 (6) develop a handbook of information to answer requests and for  
38 further referral.

39 (c) Upon written notification by the secretary for aging and disability  
40 services, every adult care home, as defined in ~~subsection (a)(1) of~~ K.S.A.  
41 39-923(a)(1), and amendments thereto, title XX adult residential home  
42 licensed under K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and  
43 amendments thereto, recuperation center, as defined in ~~subsection (g) of~~

1 K.S.A. 65-425(g), and amendments thereto, intermediate care facility, as  
2 defined in section 1905(c) of the federal social security act, skilled nursing  
3 facility, as defined in section 1861(j) of the federal social security act, and  
4 any other institution or facility ~~which~~ that is licensed or certified by the  
5 state, ~~which~~ that offers health, social or dietary care to elderly persons on a  
6 regular basis; and ~~which~~ that is financed in whole or in part by funds from  
7 the federal government, the state of Kansas, or any political subdivision  
8 thereof, shall prominently display notice of the existence of the toll-free  
9 telephone system established under this section and the telephone number  
10 of such system.

11 Sec. 32. K.S.A. 2016 Supp. 75-6102 is hereby amended to read as  
12 follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and  
13 amendments thereto, unless the context clearly requires otherwise:

14 (a) "State" means the state of Kansas and any department or branch of  
15 state government, or any agency, authority, institution or other  
16 instrumentality thereof.

17 (b) "Municipality" means any county, township, city, school district  
18 or other political or taxing subdivision of the state, or any agency,  
19 authority, institution or other instrumentality thereof.

20 (c) "Governmental entity" means state or municipality.

21 (d) (1) "Employee" means: (A) Any officer, employee, servant or  
22 member of a board, commission, committee, division, department, branch  
23 or council of a governmental entity, including elected or appointed  
24 officials and persons acting on behalf or in service of a governmental  
25 entity in any official capacity, whether with or without compensation and a  
26 charitable healthcare provider;

27 (B) any steward or racing judge appointed pursuant to K.S.A. 74-  
28 8818, and amendments thereto, regardless of whether the services of such  
29 steward or racing judge are rendered pursuant to contract as an  
30 independent contractor;

31 (C) employees of the United States marshal's service engaged in the  
32 transportation of inmates on behalf of the secretary of corrections;

33 (D) a person who is an employee of a nonprofit independent  
34 contractor, other than a municipality, under contract to provide educational  
35 or vocational training to inmates in the custody of the secretary of  
36 corrections and who is engaged in providing such service in an institution  
37 under the control of the secretary of corrections provided that such  
38 employee does not otherwise have coverage for such acts and omissions  
39 within the scope of their employment through a liability insurance contract  
40 of such independent contractor;

41 (E) a person who is an employee or volunteer of a nonprofit program,  
42 other than a municipality, who has contracted with the commissioner of  
43 juvenile justice or with another nonprofit program that has contracted with

1 the secretary of corrections to provide a juvenile justice program for  
2 juvenile offenders in a judicial district provided that such employee or  
3 volunteer does not otherwise have coverage for such acts and omissions  
4 within the scope of their employment or volunteer activities through a  
5 liability insurance contract of such nonprofit program;

6 (F) a person who contracts with the Kansas guardianship program to  
7 provide services as a court-appointed guardian or conservator;

8 (G) an employee of an indigent healthcare clinic;

9 (H) former employees for acts and omissions within the scope of their  
10 employment during their former employment with the governmental  
11 entity;

12 (I) any member of a regional medical emergency response team,  
13 created under the provisions of K.S.A. 48-928, and amendments thereto, in  
14 connection with authorized training or upon activation for an emergency  
15 response;

16 (J) any member of a regional search and rescue team or regional  
17 hazardous materials response team contracting with the state fire marshal  
18 pursuant to K.S.A. 31-133, and amendments thereto, or K.S.A. 2016 Supp.  
19 75-1518, and amendments thereto, in connection with authorized training  
20 or upon activation for an emergency response; and

21 (K) medical students enrolled at the university of Kansas medical  
22 center who are in clinical training, on or after July 1, 2008, at the  
23 university of Kansas medical center or at another healthcare institution.

24 (2) "Employee" does not include: (A) An individual or entity for  
25 actions within the scope of K.S.A. 60-3614, and amendments thereto; or

26 (B) any independent contractor under contract with a governmental  
27 entity except those contractors specifically listed in subsection (d)(1).

28 (e) "Charitable healthcare provider" means a person licensed by the  
29 state board of healing arts as an exempt licensee or a federally active  
30 licensee, a person issued a limited permit by the state board of healing arts,  
31 a physician assistant licensed by the state board of healing arts, a mental  
32 health practitioner licensed by the behavioral sciences regulatory board, an  
33 ultrasound technologist currently registered in any area of sonography  
34 credentialed through the American registry of radiology technologists, the  
35 American registry for diagnostic medical sonography or cardiovascular  
36 credentialing international and working under the supervision of a person  
37 licensed to practice medicine and surgery, or a healthcare provider as the  
38 term "healthcare provider" is defined under K.S.A. 65-4921, and  
39 amendments thereto, who has entered into an agreement with:

40 (1) The secretary of health and environment under K.S.A. 75-6120,  
41 and amendments thereto, who, pursuant to such agreement, gratuitously  
42 renders professional services to a person who has provided information  
43 ~~which~~ *that* would reasonably lead the healthcare provider to make the

1 good faith assumption that such person meets the definition of medically  
2 indigent person as defined by this section or to a person receiving medical  
3 assistance from the programs operated by the department of health and  
4 environment, and who is considered an employee of the state of Kansas  
5 under K.S.A. 75-6120, and amendments thereto;

6 (2) the secretary of health and environment and who, pursuant to such  
7 agreement, gratuitously renders professional services in conducting  
8 children's immunization programs administered by the secretary;

9 (3) a local health department or indigent healthcare clinic, ~~which that~~  
10 renders professional services to medically indigent persons or persons  
11 receiving medical assistance from the programs operated by the  
12 department of health and environment gratuitously or for a fee paid by the  
13 local health department or indigent healthcare clinic to such provider and  
14 who is considered an employee of the state of Kansas under K.S.A. 75-  
15 6120, and amendments thereto. Professional services rendered by a  
16 provider under this paragraph shall be considered gratuitous  
17 notwithstanding fees based on income eligibility guidelines charged by a  
18 local health department or indigent healthcare clinic and notwithstanding  
19 any fee paid by the local health department or indigent healthcare clinic to  
20 a provider in accordance with this paragraph; or

21 (4) the secretary of health and environment to provide dentistry  
22 services defined by K.S.A. 65-1422 et seq., and amendments thereto, or  
23 dental hygienist services defined by K.S.A. 65-1456, and amendments  
24 thereto, that are targeted, but are not limited to, medically indigent  
25 persons, and are provided on a gratuitous basis: (A) At a location  
26 sponsored by a not-for-profit organization that is not the dentist or dental  
27 hygienist office location; (B) at the office location of a dentist or dental  
28 hygienist provided the care be delivered as part of a program organized by  
29 a not-for-profit organization and approved by the secretary of health and  
30 environment; or (C) as part of a charitable program organized by the  
31 dentist that has been approved by the secretary of health and environment  
32 upon a showing that the dentist seeks to treat medically indigent patients  
33 on a gratuitous basis, except that such dentistry services and dental  
34 hygienist services shall not include "oral and maxillofacial surgery" as  
35 defined by K.A.R. 71-2-2, or use sedation or general anesthesia that result  
36 in "deep sedation" or "general anesthesia" as defined by K.A.R. 71-5-7.

37 (f) "Medically indigent person" means a person who lacks resources  
38 to pay for medically necessary healthcare services and who meets the  
39 eligibility criteria for qualification as a medically indigent person  
40 established by the secretary of health and environment under K.S.A. 75-  
41 6120, and amendments thereto.

42 (g) "Indigent healthcare clinic" means an outpatient medical care  
43 clinic operated on a not-for-profit basis ~~which that~~ has a contractual

1 agreement in effect with the secretary of health and environment to  
2 provide healthcare services to medically indigent persons.

3 (h) "~~Local health department~~" ~~shall have the meaning ascribed to~~  
4 ~~such term under~~ *means the same as defined in K.S.A. 65-241, and*  
5 *amendments thereto.*

6 (i) "Fire control, fire rescue or emergency medical services  
7 equipment" means any vehicle, firefighting tool, protective clothing,  
8 breathing apparatus and any other supplies, tools or equipment used in  
9 firefighting or fire rescue or in the provision of emergency medical  
10 services.

11 (j) "~~Community mental health center~~" ~~means any community mental~~  
12 ~~health center organized pursuant to K.S.A. 19-4001 through 19-4015, and~~  
13 ~~amendments thereto, or a mental health clinic organized pursuant to~~  
14 ~~K.S.A. 65-211 through 65-215, and amendments thereto, and licensed in~~  
15 ~~accordance with K.S.A. 75-3307b~~ *the same as defined in K.S.A. 2016*  
16 *Supp. 39-2002, and amendments thereto.*

17 Sec. 33. K.S.A. 2016 Supp. 79-201b is hereby amended to read as  
18 follows: 79-201b. The following described property, to the extent herein  
19 specified, shall be and is hereby exempt from all property or ad valorem  
20 taxes levied under the laws of the state of Kansas:

21 *First.* All real property, and tangible personal property, actually and  
22 regularly used exclusively for hospital purposes by a hospital as the same  
23 is defined by K.S.A. 65-425, and amendments thereto, or a psychiatric  
24 hospital as the same was defined by K.S.A. 59-2902, and amendments  
25 thereto, as in effect on January 1, 1976, which hospital or psychiatric  
26 hospital is operated by a corporation organized not for profit under the  
27 laws of the state of Kansas or by a corporation organized not for profit  
28 under the laws of another state and duly admitted to engage in business in  
29 this state as a foreign, not-for-profit corporation, or a public hospital  
30 authority; and all intangible property including moneys, notes and other  
31 evidences of debt, and the income therefrom, belonging exclusively to  
32 such a corporation and used exclusively for hospital, psychiatric hospital  
33 or public hospital authority purposes. This exemption shall not be deemed  
34 inapplicable to property which would otherwise be exempt pursuant to this  
35 paragraph because any such hospital, psychiatric hospital or public  
36 hospital authority: (a) Uses such property for a nonexempt purpose ~~which~~  
37 *that* is minimal in scope and insubstantial in nature if such use is incidental  
38 to the exempt purpose enumerated in this paragraph; or (b) is reimbursed  
39 for the actual expense of using such property for the exempt purposes  
40 enumerated in this paragraph or paragraph second of K.S.A. 79-201, and  
41 amendments thereto; or (c) permits the use of such property for the exempt  
42 purposes enumerated in this paragraph or paragraph second of K.S.A. 79-  
43 201, and amendments thereto, by more than one agency or organization for

1 one or more of such purposes.

2       *Second.* All real property, and tangible personal property, actually and  
3 regularly used exclusively for adult care home purposes by an adult care  
4 home as the same is defined by K.S.A. 39-923, and amendments thereto,  
5 ~~which~~ *that* is operated by a corporation organized not for profit under the  
6 laws of the state of Kansas or by a corporation organized not for profit  
7 under the laws of another state and duly admitted to engage in business in  
8 this state as a foreign, not-for-profit corporation, charges to residents for  
9 services of which produce an amount which in the aggregate is less than  
10 the actual cost of operation of the home or the services of which are  
11 provided to residents at the lowest feasible cost, taking into consideration  
12 such items as reasonable depreciation, interest on indebtedness, acquisition  
13 costs, interest and other expenses of financing acquisition costs, lease  
14 expenses and costs of services provided by a parent corporation at its costs  
15 and contributions to which are deductible under the Kansas income tax act;  
16 and all intangible property including moneys, notes and other evidences of  
17 debt, and the income therefrom, belonging exclusively to such corporation  
18 and used exclusively for adult care home purposes. For purposes of this  
19 paragraph and for all taxable years commencing after December 31, 1976,  
20 an adult care home which uses its property in a manner which is consistent  
21 with the federal internal revenue service ruling 72-124 issued pursuant to  
22 section 501(c)(3) of the federal internal revenue code, shall be deemed to  
23 be operating at the lowest feasible cost. The fact that real property or real  
24 or tangible personal property may be leased from a not-for-profit  
25 corporation, which is exempt from federal income taxation pursuant to  
26 section 501(c)(3) of the internal revenue code of 1986, and amendments  
27 thereto, and which is the parent corporation to the not-for-profit operator  
28 of an adult care home, shall not be grounds to deny exemption or deny that  
29 such property is actually and regularly used exclusively for adult care  
30 home purposes by an adult care home, nor shall the terms of any such  
31 lease be grounds for any such denial. For all taxable years commencing  
32 after December 31, 1995, such property shall be deemed to be used  
33 exclusively for adult care home purposes when used as a not-for-profit day  
34 care center for children which is licensed pursuant to K.S.A. 65-501 et  
35 seq., and amendments thereto.

36       *Third.* All real property, and tangible personal property, actually and  
37 regularly used exclusively for private children's home purposes by a  
38 private children's home as the same is defined by K.S.A. 75-3329, and  
39 amendments thereto, ~~which~~ *that* is operated by a corporation organized not  
40 for profit under the laws of the state of Kansas or by a corporation  
41 organized not for profit under the laws of another state and duly admitted  
42 to engage in business in this state as a foreign, not-for-profit corporation,  
43 charges to residents for services of which produce an amount ~~which~~ *that* in

1 the aggregate is less than the actual cost of operation of the home or the  
2 services of which are provided to residents at the lowest feasible cost,  
3 taking into consideration such items as reasonable depreciation and  
4 interest on indebtedness, and contributions to which are deductible under  
5 the Kansas income tax act; and all intangible property including moneys,  
6 notes and other evidences of debt, and the income therefrom, belonging  
7 exclusively to such a corporation and used exclusively for children's home  
8 purposes.

9 *Fourth.* All real property and tangible personal property, actually and  
10 regularly used exclusively for: (a) Housing for elderly and handicapped  
11 persons having a limited or lower income, or used exclusively for  
12 cooperative housing for persons having a limited or low income, assistance  
13 for the financing of which was received under 12 U.S.C.A. § 1701 et seq.,  
14 or under 42 U.S.C.A. § 1437 et seq., ~~which that~~ is operated by a  
15 corporation organized not for profit under the laws of the state of Kansas  
16 or by a corporation organized not for profit under the laws of another state  
17 and duly admitted to engage in business in this state as a foreign, not-for-  
18 profit corporation; and (b) for all taxable years commencing after  
19 December 31, 2006, temporary housing of 24 months or less for limited or  
20 low income, single-parent families in need of financial assistance who are  
21 enrolled in a program to receive life training skills, ~~which that~~ is operated  
22 by a charitable or religious organization; and all intangible property  
23 including moneys, notes and other evidences of debt, and the income  
24 therefrom, belonging exclusively to such a corporation and used  
25 exclusively for the purposes of such housing. For the purposes of this  
26 subsection, cooperative housing means those not-for-profit cooperative  
27 housing projects operating or established pursuant to sections 236 or  
28 221(d)(3), or both, of the national housing act and which have been  
29 approved as a cooperative housing project pursuant to applicable federal  
30 housing administration and U.S. department of housing and urban  
31 development statutes, and rules and regulations, during such time as the  
32 use of such properties are: (1) Restricted pursuant to such act, or rules and  
33 regulations thereof; or (2) subject to affordability financing standards  
34 established pursuant to the national housing act during such time that such  
35 not-for-profit corporation has adopted articles of incorporation or by-laws,  
36 or both, requiring such corporation to continue to operate in compliance  
37 with the United States department of housing and urban development  
38 affordability income guidelines established pursuant to sections 236 or  
39 221(d)(3) of the national housing act or rules and regulations thereof.

40 *Fifth.* All real property and tangible personal property, actually and  
41 regularly used exclusively for housing for elderly persons, ~~which that~~ is  
42 operated by a corporation organized not for profit under the laws of the  
43 state of Kansas or by a corporation organized not for profit under the laws

1 of another state and duly admitted to engage in business in this state as a  
2 foreign, not-for-profit corporation, in which charges to residents produce  
3 an amount—~~which~~ *that* in the aggregate is less than the actual cost of  
4 operation of the housing facility or the services of which are provided to  
5 residents at the lowest feasible cost, taking into consideration such items  
6 as reasonable depreciation and interest on indebtedness and contributions  
7 to which are deductible under the Kansas income tax act; and all intangible  
8 property including moneys, notes and other evidences of debt, and the  
9 income therefrom, belonging exclusively to such corporation and used  
10 exclusively for the purpose of such housing. For purposes of this  
11 paragraph and for all taxable years commencing after December 31, 1976,  
12 an adult care home which uses its property in a manner which is consistent  
13 with the federal internal revenue service ruling 72-124 issued pursuant to  
14 section 501(c)(3) of the federal internal revenue code, shall be deemed to  
15 be operating at the lowest feasible cost. For all taxable years commencing  
16 after December 31, 1995, such property shall be deemed to be used  
17 exclusively for housing for elderly persons purposes when used as a not-  
18 for-profit day care center for children—~~which~~ *that* is licensed pursuant to  
19 K.S.A. 65-501 et seq., and amendments thereto.

20 *Sixth.* All real property and tangible personal property actually and  
21 regularly used exclusively for the purpose of group housing of mentally ill  
22 ~~or retarded and other handicapped persons which~~ *or individuals with*  
23 *intellectual or other disabilities* that is operated by a corporation  
24 organized not for profit under the laws of the state of Kansas or by a  
25 corporation organized not for profit under the laws of another state and  
26 duly admitted to engage in business in this state as a foreign, not-for-profit  
27 corporation, in which charges to residents produce an amount—~~which~~ *that*  
28 in the aggregate is less than the actual cost of operation of the housing  
29 facility or the services of which are provided to residents at the lowest  
30 feasible cost, taking into consideration such items as reasonable  
31 depreciation and interest on indebtedness and contributions to which are  
32 deductible under the Kansas income tax act, and—~~which~~ *that* is licensed as a  
33 facility for the housing of mentally ill ~~or retarded and other handicapped~~  
34 *persons or individuals with intellectual or other disabilities* under the  
35 provisions of K.S.A.—~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and  
36 amendments thereto, or as a rooming or boarding house used as a facility  
37 for the housing of ~~mentally retarded and other handicapped persons which~~  
38 *individuals with intellectual or other disabilities* that is licensed as a  
39 lodging establishment under the provisions of K.S.A. 36-501 et seq., and  
40 amendments thereto.

41 The provisions of this section, except as otherwise specifically  
42 provided, shall apply to all taxable years commencing after December 31,  
43 1998.



1       Sec. 34. K.S.A. 2016 Supp. 79-3606 is hereby amended to read as  
2 follows: 79-3606. The following shall be exempt from the tax imposed by  
3 this act:

4       (a) All sales of motor-vehicle fuel or other articles upon which a sales  
5 or excise tax has been paid, not subject to refund, under the laws of this  
6 state except cigarettes and electronic cigarettes as defined by K.S.A. 79-  
7 3301, and amendments thereto, including consumable material for such  
8 electronic cigarettes, cereal malt beverages and malt products as defined  
9 by K.S.A. 79-3817, and amendments thereto, including wort, liquid malt,  
10 malt syrup and malt extract, ~~which~~ *that* is not subject to taxation under the  
11 provisions of K.S.A. 79-41a02, and amendments thereto, motor vehicles  
12 taxed pursuant to K.S.A. 79-5117, and amendments thereto, tires taxed  
13 pursuant to K.S.A. 65-3424d, and amendments thereto, drycleaning and  
14 laundry services taxed pursuant to K.S.A. 65-34,150, and amendments  
15 thereto, and gross receipts from regulated sports contests taxed pursuant to  
16 the Kansas professional regulated sports act, and amendments thereto;

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

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

40       (d) all sales of tangible personal property or services purchased by a  
41 contractor for the purpose of constructing, equipping, reconstructing,  
42 maintaining, repairing, enlarging, furnishing or remodeling facilities for  
43 any public or private nonprofit hospital or public hospital authority, public

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

1 for the sole purpose of issuing and furnishing project exemption  
2 certificates to contractors pursuant to rules and regulations adopted by the  
3 secretary establishing conditions and standards for the granting and  
4 maintaining of such status. All invoices shall be held by the contractor for  
5 a period of five years and shall be subject to audit by the director of  
6 taxation. If any materials purchased under such a certificate are found not  
7 to have been incorporated in the building or other project or not to have  
8 been returned for credit or the sales or compensating tax otherwise  
9 imposed upon such materials ~~which~~ that will not be so incorporated in the  
10 building or other project reported and paid by such contractor to the  
11 director of taxation not later than the 20<sup>th</sup> day of the month following the  
12 close of the month in which it shall be determined that such materials will  
13 not be used for the purpose for which such certificate was issued, the  
14 political subdivision, district described in subsection (s), hospital or public  
15 hospital authority, school, educational institution or the contractor  
16 contracting with the department of corrections for a correctional institution  
17 concerned shall be liable for tax on all materials purchased for the project,  
18 and upon payment thereof it may recover the same from the contractor  
19 together with reasonable attorney fees. Any contractor or any agent,  
20 employee or subcontractor thereof, who shall use or otherwise dispose of  
21 any materials purchased under such a certificate for any purpose other than  
22 that for which such a certificate is issued without the payment of the sales  
23 or compensating tax otherwise imposed upon such materials, shall be  
24 guilty of a misdemeanor and, upon conviction therefor, shall be subject to  
25 the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

26 (e) all sales of tangible personal property or services purchased by a  
27 contractor for the erection, repair or enlargement of buildings or other  
28 projects for the government of the United States, its agencies or  
29 instrumentalities, ~~which~~ that would be exempt from taxation if purchased  
30 directly by the government of the United States, its agencies or  
31 instrumentalities. When the government of the United States, its agencies  
32 or instrumentalities shall contract for the erection, repair, or enlargement  
33 of any building or other project, it shall obtain from the state and furnish to  
34 the contractor an exemption certificate for the project involved, and the  
35 contractor may purchase materials for incorporation in such project. The  
36 contractor shall furnish the number of such certificates to all suppliers  
37 from whom such purchases are made, and such suppliers shall execute  
38 invoices covering the same bearing the number of such certificate. Upon  
39 completion of the project the contractor shall furnish to the government of  
40 the United States, its agencies or instrumentalities concerned a sworn  
41 statement, on a form to be provided by the director of taxation, that all  
42 purchases so made were entitled to exemption under this subsection. As an  
43 alternative to the foregoing procedure, any such contracting entity may

1 apply to the secretary of revenue for agent status for the sole purpose of  
2 issuing and furnishing project exemption certificates to contractors  
3 pursuant to rules and regulations adopted by the secretary establishing  
4 conditions and standards for the granting and maintaining of such status.  
5 All invoices shall be held by the contractor for a period of five years and  
6 shall be subject to audit by the director of taxation. Any contractor or any  
7 agent, employee or subcontractor thereof, who shall use or otherwise  
8 dispose of any materials purchased under such a certificate for any purpose  
9 other than that for which such a certificate is issued without the payment  
10 of the sales or compensating tax otherwise imposed upon such materials,  
11 shall be guilty of a misdemeanor and, upon conviction therefor, shall be  
12 subject to the penalties provided for in K.S.A. 79-3615(h), and  
13 amendments thereto;

14 (f) tangible personal property purchased by a railroad or public utility  
15 for consumption or movement directly and immediately in interstate  
16 commerce;

17 (g) sales of aircraft including remanufactured and modified aircraft  
18 sold to persons using directly or through an authorized agent such aircraft  
19 as certified or licensed carriers of persons or property in interstate or  
20 foreign commerce under authority of the laws of the United States or any  
21 foreign government or sold to any foreign government or agency or  
22 instrumentality of such foreign government and all sales of aircraft for use  
23 outside of the United States and sales of aircraft repair, modification and  
24 replacement parts and sales of services employed in the remanufacture,  
25 modification and repair of aircraft;

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

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

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

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

41 (l) all isolated or occasional sales of tangible personal property,  
42 services, substances or things, except isolated or occasional sale of motor  
43 vehicles specifically taxed under the provisions of K.S.A. 79-3603(o), and

1 amendments thereto;

2 (m) all sales of tangible personal property—~~which~~ *that* become an  
3 ingredient or component part of tangible personal property or services  
4 produced, manufactured or compounded for ultimate sale at retail within  
5 or without the state of Kansas; and any such producer, manufacturer or  
6 compounder may obtain from the director of taxation and furnish to the  
7 supplier an exemption certificate number for tangible personal property for  
8 use as an ingredient or component part of the property or services  
9 produced, manufactured or compounded;

10 (n) all sales of tangible personal property—~~which~~ *that* is consumed in  
11 the production, manufacture, processing, mining, drilling, refining or  
12 compounding of tangible personal property, the treating of by-products or  
13 wastes derived from any such production process, the providing of  
14 services or the irrigation of crops for ultimate sale at retail within or  
15 without the state of Kansas; and any purchaser of such property may  
16 obtain from the director of taxation and furnish to the supplier an  
17 exemption certificate number for tangible personal property for  
18 consumption in such production, manufacture, processing, mining,  
19 drilling, refining, compounding, treating, irrigation and in providing such  
20 services;

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

27 (p) all sales of drugs dispensed pursuant to a prescription order by a  
28 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-  
29 1626, and amendments thereto. As used in this subsection, "drug" means a  
30 compound, substance or preparation and any component of a compound,  
31 substance or preparation, other than food and food ingredients, dietary  
32 supplements or alcoholic beverages, recognized in the official United  
33 States ~~pharmacopoeia~~ *pharmacopeia*, official homeopathic pharmacopoeia  
34 of the United States or official national formulary, and supplement to any  
35 of them, intended for use in the diagnosis, cure, mitigation, treatment or  
36 prevention of disease or intended to affect the structure or any function of  
37 the body, except that for taxable years commencing after December 31,  
38 2013, this subsection shall not apply to any sales of drugs used in the  
39 performance or induction of an abortion, as defined in K.S.A. 65-6701,  
40 and amendments thereto;

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

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

21 (s) except as provided in K.S.A. 2016 Supp. 82a-2101, and  
22 amendments thereto, all sales of tangible personal property or services  
23 purchased directly or indirectly by a groundwater management district  
24 organized or operating under the authority of K.S.A. 82a-1020 et seq., and  
25 amendments thereto, by a rural water district organized or operating under  
26 the authority of K.S.A. 82a-612, and amendments thereto, or by a water  
27 supply district organized or operating under the authority of K.S.A. 19-  
28 3501 et seq., 19-3522 et seq.; or 19-3545, and amendments thereto, which  
29 property or services are used in the construction activities, operation or  
30 maintenance of the district;

31 (t) all sales of farm machinery and equipment or aquaculture  
32 machinery and equipment, repair and replacement parts therefor and  
33 services performed in the repair and maintenance of such machinery and  
34 equipment. For the purposes of this subsection the term "farm machinery  
35 and equipment or aquaculture machinery and equipment" shall include a  
36 work-site utility vehicle, as defined in K.S.A. 8-126, and amendments  
37 thereto, and is equipped with a bed or cargo box for hauling materials, and  
38 shall also include machinery and equipment used in the operation of  
39 Christmas tree farming but shall not include any passenger vehicle, truck,  
40 truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as  
41 such terms are defined by K.S.A. 8-126, and amendments thereto. "Farm  
42 machinery and equipment" includes precision farming equipment that is  
43 portable or is installed or purchased to be installed on farm machinery and

1 equipment. "Precision farming equipment" includes the following items  
2 used only in computer-assisted farming, ranching or aquaculture  
3 production operations: Soil testing sensors, yield monitors, computers,  
4 monitors, software, global positioning and mapping systems, guiding  
5 systems, modems, data communications equipment and any necessary  
6 mounting hardware, wiring and antennas. Each purchaser of farm  
7 machinery and equipment or aquaculture machinery and equipment  
8 exempted herein must certify in writing on the copy of the invoice or sales  
9 ticket to be retained by the seller that the farm machinery and equipment  
10 or aquaculture machinery and equipment purchased will be used only in  
11 farming, ranching or aquaculture production. Farming or ranching shall  
12 include the operation of a feedlot and farm and ranch work for hire and the  
13 operation of a nursery;

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

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

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

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

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

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

8 (aa) all sales of materials and services applied to equipment ~~which~~  
9 *that* is transported into the state from without the state for repair, service,  
10 alteration, maintenance, remanufacture or modification and ~~which that~~ is  
11 subsequently transported outside the state for use in the transmission of  
12 liquids or natural gas by means of pipeline in interstate or foreign  
13 commerce under authority of the laws of the United States;

14 (bb) all sales of used mobile homes or manufactured homes. As used  
15 in this subsection: (1) "Mobile homes" and "manufactured homes" ~~shall~~  
16 ~~have the meanings ascribed thereto by~~ *mean the same as defined in* K.S.A.  
17 58-4202, and amendments thereto; and (2) "sales of used mobile homes or  
18 manufactured homes" means sales other than the original retail sale  
19 thereof;

20 (cc) all sales of tangible personal property or services purchased prior  
21 to January 1, 2012, except as otherwise provided, for the purpose of and in  
22 conjunction with constructing, reconstructing, enlarging or remodeling a  
23 business or retail business ~~which that~~ meets the requirements established  
24 in K.S.A. 74-50,115, and amendments thereto, and the sale and installation  
25 of machinery and equipment purchased for installation at any such  
26 business or retail business, and all sales of tangible personal property or  
27 services purchased on or after January 1, 2012, for the purpose of and in  
28 conjunction with constructing, reconstructing, enlarging or remodeling a  
29 business ~~which that~~ meets the requirements established in K.S.A. 74-  
30 50,115(e), and amendments thereto, and the sale and installation of  
31 machinery and equipment purchased for installation at any such business.  
32 When a person shall contract for the construction, reconstruction,  
33 enlargement or remodeling of any such business or retail business, such  
34 person shall obtain from the state and furnish to the contractor an  
35 exemption certificate for the project involved, and the contractor may  
36 purchase materials, machinery and equipment for incorporation in such  
37 project. The contractor shall furnish the number of such certificates to all  
38 suppliers from whom such purchases are made, and such suppliers shall  
39 execute invoices covering the same bearing the number of such certificate.  
40 Upon completion of the project the contractor shall furnish to the owner of  
41 the business or retail business a sworn statement, on a form to be provided  
42 by the director of taxation, that all purchases so made were entitled to  
43 exemption under this subsection. All invoices shall be held by the



1 contractor for a period of five years and shall be subject to audit by the  
2 director of taxation. Any contractor or any agent, employee or  
3 subcontractor thereof, who shall use or otherwise dispose of any materials,  
4 machinery or equipment purchased under such a certificate for any  
5 purpose other than that for which such a certificate is issued without the  
6 payment of the sales or compensating tax otherwise imposed thereon, shall  
7 be guilty of a misdemeanor and, upon conviction therefor, shall be subject  
8 to the penalties provided for in K.S.A. 79-3615(h), and amendments  
9 thereto. As used in this subsection, "business" and "retail business" ~~have~~  
10 ~~the meanings respectively ascribed thereto by~~ *mean the same as defined in*  
11 K.S.A. 74-50,114, and amendments thereto. Project exemption certificates  
12 that have been previously issued under this subsection by the department  
13 of revenue pursuant to K.S.A. 74-50,115, and amendments thereto, but not  
14 including K.S.A. 74-50,115(e), and amendments thereto, prior to January  
15 1, 2012, and have not expired will be effective for the term of the project  
16 or two years from the effective date of the certificate, whichever occurs  
17 earlier. Project exemption certificates that are submitted to the department  
18 of revenue prior to January 1, 2012, and are found to qualify will be issued  
19 a project exemption certificate that will be effective for a two-year period  
20 or for the term of the project, whichever occurs earlier;

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

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

25 (ff) on and after July 1, 1988, all sales of new mobile homes or  
26 manufactured homes to the extent of 40% of the gross receipts, determined  
27 without regard to any trade-in allowance, received from such sale. As used  
28 in this subsection, "mobile homes" and "manufactured homes" ~~shall have~~  
29 ~~the meanings ascribed thereto by~~ *mean the same as defined in* K.S.A. 58-  
30 4202, and amendments thereto;

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

34 (hh) all sales of medical supplies and equipment, including durable  
35 medical equipment, purchased directly by a nonprofit skilled nursing home  
36 or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923,  
37 and amendments thereto, for the purpose of providing medical services to  
38 residents thereof. This exemption shall not apply to tangible personal  
39 property customarily used for human habitation purposes. As used in this  
40 subsection, "durable medical equipment" means equipment including  
41 repair and replacement parts for such equipment, ~~which~~ *that* can withstand  
42 repeated use, is primarily and customarily used to serve a medical purpose,  
43 generally is not useful to a person in the absence of illness or injury and is

1 not worn in or on the body, but does not include mobility enhancing  
2 equipment as defined in subsection (r), oxygen delivery equipment, kidney  
3 dialysis equipment or enteral feeding systems;

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

10 (jj) all sales of tangible personal property or services, including the  
11 renting and leasing of tangible personal property, purchased directly on  
12 behalf of a community-based facility for people with intellectual disability  
13 or mental health center organized pursuant to K.S.A. 19-4001 et seq., and  
14 amendments thereto, and licensed in accordance with the provisions of  
15 K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and amendments thereto,  
16 and all sales of tangible personal property or services purchased by  
17 contractors during the time period from July, 2003, through June, 2006, for  
18 the purpose of constructing, equipping, maintaining or furnishing a new  
19 facility for a community-based facility for people with intellectual  
20 disability or mental health center located in Riverton, Cherokee County,  
21 Kansas, ~~which~~ *that* would have been eligible for sales tax exemption  
22 pursuant to this subsection if purchased directly by such facility or center.  
23 This exemption shall not apply to tangible personal property customarily  
24 used for human habitation purposes;

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

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

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

32 (2) For purposes of this subsection:

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

43 (B) "production line" means the assemblage of machinery and

1 equipment at a manufacturing or processing plant or facility where the  
2 actual transformation or processing of tangible personal property occurs;

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

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

1 poultry in the regular course of their retail trade, contractors who alter,  
2 service, repair or improve real property, and retail businesses that clean,  
3 service or refurbish and repair tangible personal property for its owner;

4 (E) "repair and replacement parts and accessories" means all parts  
5 and accessories for exempt machinery and equipment, including, but not  
6 limited to, dies, jigs, molds, patterns and safety devices that are attached to  
7 exempt machinery or that are otherwise used in production, and parts and  
8 accessories that require periodic replacement such as belts, drill bits,  
9 grinding wheels, grinding balls, cutting bars, saws, refractory brick and  
10 other refractory items for exempt kiln equipment used in production  
11 operations;

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

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

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

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

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

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

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

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

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

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

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

1 plant or facility to that manufacturer's production operations;

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

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

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

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

12 (4) The following machinery, equipment and materials shall be  
13 deemed to be exempt even though it may not otherwise qualify as  
14 machinery and equipment used as an integral or essential part of an  
15 integrated production operation: (A) Computers and related peripheral  
16 equipment that are utilized by a manufacturing or processing business for  
17 engineering of the finished product or for research and development or  
18 product design; (B) machinery and equipment that is utilized by a  
19 manufacturing or processing business to manufacture or rebuild tangible  
20 personal property that is used in manufacturing or processing operations,  
21 including tools, dies, molds, forms and other parts of qualifying machinery  
22 and equipment; (C) portable plants for aggregate concrete, bulk cement  
23 and asphalt including cement mixing drums to be attached to a motor  
24 vehicle; (D) industrial fixtures, devices, support facilities and special  
25 foundations necessary for manufacturing and production operations, and  
26 materials and other tangible personal property sold for the purpose of  
27 fabricating such fixtures, devices, facilities and foundations. An exemption  
28 certificate for such purchases shall be signed by the manufacturer or  
29 processor. If the fabricator purchases such material, the fabricator shall  
30 also sign the exemption certificate; (E) a manufacturing or processing  
31 business' laboratory equipment that is not located at the plant or facility,  
32 but that would otherwise qualify for exemption under subsection (3)(E);  
33 (F) all machinery and equipment used in surface mining activities as  
34 described in K.S.A. 49-601 et seq., and amendments thereto, beginning  
35 from the time a reclamation plan is filed to the acceptance of the  
36 completed final site reclamation.

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

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

1 (B) machinery, equipment and tools used primarily in maintaining  
2 and repairing any type of machinery and equipment or the building and  
3 plant;

4 (C) transportation, transmission and distribution equipment not  
5 primarily used in a production, warehousing or material handling  
6 operation at the plant or facility, including the means of conveyance of  
7 natural gas, electricity, oil or water, and equipment related thereto, located  
8 outside the plant or facility;

9 (D) office machines and equipment including computers and related  
10 peripheral equipment not used directly and primarily to control or measure  
11 the manufacturing process;

12 (E) furniture and other furnishings;

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

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

19 (H) machinery and equipment used for general plant heating, cooling  
20 and lighting;

21 (I) motor vehicles that are registered for operation on public  
22 highways; or

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

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

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

36 (ll) all sales of educational materials purchased for distribution to the  
37 public at no charge by a nonprofit corporation organized for the purpose of  
38 encouraging, fostering and conducting programs for the improvement of  
39 public health, except that for taxable years commencing after December  
40 31, 2013, this subsection shall not apply to any sales of such materials  
41 purchased by a nonprofit corporation which performs any abortion, as  
42 defined in K.S.A. 65-6701, and amendments thereto;

43 (mm) all sales of seeds and tree seedlings; fertilizers, insecticides,

1 herbicides, germicides, pesticides and fungicides; and services, purchased  
2 and used for the purpose of producing plants in order to prevent soil  
3 erosion on land devoted to agricultural use;

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

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

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

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

19 (rr) all sales of tangible personal property ~~which~~ that will admit the  
20 purchaser thereof to any annual event sponsored by a nonprofit  
21 organization ~~which~~ that is exempt from federal income taxation pursuant  
22 to section 501(c)(3) of the federal internal revenue code of 1986, except  
23 that for taxable years commencing after December 31, 2013, this  
24 subsection shall not apply to any sales of such tangible personal property  
25 purchased by a nonprofit organization which performs any abortion, as  
26 defined in K.S.A. 65-6701, and amendments thereto;

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

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

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

38 (vv) all sales of tangible personal property purchased by any of the  
39 following organizations ~~which~~ that are exempt from federal income  
40 taxation pursuant to section 501(c)(3) of the federal internal revenue code  
41 of 1986, for the following purposes, and all sales of any such property by  
42 or on behalf of any such organization for any such purpose:

43 (1) The American heart association, Kansas affiliate, inc. for the

1 purposes of providing education, training, certification in emergency  
2 cardiac care, research and other related services to reduce disability and  
3 death from cardiovascular diseases and stroke;

4 (2) the Kansas alliance for the mentally ill, inc. for the purpose of  
5 advocacy for persons with mental illness and to education, research and  
6 support for their families;

7 (3) the Kansas mental illness awareness council for the purposes of  
8 advocacy for persons who are mentally ill and for education, research and  
9 support for them and their families;

10 (4) the American diabetes association Kansas affiliate, inc. for the  
11 purpose of eliminating diabetes through medical research, public education  
12 focusing on disease prevention and education, patient education including  
13 information on coping with diabetes, and professional education and  
14 training;

15 (5) the American lung association of Kansas, inc. for the purpose of  
16 eliminating all lung diseases through medical research, public education  
17 including information on coping with lung diseases, professional education  
18 and training related to lung disease and other related services to reduce the  
19 incidence of disability and death due to lung disease;

20 (6) the Kansas chapters of the Alzheimer's disease and related  
21 disorders association, inc. for the purpose of providing assistance and  
22 support to persons in Kansas with Alzheimer's disease, and their families  
23 and caregivers;

24 (7) the Kansas chapters of the Parkinson's disease association for the  
25 purpose of eliminating Parkinson's disease through medical research and  
26 public and professional education related to such disease;

27 (8) the national kidney foundation of Kansas and western Missouri  
28 for the purpose of eliminating kidney disease through medical research  
29 and public and private education related to such disease;

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

33 (10) the cystic fibrosis foundation, heart of America chapter, for the  
34 purposes of assuring the development of the means to cure and control  
35 cystic fibrosis and improving the quality of life for those with the disease;

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

41 (12) the CHWC, Inc., for the purpose of rebuilding urban core  
42 neighborhoods through the construction of new homes, acquiring and  
43 renovating existing homes and other related activities, and promoting



1 economic development in such neighborhoods;

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

4 (14) the dreams work, inc., for the purpose of providing young adult  
5 day services to individuals with developmental disabilities and assisting  
6 families in avoiding institutional or nursing home care for a  
7 developmentally disabled member of their family;

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

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

17 (17) the dream factory, inc., for the purpose of granting the dreams of  
18 children with critical and chronic illnesses;

19 (18) the Ottawa Suzuki strings, inc., for the purpose of providing  
20 students and families with education and resources necessary to enable  
21 each child to develop fine character and musical ability to the fullest  
22 potential;

23 (19) the international association of lions clubs for the purpose of  
24 creating and fostering a spirit of understanding among all people for  
25 humanitarian needs by providing voluntary services through community  
26 involvement and international cooperation;

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

31 (21) the American cancer society, inc., for the purpose of eliminating  
32 cancer as a major health problem by preventing cancer, saving lives and  
33 diminishing suffering from cancer, through research, education, advocacy  
34 and service;

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

37 (23) the angel babies association, for the purpose of providing  
38 assistance, support and items of necessity to teenage mothers and their  
39 babies; and

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

42 (ww) all sales of tangible personal property purchased by the habitat  
43 for humanity for the exclusive use of being incorporated within a housing

1 project constructed by such organization;

2 (xx) all sales of tangible personal property and services purchased by  
3 a nonprofit zoo—~~which~~ *that* is exempt from federal income taxation  
4 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,  
5 or on behalf of such zoo by an entity itself exempt from federal income  
6 taxation pursuant to section 501(c)(3) of the federal internal revenue code  
7 of 1986 contracted with to operate such zoo and all sales of tangible  
8 personal property or services purchased by a contractor for the purpose of  
9 constructing, equipping, reconstructing, maintaining, repairing, enlarging,  
10 furnishing or remodeling facilities for any nonprofit zoo—~~which~~ *that* would  
11 be exempt from taxation under the provisions of this section if purchased  
12 directly by such nonprofit zoo or the entity operating such zoo. Nothing in  
13 this subsection shall be deemed to exempt the purchase of any construction  
14 machinery, equipment or tools used in the constructing, equipping,  
15 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling  
16 facilities for any nonprofit zoo. When any nonprofit zoo shall contract for  
17 the purpose of constructing, equipping, reconstructing, maintaining,  
18 repairing, enlarging, furnishing or remodeling facilities, it shall obtain  
19 from the state and furnish to the contractor an exemption certificate for the  
20 project involved, and the contractor may purchase materials for  
21 incorporation in such project. The contractor shall furnish the number of  
22 such certificate to all suppliers from whom such purchases are made, and  
23 such suppliers shall execute invoices covering the same bearing the  
24 number of such certificate. Upon completion of the project the contractor  
25 shall furnish to the nonprofit zoo concerned a sworn statement, on a form  
26 to be provided by the director of taxation, that all purchases so made were  
27 entitled to exemption under this subsection. All invoices shall be held by  
28 the contractor for a period of five years and shall be subject to audit by the  
29 director of taxation. If any materials purchased under such a certificate are  
30 found not to have been incorporated in the building or other project or not  
31 to have been returned for credit or the sales or compensating tax otherwise  
32 imposed upon such materials—~~which~~ *that* will not be so incorporated in the  
33 building or other project reported and paid by such contractor to the  
34 director of taxation not later than the 20<sup>th</sup> day of the month following the  
35 close of the month in which it shall be determined that such materials will  
36 not be used for the purpose for which such certificate was issued, the  
37 nonprofit zoo concerned shall be liable for tax on all materials purchased  
38 for the project, and upon payment thereof it may recover the same from  
39 the contractor together with reasonable attorney fees. Any contractor or  
40 any agent, employee or subcontractor thereof, who shall use or otherwise  
41 dispose of any materials purchased under such a certificate for any purpose  
42 other than that for which such a certificate is issued without the payment  
43 of the sales or compensating tax otherwise imposed upon such materials,

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

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

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

17 (aaa) all sales of tangible personal property and services purchased by  
18 a religious organization ~~which~~ *that* is exempt from federal income taxation  
19 pursuant to section 501(c)(3) of the federal internal revenue code, and used  
20 exclusively for religious purposes, and all sales of tangible personal  
21 property or services purchased by a contractor for the purpose of  
22 constructing, equipping, reconstructing, maintaining, repairing, enlarging,  
23 furnishing or remodeling facilities for any such organization ~~which~~ *that*  
24 would be exempt from taxation under the provisions of this section if  
25 purchased directly by such organization. Nothing in this subsection shall  
26 be deemed to exempt the purchase of any construction machinery,  
27 equipment or tools used in the constructing, equipping, reconstructing,  
28 maintaining, repairing, enlarging, furnishing or remodeling facilities for  
29 any such organization. When any such organization shall contract for the  
30 purpose of constructing, equipping, reconstructing, maintaining, repairing,  
31 enlarging, furnishing or remodeling facilities, it shall obtain from the state  
32 and furnish to the contractor an exemption certificate for the project  
33 involved, and the contractor may purchase materials for incorporation in  
34 such project. The contractor shall furnish the number of such certificate to  
35 all suppliers from whom such purchases are made, and such suppliers shall  
36 execute invoices covering the same bearing the number of such certificate.  
37 Upon completion of the project the contractor shall furnish to such  
38 organization concerned a sworn statement, on a form to be provided by the  
39 director of taxation, that all purchases so made were entitled to exemption  
40 under this subsection. All invoices shall be held by the contractor for a  
41 period of five years and shall be subject to audit by the director of taxation.  
42 If any materials purchased under such a certificate are found not to have  
43 been incorporated in the building or other project or not to have been

1 returned for credit or the sales or compensating tax otherwise imposed  
2 upon such materials—~~which~~ *that* will not be so incorporated in the building  
3 or other project reported and paid by such contractor to the director of  
4 taxation not later than the 20<sup>th</sup> day of the month following the close of the  
5 month in which it shall be determined that such materials will not be used  
6 for the purpose for which such certificate was issued, such organization  
7 concerned shall be liable for tax on all materials purchased for the project,  
8 and upon payment thereof it may recover the same from the contractor  
9 together with reasonable attorney fees. Any contractor or any agent,  
10 employee or subcontractor thereof, who shall use or otherwise dispose of  
11 any materials purchased under such a certificate for any purpose other than  
12 that for which such a certificate is issued without the payment of the sales  
13 or compensating tax otherwise imposed upon such materials, shall be  
14 guilty of a misdemeanor and, upon conviction therefor, shall be subject to  
15 the penalties provided for in K.S.A. 79-3615(h), and amendments thereto.  
16 Sales tax paid on and after July 1, 1998, but prior to the effective date of  
17 this act upon the gross receipts received from any sale exempted by the  
18 amendatory provisions of this subsection shall be refunded. Each claim for  
19 a sales tax refund shall be verified and submitted to the director of taxation  
20 upon forms furnished by the director and shall be accompanied by any  
21 additional documentation required by the director. The director shall  
22 review each claim and shall refund that amount of sales tax paid as  
23 determined under the provisions of this subsection. All refunds shall be  
24 paid from the sales tax refund fund upon warrants of the director of  
25 accounts and reports pursuant to vouchers approved by the director or the  
26 director's designee;

27 (bbb) all sales of food for human consumption by an organization  
28 ~~which~~ *that* is exempt from federal income taxation pursuant to section  
29 501(c)(3) of the federal internal revenue code of 1986, pursuant to a food  
30 distribution program—~~which~~ *that* offers such food at a price below cost in  
31 exchange for the performance of community service by the purchaser  
32 thereof;

33 (ccc) on and after July 1, 1999, all sales of tangible personal property  
34 and services purchased by a primary care clinic or health center the  
35 primary purpose of which is to provide services to medically underserved  
36 individuals and families, and—~~which~~ *that* is exempt from federal income  
37 taxation pursuant to section 501(c)(3) of the federal internal revenue code,  
38 and all sales of tangible personal property or services purchased by a  
39 contractor for the purpose of constructing, equipping, reconstructing,  
40 maintaining, repairing, enlarging, furnishing or remodeling facilities for  
41 any such clinic or center—~~which~~ *that* would be exempt from taxation under  
42 the provisions of this section if purchased directly by such clinic or center,  
43 except that for taxable years commencing after December 31, 2013, this

1 subsection shall not apply to any sales of such tangible personal property  
2 and services purchased by a primary care clinic or health center which  
3 performs any abortion, as defined in K.S.A. 65-6701, and amendments  
4 thereto. Nothing in this subsection shall be deemed to exempt the purchase  
5 of any construction machinery, equipment or tools used in the  
6 constructing, equipping, reconstructing, maintaining, repairing, enlarging,  
7 furnishing or remodeling facilities for any such clinic or center. When any  
8 such clinic or center shall contract for the purpose of constructing,  
9 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or  
10 remodeling facilities, it shall obtain from the state and furnish to the  
11 contractor an exemption certificate for the project involved, and the  
12 contractor may purchase materials for incorporation in such project. The  
13 contractor shall furnish the number of such certificate to all suppliers from  
14 whom such purchases are made, and such suppliers shall execute invoices  
15 covering the same bearing the number of such certificate. Upon  
16 completion of the project the contractor shall furnish to such clinic or  
17 center concerned a sworn statement, on a form to be provided by the  
18 director of taxation, that all purchases so made were entitled to exemption  
19 under this subsection. All invoices shall be held by the contractor for a  
20 period of five years and shall be subject to audit by the director of taxation.  
21 If any materials purchased under such a certificate are found not to have  
22 been incorporated in the building or other project or not to have been  
23 returned for credit or the sales or compensating tax otherwise imposed  
24 upon such materials ~~which~~ that will not be so incorporated in the building  
25 or other project reported and paid by such contractor to the director of  
26 taxation not later than the 20<sup>th</sup> day of the month following the close of the  
27 month in which it shall be determined that such materials will not be used  
28 for the purpose for which such certificate was issued, such clinic or center  
29 concerned shall be liable for tax on all materials purchased for the project,  
30 and upon payment thereof it may recover the same from the contractor  
31 together with reasonable attorney fees. Any contractor or any agent,  
32 employee or subcontractor thereof, who shall use or otherwise dispose of  
33 any materials purchased under such a certificate for any purpose other than  
34 that for which such a certificate is issued without the payment of the sales  
35 or compensating tax otherwise imposed upon such materials, shall be  
36 guilty of a misdemeanor and, upon conviction therefor, shall be subject to  
37 the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

38 (ddd) on and after January 1, 1999, and before January 1, 2000, all  
39 sales of materials and services purchased by any class II or III railroad as  
40 classified by the federal surface transportation board for the construction,  
41 renovation, repair or replacement of class II or III railroad track and  
42 facilities used directly in interstate commerce. In the event any such track  
43 or facility for which materials and services were purchased sales tax

1 exempt is not operational for five years succeeding the allowance of such  
2 exemption, the total amount of sales tax—~~which that~~ would have been  
3 payable except for the operation of this subsection shall be recouped in  
4 accordance with rules and regulations adopted for such purpose by the  
5 secretary of revenue;

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

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

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

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

34 (iii) all sales of personal property and services purchased by an  
35 organization—~~which that~~ is exempt from federal income taxation pursuant  
36 to section 501(c)(3) of the federal internal revenue code of 1986, and  
37 ~~which~~ such personal property and services are used by any such  
38 organization in the collection, storage and distribution of food products to  
39 nonprofit organizations—~~which that~~ distribute such food products to persons  
40 pursuant to a food distribution program on a charitable basis without fee or  
41 charge, and all sales of tangible personal property or services purchased by  
42 a contractor for the purpose of constructing, equipping, reconstructing,  
43 maintaining, repairing, enlarging, furnishing or remodeling facilities used

1 for the collection and storage of such food products for any such  
2 organization which is exempt from federal income taxation pursuant to  
3 section 501(c)(3) of the federal internal revenue code of 1986, ~~which that~~  
4 would be exempt from taxation under the provisions of this section if  
5 purchased directly by such organization. Nothing in this subsection shall  
6 be deemed to exempt the purchase of any construction machinery,  
7 equipment or tools used in the constructing, equipping, reconstructing,  
8 maintaining, repairing, enlarging, furnishing or remodeling facilities for  
9 any such organization. When any such organization shall contract for the  
10 purpose of constructing, equipping, reconstructing, maintaining, repairing,  
11 enlarging, furnishing or remodeling facilities, it shall obtain from the state  
12 and furnish to the contractor an exemption certificate for the project  
13 involved, and the contractor may purchase materials for incorporation in  
14 such project. The contractor shall furnish the number of such certificate to  
15 all suppliers from whom such purchases are made, and such suppliers shall  
16 execute invoices covering the same bearing the number of such certificate.  
17 Upon completion of the project the contractor shall furnish to such  
18 organization concerned a sworn statement, on a form to be provided by the  
19 director of taxation, that all purchases so made were entitled to exemption  
20 under this subsection. All invoices shall be held by the contractor for a  
21 period of five years and shall be subject to audit by the director of taxation.  
22 If any materials purchased under such a certificate are found not to have  
23 been incorporated in such facilities or not to have been returned for credit  
24 or the sales or compensating tax otherwise imposed upon such materials  
25 ~~which that~~ will not be so incorporated in such facilities reported and paid  
26 by such contractor to the director of taxation not later than the 20<sup>th</sup> day of  
27 the month following the close of the month in which it shall be determined  
28 that such materials will not be used for the purpose for which such  
29 certificate was issued, such organization concerned shall be liable for tax  
30 on all materials purchased for the project, and upon payment thereof it  
31 may recover the same from the contractor together with reasonable  
32 attorney fees. Any contractor or any agent, employee or subcontractor  
33 thereof, who shall use or otherwise dispose of any materials purchased  
34 under such a certificate for any purpose other than that for which such a  
35 certificate is issued without the payment of the sales or compensating tax  
36 otherwise imposed upon such materials, shall be guilty of a misdemeanor  
37 and, upon conviction therefor, shall be subject to the penalties provided for  
38 in K.S.A. 79-3615(h), and amendments thereto. Sales tax paid on and after  
39 July 1, 2005, but prior to the effective date of this act upon the gross  
40 receipts received from any sale exempted by the amendatory provisions of  
41 this subsection shall be refunded. Each claim for a sales tax refund shall be  
42 verified and submitted to the director of taxation upon forms furnished by  
43 the director and shall be accompanied by any additional documentation

1 required by the director. The director shall review each claim and shall  
2 refund that amount of sales tax paid as determined under the provisions of  
3 this subsection. All refunds shall be paid from the sales tax refund fund  
4 upon warrants of the director of accounts and reports pursuant to vouchers  
5 approved by the director or the director's designee;

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

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

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

36 (nnn) all sales of tangible personal property and services purchased  
37 by the west Sedgwick county-sunrise rotary club and sunrise charitable  
38 fund for the purpose of constructing a boundless playground which is an  
39 integrated, barrier free and developmentally advantageous play  
40 environment for children of all abilities and disabilities;

41 (ooo) all sales of tangible personal property by or on behalf of a  
42 public library serving the general public and supported in whole or in part  
43 with tax money or a not-for-profit organization whose purpose is to raise



1 funds for or provide services or other benefits to any such public library;

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

9 (qqq) all sales of tangible personal property and services purchased  
10 by TLC for children and families, inc., hereinafter referred to as TLC,  
11 which is exempt from federal income taxation pursuant to section 501(c)  
12 (3) of the federal internal revenue code of 1986, and ~~which~~ such property  
13 and services are used for the purpose of providing emergency shelter and  
14 treatment for abused and neglected children as well as meeting additional  
15 critical needs for children, juveniles and family, and all sales of any such  
16 property by or on behalf of TLC for any such purpose; and all sales of  
17 tangible personal property or services purchased by a contractor for the  
18 purpose of constructing, maintaining, repairing, enlarging, furnishing or  
19 remodeling facilities for the operation of services for TLC for any such  
20 purpose ~~which~~ that would be exempt from taxation under the provisions of  
21 this section if purchased directly by TLC. Nothing in this subsection shall  
22 be deemed to exempt the purchase of any construction machinery,  
23 equipment or tools used in the constructing, maintaining, repairing,  
24 enlarging, furnishing or remodeling such facilities for TLC. When TLC  
25 contracts for the purpose of constructing, maintaining, repairing, enlarging,  
26 furnishing or remodeling such facilities, it shall obtain from the state and  
27 furnish to the contractor an exemption certificate for the project involved,  
28 and the contractor may purchase materials for incorporation in such  
29 project. The contractor shall furnish the number of such certificate to all  
30 suppliers from whom such purchases are made, and such suppliers shall  
31 execute invoices covering the same bearing the number of such certificate.  
32 Upon completion of the project the contractor shall furnish to TLC a sworn  
33 statement, on a form to be provided by the director of taxation, that all  
34 purchases so made were entitled to exemption under this subsection. All  
35 invoices shall be held by the contractor for a period of five years and shall  
36 be subject to audit by the director of taxation. If any materials purchased  
37 under such a certificate are found not to have been incorporated in the  
38 building or other project or not to have been returned for credit or the sales  
39 or compensating tax otherwise imposed upon such materials ~~which~~ that  
40 will not be so incorporated in the building or other project reported and  
41 paid by such contractor to the director of taxation not later than the 20<sup>th</sup>  
42 day of the month following the close of the month in which it shall be  
43 determined that such materials will not be used for the purpose for which

1 such certificate was issued, TLC shall be liable for tax on all materials  
2 purchased for the project, and upon payment thereof it may recover the  
3 same from the contractor together with reasonable attorney fees. Any  
4 contractor or any agent, employee or subcontractor thereof, who shall use  
5 or otherwise dispose of any materials purchased under such a certificate  
6 for any purpose other than that for which such a certificate is issued  
7 without the payment of the sales or compensating tax otherwise imposed  
8 upon such materials, shall be guilty of a misdemeanor and, upon  
9 conviction therefor, shall be subject to the penalties provided for in K.S.A.  
10 79-3615(h), and amendments thereto;

11 (rrr) all sales of tangible personal property and services purchased by  
12 any county law library maintained pursuant to law and sales of tangible  
13 personal property and services purchased by an organization ~~which~~ *that*  
14 would have been exempt from taxation under the provisions of this  
15 subsection if purchased directly by the county law library for the purpose  
16 of providing legal resources to attorneys, judges, students and the general  
17 public, and all sales of any such property by or on behalf of any such  
18 county law library;

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

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

23 (ttt) all sales of tangible personal property or services purchased by a  
24 contractor for a project for the purpose of restoring, constructing,  
25 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or  
26 remodeling a home or facility owned by a nonprofit museum—~~which~~ *that*  
27 has been granted an exemption pursuant to subsection (qq), which such  
28 home or facility is located in a city—~~which~~ *that* has been designated as a  
29 qualified hometown pursuant to the provisions of K.S.A. 75-5071 et seq.,  
30 and amendments thereto, and which such project is related to the purposes  
31 of K.S.A. 75-5071 et seq., and amendments thereto, and—~~which~~ *that* would  
32 be exempt from taxation under the provisions of this section if purchased  
33 directly by such nonprofit museum. Nothing in this subsection shall be  
34 deemed to exempt the purchase of any construction machinery, equipment  
35 or tools used in the restoring, constructing, equipping, reconstructing,  
36 maintaining, repairing, enlarging, furnishing or remodeling a home or  
37 facility for any such nonprofit museum. When any such nonprofit museum  
38 shall contract for the purpose of restoring, constructing, equipping,  
39 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling  
40 a home or facility, it shall obtain from the state and furnish to the  
41 contractor an exemption certificate for the project involved, and the  
42 contractor may purchase materials for incorporation in such project. The  
43 contractor shall furnish the number of such certificates to all suppliers

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

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

1 and the contractor may purchase materials for incorporation in such  
2 project. The contractor shall furnish the number of such certificate to all  
3 suppliers from whom such purchases are made, and such suppliers shall  
4 execute invoices covering the same bearing the number of such certificate.  
5 Upon completion of the project the contractor shall furnish to KCSL a  
6 sworn statement, on a form to be provided by the director of taxation, that  
7 all purchases so made were entitled to exemption under this subsection.  
8 All invoices shall be held by the contractor for a period of five years and  
9 shall be subject to audit by the director of taxation. If any materials  
10 purchased under such a certificate are found not to have been incorporated  
11 in the building or other project or not to have been returned for credit or  
12 the sales or compensating tax otherwise imposed upon such materials  
13 ~~which that~~ will not be so incorporated in the building or other project  
14 reported and paid by such contractor to the director of taxation not later  
15 than the 20<sup>th</sup> day of the month following the close of the month in which it  
16 shall be determined that such materials will not be used for the purpose for  
17 which such certificate was issued, KCSL shall be liable for tax on all  
18 materials purchased for the project, and upon payment thereof it may  
19 recover the same from the contractor together with reasonable attorney  
20 fees. Any contractor or any agent, employee or subcontractor thereof, who  
21 shall use or otherwise dispose of any materials purchased under such a  
22 certificate for any purpose other than that for which such a certificate is  
23 issued without the payment of the sales or compensating tax otherwise  
24 imposed upon such materials, shall be guilty of a misdemeanor and, upon  
25 conviction therefor, shall be subject to the penalties provided for in K.S.A.  
26 79-3615(h), and amendments thereto;

27 (vvv) all sales of tangible personal property or services, including the  
28 renting and leasing of tangible personal property or services, purchased by  
29 jazz in the woods, inc., a Kansas corporation—~~which that~~ is exempt from  
30 federal income taxation pursuant to section 501(c)(3) of the federal  
31 internal revenue code, for the purpose of providing jazz in the woods, an  
32 event benefiting children-in-need and other nonprofit charities assisting  
33 such children, and all sales of any such property by or on behalf of such  
34 organization for such purpose;

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

41 (xxx) all sales of personal property and services purchased by the  
42 booth theatre foundation, inc., an organization, which is exempt from  
43 federal income taxation pursuant to section 501(c)(3) of the federal

1 internal revenue code of 1986, and which such personal property and  
2 services are used by any such organization in the constructing, equipping,  
3 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling  
4 of the booth theatre, and all sales of tangible personal property or services  
5 purchased by a contractor for the purpose of constructing, equipping,  
6 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling  
7 the booth theatre for such organization, ~~which~~ *that* would be exempt from  
8 taxation under the provisions of this section if purchased directly by such  
9 organization. Nothing in this subsection shall be deemed to exempt the  
10 purchase of any construction machinery, equipment or tools used in the  
11 constructing, equipping, reconstructing, maintaining, repairing, enlarging,  
12 furnishing or remodeling facilities for any such organization. When any  
13 such organization shall contract for the purpose of constructing, equipping,  
14 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling  
15 facilities, it shall obtain from the state and furnish to the contractor an  
16 exemption certificate for the project involved, and the contractor may  
17 purchase materials for incorporation in such project. The contractor shall  
18 furnish the number of such certificate to all suppliers from whom such  
19 purchases are made, and such suppliers shall execute invoices covering the  
20 same bearing the number of such certificate. Upon completion of the  
21 project the contractor shall furnish to such organization concerned a sworn  
22 statement, on a form to be provided by the director of taxation, that all  
23 purchases so made were entitled to exemption under this subsection. All  
24 invoices shall be held by the contractor for a period of five years and shall  
25 be subject to audit by the director of taxation. If any materials purchased  
26 under such a certificate are found not to have been incorporated in such  
27 facilities or not to have been returned for credit or the sales or  
28 compensating tax otherwise imposed upon such materials ~~which~~ *that* will  
29 not be so incorporated in such facilities reported and paid by such  
30 contractor to the director of taxation not later than the 20<sup>th</sup> day of the  
31 month following the close of the month in which it shall be determined  
32 that such materials will not be used for the purpose for which such  
33 certificate was issued, such organization concerned shall be liable for tax  
34 on all materials purchased for the project, and upon payment thereof it  
35 may recover the same from the contractor together with reasonable  
36 attorney fees. Any contractor or any agent, employee or subcontractor  
37 thereof, who shall use or otherwise dispose of any materials purchased  
38 under such a certificate for any purpose other than that for which such a  
39 certificate is issued without the payment of the sales or compensating tax  
40 otherwise imposed upon such materials, shall be guilty of a misdemeanor  
41 and, upon conviction therefor, shall be subject to the penalties provided for  
42 in K.S.A. 79-3615(h), and amendments thereto. Sales tax paid on and after  
43 January 1, 2007, but prior to the effective date of this act upon the gross

1 receipts received from any sale which would have been exempted by the  
2 provisions of this subsection had such sale occurred after the effective date  
3 of this act shall be refunded. Each claim for a sales tax refund shall be  
4 verified and submitted to the director of taxation upon forms furnished by  
5 the director and shall be accompanied by any additional documentation  
6 required by the director. The director shall review each claim and shall  
7 refund that amount of sales tax paid as determined under the provisions of  
8 this subsection. All refunds shall be paid from the sales tax refund fund  
9 upon warrants of the director of accounts and reports pursuant to vouchers  
10 approved by the director or the director's designee;

11 (yyy) all sales of tangible personal property and services purchased  
12 by TLC charities foundation, inc., hereinafter referred to as TLC charities,  
13 which is exempt from federal income taxation pursuant to section 501(c)  
14 (3) of the federal internal revenue code of 1986, and which such property  
15 and services are used for the purpose of encouraging private philanthropy  
16 to further the vision, values, and goals of TLC for children and families,  
17 inc.; and all sales of such property and services by or on behalf of TLC  
18 charities for any such purpose and all sales of tangible personal property or  
19 services purchased by a contractor for the purpose of constructing,  
20 maintaining, repairing, enlarging, furnishing or remodeling facilities for  
21 the operation of services for TLC charities for any such purpose ~~which~~  
22 *that* would be exempt from taxation under the provisions of this section if  
23 purchased directly by TLC charities. Nothing in this subsection shall be  
24 deemed to exempt the purchase of any construction machinery, equipment  
25 or tools used in the constructing, maintaining, repairing, enlarging,  
26 furnishing or remodeling such facilities for TLC charities. When TLC  
27 charities contracts for the purpose of constructing, maintaining, repairing,  
28 enlarging, furnishing or remodeling such facilities, it shall obtain from the  
29 state and furnish to the contractor an exemption certificate for the project  
30 involved, and the contractor may purchase materials for incorporation in  
31 such project. The contractor shall furnish the number of such certificate to  
32 all suppliers from whom such purchases are made, and such suppliers shall  
33 execute invoices covering the same bearing the number of such certificate.  
34 Upon completion of the project the contractor shall furnish to TLC  
35 charities a sworn statement, on a form to be provided by the director of  
36 taxation, that all purchases so made were entitled to exemption under this  
37 subsection. All invoices shall be held by the contractor for a period of five  
38 years and shall be subject to audit by the director of taxation. If any  
39 materials purchased under such a certificate are found not to have been  
40 incorporated in the building or other project or not to have been returned  
41 for credit or the sales or compensating tax otherwise imposed upon such  
42 materials ~~which~~ *that* will not be incorporated into the building or other  
43 project reported and paid by such contractor to the director of taxation not

1 later than the 20<sup>th</sup> day of the month following the close of the month in  
2 which it shall be determined that such materials will not be used for the  
3 purpose for which such certificate was issued, TLC charities shall be liable  
4 for tax on all materials purchased for the project, and upon payment  
5 thereof it may recover the same from the contractor together with  
6 reasonable attorney fees. Any contractor or any agent, employee or  
7 subcontractor thereof, who shall use or otherwise dispose of any materials  
8 purchased under such a certificate for any purpose other than that for  
9 which such a certificate is issued without the payment of the sales or  
10 compensating tax otherwise imposed upon such materials, shall be guilty  
11 of a misdemeanor and, upon conviction therefor, shall be subject to the  
12 penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

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

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

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

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

38 (dddd) all sales of tangible personal property or services purchased  
39 by or on behalf of goodwill industries or Easter seals of Kansas, inc., both  
40 of which are exempt from federal income taxation pursuant to section  
41 501(c)(3) of the federal internal revenue code, for the purpose of providing  
42 education, training and employment opportunities for people with  
43 disabilities and other barriers to employment;



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

8 (ffff) all sales of tangible personal property and services purchased by  
9 sheltered living, inc., which is exempt from federal income taxation  
10 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,  
11 and which such property and services are used for the purpose of  
12 providing residential and day services for people with developmental  
13 disabilities or intellectual disability, or both, and all sales of any such  
14 property by or on behalf of sheltered living, inc., for any such purpose; and  
15 all sales of tangible personal property or services purchased by a  
16 contractor for the purpose of rehabilitating, constructing, maintaining,  
17 repairing, enlarging, furnishing or remodeling homes and facilities for  
18 sheltered living, inc., for any such purpose—~~which~~ *that* would be exempt  
19 from taxation under the provisions of this section if purchased directly by  
20 sheltered living, inc. Nothing in this subsection shall be deemed to exempt  
21 the purchase of any construction machinery, equipment or tools used in the  
22 constructing, maintaining, repairing, enlarging, furnishing or remodeling  
23 such homes and facilities for sheltered living, inc. When sheltered living,  
24 inc., contracts for the purpose of rehabilitating, constructing, maintaining,  
25 repairing, enlarging, furnishing or remodeling such homes and facilities, it  
26 shall obtain from the state and furnish to the contractor an exemption  
27 certificate for the project involved, and the contractor may purchase  
28 materials for incorporation in such project. The contractor shall furnish the  
29 number of such certificate to all suppliers from whom such purchases are  
30 made, and such suppliers shall execute invoices covering the same bearing  
31 the number of such certificate. Upon completion of the project the  
32 contractor shall furnish to sheltered living, inc., a sworn statement, on a  
33 form to be provided by the director of taxation, that all purchases so made  
34 were entitled to exemption under this subsection. All invoices shall be held  
35 by the contractor for a period of five years and shall be subject to audit by  
36 the director of taxation. If any materials purchased under such a certificate  
37 are found not to have been incorporated in the building or other project or  
38 not to have been returned for credit or the sales or compensating tax  
39 otherwise imposed upon such materials—~~which~~ *that* will not be so  
40 incorporated in the building or other project reported and paid by such  
41 contractor to the director of taxation not later than the 20<sup>th</sup> day of the  
42 month following the close of the month in which it shall be determined  
43 that such materials will not be used for the purpose for which such

1 certificate was issued, sheltered living, inc., shall be liable for tax on all  
2 materials purchased for the project, and upon payment thereof it may  
3 recover the same from the contractor together with reasonable attorney  
4 fees. Any contractor or any agent, employee or subcontractor thereof, who  
5 shall use or otherwise dispose of any materials purchased under such a  
6 certificate for any purpose other than that for which such a certificate is  
7 issued without the payment of the sales or compensating tax otherwise  
8 imposed upon such materials, shall be guilty of a misdemeanor and, upon  
9 conviction therefor, shall be subject to the penalties provided for in K.S.A.  
10 79-3615(h), and amendments thereto;

11 (gggg) all sales of game birds for which the primary purpose is use in  
12 hunting;

13 (hhhh) all sales of tangible personal property or services purchased  
14 on or after July 1, 2014, for the purpose of and in conjunction with  
15 constructing, reconstructing, enlarging or remodeling a business identified  
16 under the North American industry classification system (NAICS)  
17 subsectors 1123, 1124, 112112, 112120 or 112210, and the sale and  
18 installation of machinery and equipment purchased for installation at any  
19 such business. The exemption provided in this subsection shall not apply  
20 to projects that have actual total costs less than \$50,000. When a person  
21 contracts for the construction, reconstruction, enlargement or remodeling  
22 of any such business, such person shall obtain from the state and furnish to  
23 the contractor an exemption certificate for the project involved, and the  
24 contractor may purchase materials, machinery and equipment for  
25 incorporation in such project. The contractor shall furnish the number of  
26 such certificates to all suppliers from whom such purchases are made, and  
27 such suppliers shall execute invoices covering the same bearing the  
28 number of such certificate. Upon completion of the project, the contractor  
29 shall furnish to the owner of the business a sworn statement, on a form to  
30 be provided by the director of taxation, that all purchases so made were  
31 entitled to exemption under this subsection. All invoices shall be held by  
32 the contractor for a period of five years and shall be subject to audit by the  
33 director of taxation. Any contractor or any agent, employee or  
34 subcontractor of the contractor, who shall use or otherwise dispose of any  
35 materials, machinery or equipment purchased under such a certificate for  
36 any purpose other than that for which such a certificate is issued without  
37 the payment of the sales or compensating tax otherwise imposed thereon,  
38 shall be guilty of a misdemeanor and, upon conviction therefor, shall be  
39 subject to the penalties provided for in K.S.A. 79-3615(h), and  
40 amendments thereto;

41 (iiii) all sales of tangible personal property or services purchased by a  
42 contractor for the purpose of constructing, maintaining, repairing,  
43 enlarging, furnishing or remodeling facilities for the operation of services

1 for Wichita children's home for any such purpose—~~which that~~ would be  
2 exempt from taxation under the provisions of this section if purchased  
3 directly by Wichita children's home. Nothing in this subsection shall be  
4 deemed to exempt the purchase of any construction machinery, equipment  
5 or tools used in the constructing, maintaining, repairing, enlarging,  
6 furnishing or remodeling such facilities for Wichita children's home. When  
7 Wichita children's home contracts for the purpose of constructing,  
8 maintaining, repairing, enlarging, furnishing or remodeling such facilities,  
9 it shall obtain from the state and furnish to the contractor an exemption  
10 certificate for the project involved, and the contractor may purchase  
11 materials for incorporation in such project. The contractor shall furnish the  
12 number of such certificate to all suppliers from whom such purchases are  
13 made, and such suppliers shall execute invoices covering the same bearing  
14 the number of such certificate. Upon completion of the project, the  
15 contractor shall furnish to Wichita children's home a sworn statement, on a  
16 form to be provided by the director of taxation, that all purchases so made  
17 were entitled to exemption under this subsection. All invoices shall be held  
18 by the contractor for a period of five years and shall be subject to audit by  
19 the director of taxation. If any materials purchased under such a certificate  
20 are found not to have been incorporated in the building or other project or  
21 not to have been returned for credit or the sales or compensating tax  
22 otherwise imposed upon such materials—~~which that~~ will not be so  
23 incorporated in the building or other project reported and paid by such  
24 contractor to the director of taxation not later than the 20<sup>th</sup> day of the  
25 month following the close of the month in which it shall be determined  
26 that such materials will not be used for the purpose for which such  
27 certificate was issued, Wichita children's home shall be liable for the tax  
28 on all materials purchased for the project, and upon payment, it may  
29 recover the same from the contractor together with reasonable attorney  
30 fees. Any contractor or any agent, employee or subcontractor, who shall  
31 use or otherwise dispose of any materials purchased under such a  
32 certificate for any purpose other than that for which such a certificate is  
33 issued without the payment of the sales or compensating tax otherwise  
34 imposed upon such materials, shall be guilty of a misdemeanor and, upon  
35 conviction, shall be subject to the penalties provided for in K.S.A. 79-  
36 3615(h), and amendments thereto;

37 (jjjj) all sales of tangible personal property or services purchased by  
38 or on behalf of the beacon, inc., ~~which that~~ is exempt from federal income  
39 taxation pursuant to section 501(c)(3) of the federal internal revenue code,  
40 for the purpose of providing those desiring help with food, shelter, clothing  
41 and other necessities of life during times of special need;

42 (kkkk) all sales of tangible personal property and services purchased  
43 by or on behalf of reaching out from within, inc., which is exempt from

1 federal income taxation pursuant to section 501(c)(3) of the federal  
2 internal revenue code, for the purpose of sponsoring self-help programs for  
3 incarcerated persons that will enable such incarcerated persons to become  
4 role models for non-violence while in correctional facilities and productive  
5 family members and citizens upon return to the community; and

6 (III) all sales of tangible personal property and services purchased by  
7 Gove county healthcare endowment foundation, inc., which is exempt  
8 from federal income taxation pursuant to section 501(c)(3) of the federal  
9 internal revenue code of 1986, and which such property and services are  
10 used for the purpose of constructing and equipping an airport in Quinter,  
11 Kansas, and all sales of tangible personal property or services purchased  
12 by a contractor for the purpose of constructing and equipping an airport in  
13 Quinter, Kansas, for such organization, ~~which~~ *that* would be exempt from  
14 taxation under the provisions of this section if purchased directly by such  
15 organization. Nothing in this subsection shall be deemed to exempt the  
16 purchase of any construction machinery, equipment or tools used in the  
17 constructing or equipping of facilities for such organization. When such  
18 organization shall contract for the purpose of constructing or equipping an  
19 airport in Quinter, Kansas, it shall obtain from the state and furnish to the  
20 contractor an exemption certificate for the project involved, and the  
21 contractor may purchase materials for incorporation in such project. The  
22 contractor shall furnish the number of such certificate to all suppliers from  
23 whom such purchases are made, and such suppliers shall execute invoices  
24 covering the same bearing the number of such certificate. Upon  
25 completion of the project, the contractor shall furnish to such organization  
26 concerned a sworn statement, on a form to be provided by the director of  
27 taxation, that all purchases so made were entitled to exemption under this  
28 subsection. All invoices shall be held by the contractor for a period of five  
29 years and shall be subject to audit by the director of taxation. If any  
30 materials purchased under such a certificate are found not to have been  
31 incorporated in such facilities or not to have been returned for credit or the  
32 sales or compensating tax otherwise imposed upon such materials ~~which~~  
33 *that* will not be so incorporated in such facilities reported and paid by such  
34 contractor to the director of taxation no later than the 20<sup>th</sup> day of the month  
35 following the close of the month in which it shall be determined that such  
36 materials will not be used for the purpose for which such certificate was  
37 issued, such organization concerned shall be liable for tax on all materials  
38 purchased for the project, and upon payment thereof it may recover the  
39 same from the contractor together with reasonable attorney fees. Any  
40 contractor or any agent, employee or subcontractor thereof, who purchased  
41 under such a certificate for any purpose other than that for which such a  
42 certificate is issued without the payment of the sales or compensating tax  
43 otherwise imposed upon such materials, shall be guilty of a misdemeanor

1 and, upon conviction therefor, shall be subject to the penalties provided for  
2 in K.S.A. 79-3615(h), and amendments thereto. The provisions of this  
3 subsection shall expire and have no effect on and after July 1, 2019.

4 Sec. 35. K.S.A. 19-4016, 40-2,116, 40-12a01 and 74-3292 and  
5 K.S.A. 2016 Supp. 12-736, 21-5417, 21-6109, 22-4612, 36-501, 39-1430,  
6 39-1431, 39-1433, 39-1602, 39-1903, 40-2,105, 40-2,105a, 40-3401, 40-  
7 3403, 59-2946, 59-29b46, 59-3077, 65-1626, 65-1669, 65-2895, 65-4412,  
8 65-4432, 65-4915, 65-4921, 65-5601, 65-6805, 75-5923, 75-6102, 79-  
9 201b and 79-3606 are hereby repealed.

10 Sec. 36. This act shall take effect and be in force from and after its  
11 publication in the statute book.