

*As Amended by Senate Committee*

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*Session of 2022*

**SENATE BILL No. 343**

By Committee on Public Health and Welfare

1-13

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1 AN ACT concerning persons with hearing loss; relating to statutory  
2 terminology; updating the term "hearing impairment" to "hard of  
3 hearing" and other related terms concerning persons with hearing loss;  
4 amending K.S.A. 19-2698, 36-517, 39-1107, 65-3276, 65-6511, 72-  
5 3253, 72-3404, 75-3740, 75-5391, 75-5397c, 75-5399 and 76-1001b  
6 and K.S.A. 2021 Supp. 50-676 and repealing the existing sections.  
7

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

9 Section 1. K.S.A. 19-2698 is hereby amended to read as follows: 19-  
10 2698. (a) The board of county commissioners of any county may levy a tax  
11 not to exceed  $\frac{1}{2}$  mill on all taxable tangible property within the county for  
12 the purpose of assisting in the provision of services for persons with  
13 physically handicapping conditions, but such tax shall not be used for the  
14 purposes for which a tax is authorized under K.S.A. 12-1680, 19-4004, 19-  
15 4011, 65-212 and 65-215, and amendments thereto. The board shall adopt  
16 a resolution stating its intent to levy the tax and the purpose therefor. The  
17 resolution shall be published once each week for two consecutive weeks in  
18 a newspaper of general circulation in the county. If a petition signed by at  
19 least 5% of the qualified voters of the county is filed with the county  
20 election officer, the board shall submit the proposition for approval by a  
21 majority of the qualified voters of the county voting at an election thereon.  
22 The election shall be called and held in the manner provided by the general  
23 bond law.

24 (b) If a petition signed by not less than 5% of the registered voters of  
25 any county is filed with the county election officer requesting an election  
26 on the question of whether a tax levy not to exceed  $\frac{1}{2}$  mill on all taxable  
27 tangible property within the county shall be made for the purpose of  
28 assisting in the provision of services for persons with physically  
29 handicapping conditions, the board of county commissioners shall submit  
30 the proposition for approval by a majority of the qualified voters of the  
31 county voting at an election thereon. The election shall be called and held  
32 in the manner provided by the general bond law. If such proposition is  
33 approved, the board of county commissioners shall levy such tax for such  
34 purpose. No such tax shall be used for the purposes for which a tax is  
35 authorized under K.S.A. 12-1680, 19-4004, 19-4011, 65-212 and 65-215,  
36 and amendments thereto.

1 (c) As used in this section, "physically handicapping condition"  
2 means the physical condition of a person, whether congenital or acquired  
3 by accident, injury or disease ~~which~~ *that* constitutes a substantial disability,  
4 including but not limited to blindness and hearing ~~impairments~~ *loss*.

5 Sec. 2. K.S.A. 36-517 is hereby amended to read as follows: 36-517.  
6 Every licensed lodging establishment designated as a hotel shall provide at  
7 no additional charge to deaf ~~and hearing-impaired~~ *or hard of hearing*  
8 guests, upon request of such guests, portable smoke detectors of the type  
9 suitable for providing visual warning to such guests, or a room equipped  
10 with fixed visual warning smoke detectors or a ground floor guest room  
11 accessible to the out-of-doors. Each licensed lodging establishment  
12 designated as a hotel shall have available for such guests not less than one  
13 portable visual warning smoke detector, or one room equipped with a fixed  
14 visual warning smoke detector or one ground floor guest room accessible  
15 to the out-of-doors for each 50 guest rooms of such lodging establishment,  
16 except that no such lodging establishment designated as a hotel shall be  
17 required to have more than a total of six portable visual warning smoke  
18 detectors, or six rooms equipped with fixed visual warning smoke  
19 detectors or six ground floor guest rooms accessible to the out-of-doors  
20 nor shall any such lodging establishment have less than one such smoke  
21 detector, or one room equipped with a fixed visual warning smoke detector  
22 or one ground floor guest room accessible to the out-of-doors.

23 Sec. 3. K.S.A. 39-1107 is hereby amended to read as follows: 39-  
24 1107. Every ~~hearing-impaired~~ person *who is deaf or hard of hearing* has  
25 the right to be accompanied by a hearing assistance dog, specially selected,  
26 trained and tested for the purpose of hearing assistance, in or upon any of  
27 the places listed in K.S.A. 39-1101, and amendments thereto, in the  
28 acquisition and use of rental, residential housing and in the purchase and  
29 use of residential housing without being required to pay an extra charge for  
30 the hearing assistance dog. The ~~hearing-impaired~~ person *who is deaf or*  
31 *hard of hearing* shall be liable for any damage done to the premises or  
32 facilities by such dog.

33 Sec. 4. K.S.A. 2021 Supp. 50-676 is hereby amended to read as  
34 follows: 50-676. As used in K.S.A. 50-676 through 50-679, and  
35 amendments thereto:

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

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

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

42 (d) "Major life activities" includes functions such as caring for one's  
43 self, performing manual tasks, walking, seeing, hearing, speaking,

1 breathing, learning and working.

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

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

6 (1) Any physiological disorder or condition, cosmetic disfigurement  
7 or anatomical loss substantially affecting one or more of the following  
8 body systems:

9 (A) Neurological;

10 (B) musculoskeletal;

11 (C) special sense organs;

12 (D) respiratory, including speech organs;

13 (E) cardiovascular;

14 (F) reproductive;

15 (G) digestive;

16 (H) genitourinary;

17 (I) hemic and lymphatic;

18 (J) skin; or

19 (K) endocrine; or

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

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

28 (g) "Protected consumer" means:

29 (1) An elder person;

30 (2) a disabled person;

31 (3) a veteran;

32 (4) the surviving spouse of a veteran;

33 (5) a member of the military; and

34 (6) an immediate family member of a member of the military.

35 (h) "Substantially limits" means:

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

38 (2) significantly restricted as to the condition, manner or duration  
39 under which an individual can perform a particular major life activity as  
40 compared to the condition, manner or duration under which the average  
41 person in the general population can perform that same major life activity.  
42 Minor temporary ailments or injuries shall not be considered physical or  
43 mental impairments ~~which~~ *that* substantially limit a person's major life

1 activities. Minor temporary ailments include, but are not limited to, colds,  
2 influenza or sprains or minor injuries.

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

6 Sec. 5. K.S.A. 65-3276 is hereby amended to read as follows: 65-  
7 3276. (a) The following findings and purpose shall apply to this section:

8 (1) A mental or physical disability does not diminish an individual's  
9 right to ~~health care~~ *healthcare*;

10 (2) the federal Americans with disabilities act prohibits discrimination  
11 against individuals with disabilities, yet many individuals with disabilities  
12 still experience discrimination in accessing critical ~~health care~~ *healthcare*  
13 services;

14 (3) in other states nationwide, individuals with mental and physical  
15 disabilities have historically been denied life-saving organ transplants  
16 based on assumptions that their lives are less worthy, that they are  
17 incapable of complying with post-transplantation medical requirements or  
18 that they lack adequate support systems to ensure compliance with post-  
19 transplantation medical requirements;

20 (4) although organ transplant centers must consider medical and  
21 psychosocial criteria when determining if a patient is suitable to receive an  
22 organ transplant, transplant centers that participate in medicare, the state  
23 program for medical assistance and other federally funded programs are  
24 required to use patient selection criteria that result in a fair and  
25 nondiscriminatory distribution of organs; and

26 (5) state residents in need of organ transplants are entitled to  
27 assurances that they will not encounter discrimination on the basis of a  
28 disability.

29 (b) A covered entity may not solely on the basis of an individual's  
30 disability:

31 (1) Consider a qualified individual ineligible to receive an anatomical  
32 gift or organ transplant;

33 (2) deny medical and other services related to organ transplantation,  
34 including evaluation, surgery, counseling, and post-transplantation  
35 treatment and services;

36 (3) refuse to refer the individual to a transplant center or a related  
37 specialist for the purpose of evaluation or receipt of an organ transplant;

38 (4) refuse to place a qualified individual on an organ transplant  
39 waiting list; or

40 (5) place a qualified individual at a lower-priority position on an  
41 organ transplant waiting list than the position at which the qualified  
42 individual would have been placed if not for the disability.

43 (c) (1) Subject to paragraph (2) ~~of this subsection~~, a covered entity

1 may take an individual's disability into account when making treatment or  
2 coverage recommendations or decisions, solely to the extent that the  
3 disability has been found by a physician, following an individualized  
4 evaluation of the individual, to be medically significant to the provision of  
5 the anatomical gift.

6 (2) If an individual has the necessary support system to assist the  
7 individual in complying with post-transplantation medical requirements, a  
8 covered entity may not consider the individual's inability to independently  
9 comply with the post-transplantation medical requirements to be medically  
10 significant for the purposes of paragraph (1) ~~of this subsection~~.

11 (d) A covered entity shall make reasonable modifications in policies,  
12 practices or procedures, when the modifications are necessary to allow an  
13 individual with a disability access to services, including transplantation-  
14 related counseling, information, coverage or treatment, unless the covered  
15 entity can demonstrate that making the modifications would fundamentally  
16 alter the nature of the services.

17 (e) A covered entity shall take such steps as may be necessary to  
18 ensure that an individual with a disability is not denied services, including  
19 transplantation-related counseling, information, coverage or treatment, due  
20 to the absence of auxiliary aids and services, unless the covered entity can  
21 demonstrate that taking the steps would fundamentally alter the nature of  
22 the services being offered or would result in an undue burden.

23 (f) Nothing in this section shall be construed to require a covered  
24 entity to make a referral or recommendation for or perform a medically  
25 inappropriate organ transplant.

26 (g) (1) If a covered entity violates this section, the affected individual  
27 may bring an action in the appropriate district court for injunctive or other  
28 equitable relief.

29 (2) In an action brought under paragraph (1) ~~of this subsection~~, the  
30 district court shall:

31 (A) Schedule a hearing as soon as possible; and

32 (B) apply the same standards in rendering a judgment in the action as  
33 would be applied in an action brought in federal court under the federal  
34 Americans with disabilities act.

35 (h) As used in this section:

36 (1) "Anatomical gift" means the donation of all or part of a human  
37 body to take effect after the donor's death for the purpose of  
38 transplantation or transfusion.

39 (2) "Auxiliary aids and services" includes:

40 (A) Qualified interpreters or other effective methods of making  
41 aurally delivered materials available to individuals ~~with hearing~~  
42 ~~impairments~~ *who are deaf or hard of hearing*;

43 (B) qualified readers, taped texts, texts in accessible electronic format

1 or other effective methods of making visually delivered materials available  
2 to individuals with visual impairments; and

3 (C) supported decision-making services, including:

4 (i) The use of a support individual to assist in making medical  
5 decisions, communicating information to the individual or ascertaining an  
6 individual's wishes;

7 (ii) the provision of information to a person designated by the  
8 individual consistent with the federal health insurance portability and  
9 accountability act and other applicable laws and regulations governing the  
10 disclosure of health information;

11 (iii) if an individual has a court-appointed guardian or other  
12 individual responsible for making medical decisions on behalf of the  
13 individual, any measures used to ensure that the individual is included in  
14 decisions involving the individual's ~~health care~~ *healthcare* and that  
15 medical decisions are in accordance with the individual's own expressed  
16 interests; and

17 (iv) any other aid or service that is used to provide information in a  
18 format that is easily understandable and accessible to individuals with  
19 cognitive, neurological, developmental or intellectual disabilities.

20 (3) "Covered entity" means:

21 (A) A licensed ~~health care~~ *healthcare* provider, as defined in K.S.A.  
22 40-3401, and amendments thereto;

23 (B) a medical care facility as defined in K.S.A. 65-425, and  
24 amendments thereto;

25 (C) a laboratory;

26 (D) a state psychiatric hospital, as defined in K.S.A. 59-2946, and  
27 amendments thereto;

28 (E) an adult care home, as defined in K.S.A. 65-3501, and  
29 amendments thereto;

30 (F) a group home as defined in K.S.A. 12-736, and amendments  
31 thereto;

32 (G) an institutional medical unit in a correctional facility; or

33 ~~(H)~~(H) any entity responsible for potential recipients of the  
34 anatomical gift.

35 (4) "Disability" has the meaning stated in the federal Americans with  
36 disabilities act.

37 (5) "Organ transplant" means the transplantation or transfusion of a  
38 part of a human body into the body of another individual for the purpose  
39 of treating or curing a medical condition.

40 (6) "Qualified individual" means an individual who:

41 (A) Has a disability; and

42 (B) meets the essential eligibility requirements for the receipt of an  
43 anatomical gift, with or without:

1 (i) The support networks available to the individual;  
2 (ii) the provision of auxiliary aids and services; or  
3 (iii) reasonable modifications to the policies or practices of a covered  
4 entity, including modifications to allow:

5 (a) Communication with individuals responsible for supporting the  
6 individual with post-surgical and post-transplantation care, including  
7 medication; and

8 (b) the consideration of support networks available to the individual,  
9 including family, friends, and home and community based services funded  
10 through the state program of medical assistance, or another health plan in  
11 which the individual is enrolled, or any program or source of funding  
12 available to the individual, in determining whether the individual is able to  
13 comply with post-transplantation medical requirements.

14 Sec. 6. K.S.A. 65-6511 is hereby amended to read as follows: 65-  
15 6511. The provisions of this act shall not apply to:

16 (a) Personnel employed by the United States government;

17 (b) ~~health care~~*healthcare* providers as defined by K.S.A. 65-4921,  
18 and amendments thereto, or exempt licensees under the Kansas healing  
19 arts act who are providing services within the lawful scope of their  
20 authority so long as they do not hold themselves out to the public by a title  
21 set forth in K.S.A. 65-6504, and amendments thereto;

22 (c) persons duly credentialed by this state as a teacher of the deaf or  
23 ~~hearing impaired~~ *hard of hearing* who are providing services within the  
24 lawful scope of their authority so long as they do not hold themselves out  
25 to the public by a title set forth in K.S.A. 65-6504, and amendments  
26 thereto;

27 (d) the activities and services of persons pursuing a course of study  
28 leading to a degree in speech-language pathology or audiology at a college  
29 or university provided that:

30 (1) These activities and services constitute a part of the organized  
31 course of study at that institution;

32 (2) such persons are designated by a title such as intern, trainee,  
33 student, or by other such title clearly indicating the status appropriate to  
34 their level of education; and

35 (3) such persons work under the supervision of a person licensed by  
36 this state to practice speech-language pathology or audiology.

37 (e) an employee or other person under the supervision of a person  
38 licensed to practice medicine and surgery in this state so long as such  
39 persons do not hold themselves out to the public by a title set forth in  
40 K.S.A. 65-6504, and amendments thereto; or

41 (f) persons licensed or holding a certificate of endorsement to engage  
42 in the practice of dispensing and fitting hearing aids under the hearing aid  
43 act when practicing under and in accordance with the hearing aid act so

1 long as such persons do not hold themselves out to the public by a title set  
2 forth in K.S.A. 65-6504, and amendments thereto.

3 Sec. 7. K.S.A. 72-3253 is hereby amended to read as follows: 72-  
4 3253. The state board of education may provide for the teaching of  
5 American sign language in accredited schools and all pupils thereof,  
6 whether hearing ~~or hearing-impaired~~, *deaf or hard of hearing*, may be  
7 given instruction in American sign language.

8 Sec. 8. K.S.A. 72-3404 is hereby amended to read as follows: 72-  
9 3404. As used in this act:

- 10 (a) "School district" means any public school district.  
11 (b) "Board" means the board of education of any school district.  
12 (c) "State board" means the state board of education.  
13 (d) "Department" means the state department of education.  
14 (e) "State institution" means any institution under the jurisdiction of a  
15 state agency.  
16 (f) "State agency" means the Kansas department for children and  
17 families, the Kansas department for aging and disability services, the  
18 department of corrections and the juvenile justice authority.  
19 (g) "Exceptional children" means persons who are children with  
20 disabilities or gifted children and are school age, to be determined in  
21 accordance with rules and regulations adopted by the state board, ~~which~~  
22 *whose* age may differ from the ages of children required to attend school  
23 under the provisions of K.S.A. 72-3120, and amendments thereto.  
24 (h) "Gifted children" means exceptional children who are determined  
25 to be within the gifted category of exceptionality as such category is  
26 defined by the state board.  
27 (i) "Special education" means specially designed instruction provided  
28 at no cost to parents to meet the unique needs of an exceptional child,  
29 including:  
30 (1) Instruction conducted in the classroom, in the home, in hospitals  
31 and institutions, and in other settings; and  
32 (2) instruction in physical education.  
33 (j) "Special teacher" means a person, employed by or under contract  
34 with a school district or a state institution to provide special education or  
35 related services, who is *qualified to*:  
36 (1) ~~Qualified to~~ Provide special education or related services to  
37 exceptional children as determined pursuant to standards established by  
38 the state board; or  
39 (2) ~~qualified to~~ assist in the provision of special education or related  
40 services to exceptional children as determined pursuant to standards  
41 established by the state board.  
42 (k) "State plan" means the state plan for special education and related  
43 services authorized by this act.



- 1 (l) "Agency" means boards and the state agencies.
- 2 (m) "Parent" means:
- 3 (1) A natural parent;
- 4 (2) an adoptive parent;
- 5 (3) a person acting as parent;
- 6 (4) a legal guardian;
- 7 (5) an education advocate; or
- 8 (6) a foster parent, if the foster parent has been appointed the
- 9 education advocate of an exceptional child.
- 10 (n) "Person acting as parent" means a person such as a grandparent,
- 11 stepparent or other relative with whom a child lives or a person other than
- 12 a parent who is legally responsible for the welfare of a child.
- 13 (o) "Education advocate" means a person appointed by the state board
- 14 in accordance with the provisions of K.S.A. 38-2218, and amendments
- 15 thereto. A person appointed as an education advocate for a child shall not
- 16 be:
- 17 (1) An employee of the agency—~~which~~ *who* is required by law to
- 18 provide special education or related services for the child;
- 19 (2) an employee of the state board, the department, or any agency
- 20 ~~which~~ *that* is directly involved in providing educational services for the
- 21 child; or
- 22 (3) any person having a professional or personal interest—~~which~~ *that*
- 23 would conflict with the interests of the child.
- 24 (p) "Free appropriate public education" means special education and
- 25 related services that:
- 26 (1) Are provided at public expense, under public supervision and
- 27 direction, and without charge;
- 28 (2) meet the standards of the state board;
- 29 (3) include an appropriate preschool, elementary; or secondary school
- 30 education; and
- 31 (4) are provided in conformity with an individualized education
- 32 program.
- 33 (q) "Federal law" means the individuals with disabilities education
- 34 act, as amended.
- 35 (r) "Individualized education program" or "IEP" means a written
- 36 statement for each exceptional child that is developed, reviewed, and
- 37 revised in accordance with the provisions of K.S.A. 72-3429, and
- 38 amendments thereto.
- 39 (s) (1) "Related services" means transportation, and such
- 40 developmental, corrective, and other supportive services, including
- 41 speech-language pathology and audiology services, interpreting services,
- 42 psychological services, physical and occupational therapy, recreation,
- 43 including therapeutic recreation, social work services, school nurse

1 services designed to enable a child with a disability to receive a free  
2 appropriate public education as described in the child's IEP, counseling  
3 services, including rehabilitation counseling, orientation and mobility  
4 services, and medical services, except that such medical services shall be  
5 for diagnostic and evaluation purposes only, as may be required to assist  
6 an exceptional child to benefit from special education, and includes the  
7 early identification and assessment of disabling conditions in children.

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

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

14 (u) "Individualized education program team" or "IEP team" means a  
15 group of individuals composed of:

16 (1) The parents of a child;

17 (2) at least one regular education teacher of the child; if the child is,  
18 or may be, participating in the regular education environment;

19 (3) at least one special education teacher or, where appropriate, at  
20 least one special education provider of the child;

21 (4) a representative of the agency directly involved in providing  
22 educational services for the child who *is*:

23 (A) ~~is~~ Qualified to provide; or supervise the provision of; specially  
24 designed instruction to meet the unique needs of exceptional children;

25 (B) ~~is~~ knowledgeable about the general curriculum; and

26 (C) ~~is~~ knowledgeable about the availability of resources of the  
27 agency;

28 (5) an individual who can interpret the instructional implications of  
29 evaluation results;

30 (6) at the discretion of the parent or the agency, other individuals who  
31 have knowledge or special expertise regarding the child, including related  
32 services personnel as appropriate; and

33 (7) whenever appropriate, the child.

34 (v) "Evaluation" means a multisourced and multidisciplinary  
35 examination, conducted in accordance with the provisions of K.S.A. 72-  
36 3428, and amendments thereto, to determine whether a child is an  
37 exceptional child.

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

42 (x) "Elementary school" means any nonprofit institutional day or  
43 residential school that offers instruction in any or all of the grades

1 kindergarten through nine.

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

5 (z) "Children with disabilities" means *children who*:

6 (1) ~~Children with~~ *Have an* intellectual disability, hearing  
7 ~~impairments loss~~ including deafness, speech or language ~~impairments~~  
8 *disorders*, visual impairments including blindness, emotional disturbance,  
9 orthopedic impairments, autism, traumatic brain injury, other health  
10 impairments, or specific learning disabilities and who, by reason thereof,  
11 need special education and related services; and

12 (2) ~~children~~ *are* experiencing one or more developmental delays and,  
13 by reason thereof, need special education and related services if such  
14 children are ages three through nine.

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

19 (bb) "Material change in services" means an increase or decrease of  
20 25% or more of the duration or frequency of a special education service, a  
21 related service or a supplementary aid or a service specified on the IEP of  
22 an exceptional child.

23 (cc) "Developmental delay" means such a deviation from average  
24 development in one or more of the following developmental areas, as  
25 determined by appropriate diagnostic instruments and procedures, as  
26 indicates that special education and related services are required:

- 27 (1) Physical;  
28 (2) cognitive;  
29 (3) adaptive behavior;  
30 (4) communication; or  
31 (5) social or emotional development.

32 (dd) "Homeless children" means "homeless children and youths" as  
33 defined in the federal McKinney-Vento homeless assistance act, 42 U.S.C.  
34 § 11434a.

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

38 Sec. 9. K.S.A. 75-3740 is hereby amended to read as follows: 75-  
39 3740. (a) Except as provided by K.S.A. 75-3740b, and amendments  
40 thereto, and subsections (b) and (k), all contracts and purchases made by  
41 or under the supervision of the director of purchases or any state agency  
42 for which competitive bids are required shall be awarded to the lowest  
43 responsible bidder, taking into consideration conformity with the

1 specifications, terms of delivery, and other conditions imposed in the call  
2 for bids.

3 (b) A contract shall be awarded to a certified business or disabled  
4 veteran business which is also a responsible bidder, whose total bid cost is  
5 not more than 10% higher than the lowest competitive bid. Such contract  
6 shall contain a promise by the certified business that the percentage of  
7 employees that are individuals with disabilities will be maintained  
8 throughout the contract term and a condition that the certified business  
9 shall not subcontract for goods or services in an aggregate amount of more  
10 than 25% of the total bid cost.

11 (c) The director of purchases shall have power to decide as to the  
12 lowest responsible bidder for all purchases, but if:

13 (1) (A) A responsible bidder purchases from a qualified vendor goods  
14 or services on the list certified by the director of purchases pursuant to  
15 K.S.A. 75-3317 et seq., and amendments thereto, the dollar amount of  
16 such purchases made during the previous fiscal year shall be deducted  
17 from the original bid received from such bidder for the purpose of  
18 determining the lowest responsible bid, except that such deduction shall  
19 not exceed 10% of the original bid received from such bidder; or

20 (B) a responsible bidder purchases from a certified business the dollar  
21 amount of such purchases made during the previous fiscal year shall be  
22 deducted from the original bid received from such bidder for the purpose  
23 of determining the lowest responsible bid, except that such deduction shall  
24 not exceed 10% of the original bid received from such bidder;

25 (2) the dollar amount of the bid received from the lowest responsible  
26 bidder from within the state is identical to the dollar amount of the bid  
27 received from the lowest responsible bidder from without the state, the  
28 contract shall be awarded to the bidder from within the state; and

29 (3) in the case of bids for paper products specified in K.S.A. 75-  
30 3740b, and amendments thereto, the dollar amounts of the bids received  
31 from two or more lowest responsible bidders are identical, the contract  
32 shall be awarded to the bidder whose bid is for those paper products  
33 containing the highest percentage of recycled materials.

34 (d) (1) Any or all bids may be rejected, and a bid shall be rejected if it  
35 contains any material alteration or erasure made after the bid is opened.  
36 The director of purchases may reject the bid of any bidder who is in  
37 arrears on taxes due the state, who is not properly registered to collect and  
38 remit taxes due the state or who has failed to perform satisfactorily on a  
39 previous contract with the state. The secretary of revenue is hereby  
40 authorized to exchange such information with the director of purchases as  
41 is necessary to effectuate the preceding sentence notwithstanding any other  
42 provision of law prohibiting disclosure of the contents of taxpayer records  
43 or information. Prior to determining the lowest responsible bidder on

1 contracts for construction of buildings or for major repairs or  
2 improvements to buildings for state agencies, the director of purchases  
3 shall consider *the*:

4 ~~(1) The~~ (A) Criteria and information developed by the secretary of  
5 administration, with the advice of the state building advisory commission  
6 to rate contractors on the basis of their performance under similar contracts  
7 with the state, local governmental entities and private entities, in addition  
8 to other criteria and information available; and

9 ~~(2) the~~ (B) recommendations of the project architect, or, if there is no  
10 project architect, the recommendations of the secretary of administration  
11 or the agency architect for the project as provided in K.S.A. 75-1254, and  
12 amendments thereto.

13 (2) In any case where competitive bids are required and where all  
14 bids are rejected, new bids shall be called for as in the first instance, unless  
15 otherwise expressly provided by law or the state agency elects not to  
16 proceed with the procurement.

17 (e) Before the awarding of any contract for construction of a building  
18 or the making of repairs or improvements upon any building for a state  
19 agency, the director of purchases shall receive written approval from the  
20 state agency for which the building construction project has been  
21 approved, that the bids generally conform with the plans and specifications  
22 prepared by the project architect, by the secretary of administration or by  
23 the agency architect for the project, as the case may be, so as to avoid error  
24 and mistake on the part of the contractors. In all cases where material  
25 described in a contract can be obtained from any state institution, the  
26 director of purchases shall exclude the same from the contract.

27 (f) All bids with the names of the bidders and the amounts thereof,  
28 together with all documents pertaining to the award of a contract, shall be  
29 made a part of a file or record and retained by the director of purchases for  
30 five years, unless reproduced as provided in K.S.A. 75-3737, and  
31 amendments thereto, and shall be open to public inspection at all  
32 reasonable times.

33 (g) As used in this section:

34 (1) "Certified business" means any business certified as provided by  
35 subsection (l) by the department of administration that is a sole  
36 proprietorship, partnership, association or corporation domiciled in  
37 Kansas, or any corporation, even if a wholly owned subsidiary of a foreign  
38 corporation, that:

39 (A) Does business primarily in Kansas or substantially all of its  
40 production in Kansas;

41 (B) employs at least 10% of its employees who are individuals with  
42 disabilities and reside in Kansas;

43 (C) offers to contribute at least 75% of the premium cost for

1 individual health insurance coverage for each employee. The department  
2 of administration shall require a certification of these facts as a condition  
3 to the certified business being awarded a contract pursuant to subsection  
4 (b); and

5 (D) does not employ individuals under a certificate issued by the  
6 United States secretary of labor under 29 U.S.C. § 214(c);

7 (2) "individuals with disabilities" or "individual with a disability"  
8 means any individual who:

9 (A) Is certified by the Kansas department for aging and disability  
10 services or by the Kansas department for children and families which  
11 administers the rehabilitation services program as having a physical or  
12 mental impairment—~~which~~ *that* constitutes a substantial barrier to  
13 employment;

14 (B) works a minimum number of hours per week for a certified  
15 business necessary to qualify for health insurance coverage offered  
16 pursuant to subsection (g)(1); and

17 (C) (i) is receiving services, has received services or is eligible to  
18 receive services under a home and community based services program, as  
19 defined by K.S.A. 39-7,100, and amendments thereto;

20 (ii) is employed by a charitable organization domiciled in the state of  
21 Kansas and exempt from federal income taxation pursuant to section  
22 501(c)(3) of the federal internal revenue code of 1986, as amended; or

23 (iii) is an individual with a disability pursuant to the disability  
24 standards established by the social security administration as determined  
25 by the Kansas disability determination services under the Kansas  
26 department for children and families;

27 (3) "physical or mental impairment" means:

28 (A) Any physiological disorder or condition, cosmetic disfigurement  
29 or anatomical loss substantially affecting one or more of the following  
30 body systems:

31 (i) Neurological;

32 (ii) musculoskeletal;

33 (iii) special sense organs;

34 (iv) respiratory, including speech organs;

35 (v) cardiovascular;

36 (vi) reproductive;

37 (vii) digestive;

38 (viii) genitourinary;

39 (ix) hemic and lymphatic;

40 (x) skin; or

41 (xi) endocrine; or

42 (B) any mental or psychological disorder, such as intellectual  
43 disability, organic brain syndrome, mental illness and specific learning

1 disabilities. The term "physical or mental impairment" includes, but is not  
2 limited to, ~~such diseases and conditions as orthopedic, visual, speech and~~  
3 ~~hearing impairment conditions and diseases~~ **language and hearing**  
4 **disorders**, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis  
5 and intellectual disability; and

6 (4) "project architect" ~~shall have the meaning ascribed thereto~~ *means*  
7 *the same as defined* in K.S.A. 75-1251, and amendments thereto;

8 (5) "disabled veteran" means a person verified by the Kansas  
9 commission on veterans affairs office to have served in the armed forces of  
10 the United States and who is entitled to compensation for a service-  
11 connected disability, according to the laws administered by the *United*  
12 *States department of veterans administration affairs*, or who is entitled to  
13 compensation for the loss, or permanent loss of use, of one or both feet or  
14 one or both hands, or for permanent visual impairment of both eyes to a  
15 prescribed degree;

16 (6) "disabled veteran business" means a business certified annually  
17 by the department of administration that is a sole proprietorship,  
18 partnership, association or corporation domiciled in Kansas, or any  
19 corporation, even if a wholly owned subsidiary of a foreign corporation,  
20 and is verified by the *Kansas* commission on veterans affairs office that:

21 (A) Not less than 51% is owned by one or more disabled veterans or,  
22 in the case of a publicly owned business, not less than 51% of the stock *is*  
23 owned by one or more disabled veterans;

24 (B) the management and daily business operations are controlled by  
25 one or more disabled veterans; and

26 (C) such business maintains the requirements of subparagraphs (A)  
27 and (B) during the entire contract term.

28 (h) Any state agency authorized by the director of purchases to make  
29 purchases pursuant to K.S.A. 75-3739(e), and amendments thereto, shall  
30 consider any unsolicited proposal for goods or services under this section.

31 (i) The secretary of administration and the secretary for aging and  
32 disability services, jointly, shall adopt rules and regulations as necessary to  
33 effectuate the purpose of this section.

34 (j) ~~On and after January 13, 2014,~~ At the beginning of each regular  
35 session of the legislature, the secretary of administration and the secretary  
36 for aging and disability services shall submit to the social services budget  
37 committee of the house of representatives and the appropriate  
38 subcommittee of the committee on ways and means of the senate, a written  
39 report on *the number of*:

40 (1) ~~The number of~~ Certified businesses certified by the department of  
41 administration during the previous fiscal year;

42 (2) ~~the number of~~ certified businesses awarded contracts pursuant to  
43 subsection (b) during the previous fiscal year;

1 (3) ~~the number of~~ contracts awarded pursuant to subsection (b) to  
2 each certified business during the previous fiscal year;

3 (4) ~~the number of~~ individuals with disabilities removed from,  
4 reinstated to or not reinstated to home and community based services or  
5 other medicaid program services during the previous fiscal year as a result  
6 of employment with a certified business;

7 (5) ~~the number of~~ individuals employed by each certified business  
8 during the previous fiscal year; and

9 (6) ~~the number of~~ individuals with disabilities employed by each  
10 certified business during the previous fiscal year.

11 (k) When a state agency is receiving bids to purchase passenger  
12 motor vehicles, such agency shall follow the procedures prescribed in  
13 subsection (c)(2), except in the case where one of the responsible bidders  
14 offers motor vehicles ~~which that~~ are assembled in Kansas. In such a case,  
15 3% of the bid of the responsible bidder ~~which that~~ offers motor vehicles  
16 assembled in Kansas shall be subtracted from the bid amount, and that  
17 amount shall be used to determine the lowest bid pursuant to subsection  
18 (c)(2). This subsection shall only apply to bids ~~which that~~ match the exact  
19 motor vehicle specifications of the agency purchasing passenger motor  
20 vehicles.

21 (l) The secretary of administration shall certify that a business meets  
22 the requirements for a certified business as defined in subsection (g), and  
23 shall recertify such business as having met such requirements every three  
24 years thereafter. ~~Businesses already certified for 2017 as provided in this~~  
25 ~~section on July 1, 2017, shall be recertified every three years thereafter.~~

26 Sec. 10. K.S.A. 75-5391 is hereby amended to read as follows: 75-  
27 5391. (a) There is hereby established within the Kansas department for  
28 children and families the Kansas commission for the deaf and hard of  
29 hearing. The commission shall:

30 (1) Advocate services affecting the deaf and hard of hearing in the  
31 areas of public services, ~~health care~~ *healthcare*, educational, vocational  
32 and employment opportunity;

33 (2) act as a bureau of information for the deaf and hard of hearing to  
34 state agencies and public institutions providing general health and mental  
35 ~~health care~~ *healthcare*, employment, vocational, and educational services,  
36 and to local agencies and programs;

37 (3) collect facts and statistics and other special studies of conditions  
38 affecting the health and welfare of the deaf and hard of hearing in this  
39 state;

40 (4) provide for a mutual exchange of ideas and information on the  
41 national, state and local levels;

42 (5) provide public education of prenatal and postnatal warning signs  
43 of conditions ~~which that~~ may lead to deafness or hearing ~~impairment~~ *loss*



1 in the fetus or newborn child;

2 (6) encourage and assist local governments in the development of  
3 programs for the deaf and hard of hearing;

4 (7) cooperate with public and private agencies and units of local, state  
5 and federal governments in promoting coordination in programs for the  
6 deaf and hard of hearing;

7 (8) provide for the social, emotional, educational and vocational  
8 needs of the deaf and hard of hearing and their families;

9 (9) serve as an advisory board to the governor on the needs of the  
10 deaf and hard of hearing by preparing an annual report ~~which~~ *that* reviews  
11 the status of all state services to the deaf and hard of hearing within  
12 Kansas, and to recommend priorities to the governor for the development  
13 and coordination of services to the deaf and hard of hearing; *and*

14 (10) make recommendations for needed improvements, and serve as  
15 an advisory board in regard to new legislation affecting the deaf and hard  
16 of hearing.

17 (b) Except as otherwise provided by this act, all budgeting,  
18 purchasing and related management functions of the Kansas commission  
19 for the deaf and hard of hearing shall be administered under the direction  
20 and supervision of the secretary for children and families. Within the  
21 limitations of available appropriations, the secretary for children and  
22 families shall provide additional clerical and other assistance as may be  
23 required for the commission.

24 Sec. 11. K.S.A. 75-5397c is hereby amended to read as follows: 75-  
25 5397c. (a) No suit, action or other proceeding, judicial or administrative,  
26 lawfully commenced by or against the Kansas commission for the deaf and  
27 hearing impaired, or by or against any officer of the state in such officer's  
28 official capacity or in relation to the discharge of such officer's official  
29 duties, shall abate by reason of the taking effect of this act. The court may  
30 allow any such suit, action or other proceeding to be maintained by or  
31 against the successor of such state agency, or any officer affected.

32 (b) No criminal action commenced or which could have been  
33 commenced by the state shall abate by the taking effect of this act.

34 Sec. 12. K.S.A. 75-5399 is hereby amended to read as follows: 75-  
35 5399. ~~When As~~ used in this act:

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

41 (b) "Transition services" means a coordinated set of activities for a  
42 student, designed within an outcome-oriented process, which promotes  
43 movement from school to post-school activities, including post-secondary

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

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

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

15 (e) "Special education program" means services that are provided  
16 pursuant to public law 94-142—(, the education of all handicapped  
17 children's act), as implemented in Kansas through K.S.A. 72-3403 et seq.,  
18 and amendments thereto, and public law 101-476—(, the individuals with  
19 disabilities education act).

20 (f) "Secretary" means the secretary for children and families or the  
21 designee of the secretary.

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

27 Sec. 13. K.S.A. 76-1001b is hereby amended to read as follows: 76-  
28 1001b. (a) The state board of education may adopt rules and regulations  
29 for the admission of students to the Kansas state school for the deaf. Such  
30 students may be admitted as day students or as resident students.

31 (b) Every resident of the state who is within the age of eligibility for  
32 admission, as determined by the state board of education, and who is  
33 unable to materially benefit from attendance in the public schools because  
34 of ~~a hearing impairment~~ *loss*, as determined under article 9 of chapter 72  
35 of Kansas Statutes Annotated, *and amendments thereto*, shall be entitled to  
36 admission to the Kansas state school for the deaf. Nonresidents of the state  
37 may be admitted to the Kansas state school for the deaf until maximum  
38 enrollment is attained so long as such admittance does not result in the  
39 exclusion of any eligible resident of the state from ~~said~~ *such* school.

40 Sec. 14. K.S.A. 19-2698, 36-517, 39-1107, 65-3276, 65-6511, 72-  
41 3253, 72-3404, 75-3740, 75-5391, 75-5397c, 75-5399 and 76-1001b and  
42 K.S.A. 2021 Supp. 50-676 are hereby repealed.

43 Sec. 15. This act shall take effect and be in force from and after its

- 1 publication in the statute book.