

{As Amended by House Committee of the Whole}

{As Amended by Senate Committee of the Whole}

As Amended by Senate Committee

Session of 2022

SENATE BILL No. 343

By Committee on Public Health and Welfare

1-13

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

1 approved, the board of county commissioners shall levy such tax for such
2 purpose. No such tax shall be used for the purposes for which a tax is
3 authorized under K.S.A. 12-1680, 19-4004, 19-4011, 65-212 and 65-215,
4 and amendments thereto.

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

9 Sec. 2. K.S.A. 36-517 is hereby amended to read as follows: 36-517.

10 Every licensed lodging establishment designated as a hotel shall provide at
11 no additional charge to deaf ~~and hearing impaired~~ *or hard of hearing*
12 guests, upon request of such guests, portable smoke detectors of the type
13 suitable for providing visual warning to such guests, or a room equipped
14 with fixed visual warning smoke detectors or a ground floor guest room
15 accessible to the out-of-doors. Each licensed lodging establishment
16 designated as a hotel shall have available for such guests not less than one
17 portable visual warning smoke detector, or one room equipped with a fixed
18 visual warning smoke detector or one ground floor guest room accessible
19 to the out-of-doors for each 50 guest rooms of such lodging establishment,
20 except that no such lodging establishment designated as a hotel shall be
21 required to have more than a total of six portable visual warning smoke
22 detectors, or six rooms equipped with fixed visual warning smoke
23 detectors or six ground floor guest rooms accessible to the out-of-doors
24 nor shall any such lodging establishment have less than one such smoke
25 detector, or one room equipped with a fixed visual warning smoke detector
26 or one ground floor guest room accessible to the out-of-doors.

27 Sec. 3. K.S.A. 39-1107 is hereby amended to read as follows: 39-

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

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

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

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

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

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

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

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

10 (1) Any physiological disorder or condition, cosmetic disfigurement
11 or anatomical loss substantially affecting one or more of the following
12 body systems:

13 (A) Neurological;

14 (B) musculoskeletal;

15 (C) special sense organs;

16 (D) respiratory, including speech organs;

17 (E) cardiovascular;

18 (F) reproductive;

19 (G) digestive;

20 (H) genitourinary;

21 (I) hemic and lymphatic;

22 (J) skin; or

23 (K) endocrine; or

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

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

32 (g) "Protected consumer" means:

33 (1) An elder person;

34 (2) a disabled person;

35 (3) a veteran;

36 (4) the surviving spouse of a veteran;

37 (5) a member of the military; and

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

39 (h) "Substantially limits" means:

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

42 (2) significantly restricted as to the condition, manner or duration
43 under which an individual can perform a particular major life activity as

1 compared to the condition, manner or duration under which the average
2 person in the general population can perform that same major life activity.
3 Minor temporary ailments or injuries shall not be considered physical or
4 mental impairments—~~which~~ *that* substantially limit a person's major life
5 activities. Minor temporary ailments include, but are not limited to, colds,
6 influenza or sprains or minor injuries.

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

10 Sec. 5. K.S.A. 65-3276 is hereby amended to read as follows: 65-
11 3276. (a) The following findings and purpose shall apply to this section:

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

14 (2) the federal Americans with disabilities act prohibits discrimination
15 against individuals with disabilities, yet many individuals with disabilities
16 still experience discrimination in accessing critical ~~health care~~ *healthcare*
17 services;

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

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

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

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

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

37 (2) deny medical and other services related to organ transplantation,
38 including evaluation, surgery, counseling, and post-transplantation
39 treatment and services;

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

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

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

4 (c) (1) Subject to paragraph (2) ~~of this subsection~~, a covered entity
5 may take an individual's disability into account when making treatment or
6 coverage recommendations or decisions, solely to the extent that the
7 disability has been found by a physician, following an individualized
8 evaluation of the individual, to be medically significant to the provision of
9 the anatomical gift.

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

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

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

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

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

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

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

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

39 (h) As used in this section:

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

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

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

4 (B) qualified readers, taped texts, texts in accessible electronic format
5 or other effective methods of making visually delivered materials available
6 to individuals with visual impairments; and

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

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

11 (ii) the provision of information to a person designated by the
12 individual consistent with the federal health insurance portability and
13 accountability act and other applicable laws and regulations governing the
14 disclosure of health information;

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

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

24 (3) "Covered entity" means:

25 (A) A licensed ~~health care~~ *healthcare* provider, as defined in K.S.A.
26 40-3401, and amendments thereto;

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

29 (C) a laboratory;

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

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

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

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

37 ~~(H)~~(H) any entity responsible for potential recipients of the
38 anatomical gift.

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

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

- 1 (6) "Qualified individual" means an individual who:
- 2 (A) Has a disability; and
- 3 (B) meets the essential eligibility requirements for the receipt of an
- 4 anatomical gift, with or without:
- 5 (i) The support networks available to the individual;
- 6 (ii) the provision of auxiliary aids and services; or
- 7 (iii) reasonable modifications to the policies or practices of a covered
- 8 entity, including modifications to allow:
- 9 (a) Communication with individuals responsible for supporting the
- 10 individual with post-surgical and post-transplantation care, including
- 11 medication; and
- 12 (b) the consideration of support networks available to the individual,
- 13 including family, friends, and home and community based services funded
- 14 through the state program of medical assistance, or another health plan in
- 15 which the individual is enrolled, or any program or source of funding
- 16 available to the individual, in determining whether the individual is able to
- 17 comply with post-transplantation medical requirements.
- 18 Sec. 6. K.S.A. 65-6511 is hereby amended to read as follows: 65-
- 19 6511. The provisions of this act shall not apply to:
- 20 (a) Personnel employed by the United States government;
- 21 (b) ~~health care~~*healthcare* providers as defined by K.S.A. 65-4921,
- 22 and amendments thereto, or exempt licensees under the Kansas healing
- 23 arts act who are providing services within the lawful scope of their
- 24 authority so long as they do not hold themselves out to the public by a title
- 25 set forth in K.S.A. 65-6504, and amendments thereto;
- 26 (c) persons duly credentialed by this state as a teacher of the deaf or
- 27 ~~hearing-impaired~~ *hard of hearing* who are providing services within the
- 28 lawful scope of their authority so long as they do not hold themselves out
- 29 to the public by a title set forth in K.S.A. 65-6504, and amendments
- 30 thereto;
- 31 (d) the activities and services of persons pursuing a course of study
- 32 leading to a degree in speech-language pathology or audiology at a college
- 33 or university provided that:
- 34 (1) These activities and services constitute a part of the organized
- 35 course of study at that institution;
- 36 (2) such persons are designated by a title such as intern, trainee,
- 37 student, or by other such title clearly indicating the status appropriate to
- 38 their level of education; and
- 39 (3) such persons work under the supervision of a person licensed by
- 40 this state to practice speech-language pathology or audiology.
- 41 (e) an employee or other person under the supervision of a person
- 42 licensed to practice medicine and surgery in this state so long as such
- 43 persons do not hold themselves out to the public by a title set forth in

1 K.S.A. 65-6504, and amendments thereto; or

2 (f) persons licensed or holding a certificate of endorsement to engage
3 in the practice of dispensing and fitting hearing aids under the hearing aid
4 act when practicing under and in accordance with the hearing aid act so
5 long as such persons do not hold themselves out to the public by a title set
6 forth in K.S.A. 65-6504, and amendments thereto.

7 Sec. 7. K.S.A. 72-3253 is hereby amended to read as follows: 72-
8 3253. The state board of education may provide for the teaching of
9 American sign language in accredited schools and all pupils thereof,
10 whether hearing ~~or hearing impaired~~, *deaf or hard of hearing*, may be
11 given instruction in American sign language.

12 Sec. 8. K.S.A. 72-3404 is hereby amended to read as follows: 72-
13 3404. As used in this act:

14 (a) "School district" means any public school district.

15 (b) "Board" means the board of education of any school district.

16 (c) "State board" means the state board of education.

17 (d) "Department" means the state department of education.

18 (e) "State institution" means any institution under the jurisdiction of a
19 state agency.

20 (f) "State agency" means the Kansas department for children and
21 families, the Kansas department for aging and disability services, the
22 department of corrections and the juvenile justice authority.

23 (g) "Exceptional children" means persons who are children with
24 disabilities or gifted children and are school age, to be determined in
25 accordance with rules and regulations adopted by the state board, ~~which~~
26 *whose* age may differ from the ages of children required to attend school
27 under the provisions of K.S.A. 72-3120, and amendments thereto.

28 (h) "Gifted children" means exceptional children who are determined
29 to be within the gifted category of exceptionality as such category is
30 defined by the state board.

31 (i) "Special education" means specially designed instruction provided
32 at no cost to parents to meet the unique needs of an exceptional child,
33 including:

34 (1) Instruction conducted in the classroom, in the home, in hospitals
35 and institutions, and in other settings; and

36 (2) instruction in physical education.

37 (j) "Special teacher" means a person, employed by or under contract
38 with a school district or a state institution to provide special education or
39 related services, who is *qualified to*:

40 (1) ~~Qualified to~~ Provide special education or related services to
41 exceptional children as determined pursuant to standards established by
42 the state board; or

43 (2) ~~qualified to~~ assist in the provision of special education or related

1 services to exceptional children as determined pursuant to standards
2 established by the state board.

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

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

6 (m) "Parent" means:

7 (1) A natural parent;

8 (2) an adoptive parent;

9 (3) a person acting as parent;

10 (4) a legal guardian;

11 (5) an education advocate; or

12 (6) a foster parent, if the foster parent has been appointed the
13 education advocate of an exceptional child.

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

17 (o) "Education advocate" means a person appointed by the state board
18 in accordance with the provisions of K.S.A. 38-2218, and amendments
19 thereto. A person appointed as an education advocate for a child shall not
20 be:

21 (1) An employee of the agency—~~which~~ *who* is required by law to
22 provide special education or related services for the child;

23 (2) an employee of the state board, the department, or any agency
24 ~~which~~ *that* is directly involved in providing educational services for the
25 child; or

26 (3) any person having a professional or personal interest—~~which~~ *that*
27 would conflict with the interests of the child.

28 (p) "Free appropriate public education" means special education and
29 related services that:

30 (1) Are provided at public expense, under public supervision and
31 direction, and without charge;

32 (2) meet the standards of the state board;

33 (3) include an appropriate preschool, elementary; or secondary school
34 education; and

35 (4) are provided in conformity with an individualized education
36 program.

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

39 (r) "Individualized education program" or "IEP" means a written
40 statement for each exceptional child that is developed, reviewed, and
41 revised in accordance with the provisions of K.S.A. 72-3429, and
42 amendments thereto.

43 (s) (1) "Related services" means transportation, and such

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

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

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

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

20 (1) The parents of a child;

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

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

25 (4) a representative of the agency directly involved in providing
26 educational services for the child who is:

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

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

30 (C) ~~is~~ knowledgeable about the availability of resources of the
31 agency;

32 (5) an individual who can interpret the instructional implications of
33 evaluation results;

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

37 (7) whenever appropriate, the child.

38 (v) "Evaluation" means a multisourced and multidisciplinary
39 examination, conducted in accordance with the provisions of K.S.A. 72-
40 3428, and amendments thereto, to determine whether a child is an
41 exceptional child.

42 (w) "Independent educational evaluation" means an examination
43 ~~which~~ *that* is obtained by the parent of an exceptional child and performed

1 by an individual or group of individuals who meet state and local
2 standards to conduct such an examination.

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

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

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

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

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

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

23 (bb) "Material change in services" means an increase or decrease of
24 25% or more of the duration or frequency of a special education service, a
25 related service or a supplementary aid or a service specified on the IEP of
26 an exceptional child.

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

31 (1) Physical;

32 (2) cognitive;

33 (3) adaptive behavior;

34 (4) communication; or

35 (5) social or emotional development.

36 (dd) "Homeless children" means "homeless children and youths" as
37 defined in the federal McKinney-Vento homeless assistance act, 42 U.S.C.
38 § 11434a.

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

42 Sec. 9. K.S.A. 75-3740 is hereby amended to read as follows: 75-
43 3740. (a) Except as provided by K.S.A. 75-3740b, and amendments

1 thereto, and subsections (b) and (k), all contracts and purchases made by
2 or under the supervision of the director of purchases or any state agency
3 for which competitive bids are required shall be awarded to the lowest
4 responsible bidder, taking into consideration conformity with the
5 specifications, terms of delivery, and other conditions imposed in the call
6 for bids.

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

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

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

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

29 (2) the dollar amount of the bid received from the lowest responsible
30 bidder from within the state is identical to the dollar amount of the bid
31 received from the lowest responsible bidder from without the state, the
32 contract shall be awarded to the bidder from within the state; and

33 (3) in the case of bids for paper products specified in K.S.A. 75-
34 3740b, and amendments thereto, the dollar amounts of the bids received
35 from two or more lowest responsible bidders are identical, the contract
36 shall be awarded to the bidder whose bid is for those paper products
37 containing the highest percentage of recycled materials.

38 (d) (1) Any or all bids may be rejected, and a bid shall be rejected if it
39 contains any material alteration or erasure made after the bid is opened.
40 The director of purchases may reject the bid of any bidder who is in
41 arrears on taxes due the state, who is not properly registered to collect and
42 remit taxes due the state or who has failed to perform satisfactorily on a
43 previous contract with the state. The secretary of revenue is hereby

1 authorized to exchange such information with the director of purchases as
2 is necessary to effectuate the preceding sentence notwithstanding any other
3 provision of law prohibiting disclosure of the contents of taxpayer records
4 or information. Prior to determining the lowest responsible bidder on
5 contracts for construction of buildings or for major repairs or
6 improvements to buildings for state agencies, the director of purchases
7 shall consider *the*:

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

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

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

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

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

37 (g) As used in this section:

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

43 (A) Does business primarily in Kansas or substantially all of its

1 production in Kansas;

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

4 (C) offers to contribute at least 75% of the premium cost for
5 individual health insurance coverage for each employee. The department
6 of administration shall require a certification of these facts as a condition
7 to the certified business being awarded a contract pursuant to subsection
8 (b); and

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

11 (2) "individuals with disabilities" or "individual with a disability"
12 means any individual who:

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

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

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

24 (ii) is employed by a charitable organization domiciled in the state of
25 Kansas and exempt from federal income taxation pursuant to section
26 501(c)(3) of the federal internal revenue code of 1986, as amended; or

27 (iii) is an individual with a disability pursuant to the disability
28 standards established by the social security administration as determined
29 by the Kansas disability determination services under the Kansas
30 department for children and families;

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

32 (A) Any physiological disorder or condition, cosmetic disfigurement
33 or anatomical loss substantially affecting one or more of the following
34 body systems:

35 (i) Neurological;

36 (ii) musculoskeletal;

37 (iii) special sense organs;

38 (iv) respiratory, including speech organs;

39 (v) cardiovascular;

40 (vi) reproductive;

41 (vii) digestive;

42 (viii) genitourinary;

43 (ix) hemic and lymphatic;

1 (x) skin; or

2 (xi) endocrine; or

3 (B) any mental or psychological disorder, such as intellectual
4 disability, organic brain syndrome, mental illness and specific learning
5 disabilities. The term "physical or mental impairment" includes, but is not
6 limited to, ~~such diseases and conditions as orthopedic, visual, speech and~~
7 ~~hearing impairment conditions and diseases~~ **{visual,} language and**
8 **hearing disorders**, cerebral palsy, epilepsy, muscular dystrophy, multiple
9 sclerosis and intellectual disability; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 Sec. 10. K.S.A. 75-5391 is hereby amended to read as follows: 75-
31 5391. (a) There is hereby established within the Kansas department for
32 children and families the Kansas commission for the deaf and hard of
33 hearing. The commission shall:

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

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

41 (3) collect facts and statistics and other special studies of conditions
42 affecting the health and welfare of the deaf and hard of hearing in this
43 state;

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

3 (5) provide public education of prenatal and postnatal warning signs
4 of conditions ~~which~~ *that* may lead to deafness or hearing-~~impairment~~ *loss*
5 in the fetus or newborn child;

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

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

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

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

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

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

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

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

38 ~~Sec. 12. {11.}~~ K.S.A. 75-5399 is hereby amended to read as follows:
39 75-5399. ~~When~~ *As* used in this act:

40 (a) "Individuals with disabilities" means individuals with intellectual
41 disability, hearing-~~impairments~~ *loss* including deafness, speech or language
42 ~~impairments~~ *disorders*, visual impairments including blindness, serious
43 emotional disturbance, orthopedic impairments, autism, traumatic brain

1 injury, other health impairments or specific learning disabilities.

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

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

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

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

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

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

31 ~~Sec. 12.~~ **{12.}** K.S.A. 76-1001b is hereby amended to read as follows:
32 76-1001b. (a) The state board of education may adopt rules and regulations
33 for the admission of students to the Kansas state school for the deaf. Such
34 students may be admitted as day students or as resident students.

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

1 Sec. ~~14~~. **{13.}** K.S.A. 19-2698, 36-517, 39-1107, 65-3276, 65-6511,
2 72-3253, 72-3404, 75-3740, 75-5391, ~~75-5397e~~, 75-5399 and 76-1001b
3 and K.S.A. 2021 Supp. 50-676 are hereby repealed.

4 Sec. ~~15~~. **{14.}** This act shall take effect and be in force from and after
5 its publication in the statute book.