

SENATE BILL No. 78

AN ACT concerning education; relating to postsecondary educational institutions; requiring such institutions to regularly review and update accreditation policies; prohibiting accrediting agencies from compelling such institutions to violate state law; providing a cause of action for violations thereof; amending K.S.A. 8-1,142, 13-13a46 and 74-32,120 and K.S.A. 2024 Supp. 58-3046a and 79-3602 and repealing the existing sections.

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

New Section 1. (a) The governing body of each postsecondary educational institution shall regularly review and update the policies and practices on accreditation of such institution.

(b) On or before December 31, 2025, each governing body of a postsecondary educational institution shall:

(1) Identify the accrediting agencies or association eligible to accredit such institution. Any such agencies or associations shall be agencies or associations recognized by the United States department of education in the database maintained by such department; and

(2) update the policies and practices on accreditation of such institution to ensure that the institution may freely pursue accreditation by any accrediting agency or association identified pursuant to paragraph (1) that is appropriate for the programs offered by such institution.

(c) No accrediting agency or association shall compel a postsecondary educational institution to violate any state law. Any adverse action taken against a postsecondary educational institution based, in whole or in part, on such institution's compliance with any state law shall constitute a violation of this section. Any such violation may be enforced only to the extent that state law is not preempted by a federal law recognizing the necessity of the accreditation standard or requirement.

(d) A postsecondary educational institution that is negatively affected by a violation of this section may bring a civil action against the accrediting agency or association in a court of competent jurisdiction in this state.

(e) If an accrediting agency or association violates this section, the governing board of the affected postsecondary educational institution shall notify the legislature in writing within 30 calendar days of such violation.

(f) As used in this section, "postsecondary educational institution" means a:

(1) State educational institution as defined in K.S.A 76-711, and amendments thereto;

(2) private postsecondary educational institution as defined in K.S.A. 74-32,163, and amendments thereto;

(3) municipal university as defined in K.S.A. 74-3201b, and amendments thereto;

(4) not-for-profit institution of postsecondary education with its main campus or principal place of operation in Kansas, is operated independently and not controlled or administered by any state agency or subdivision of the state, maintains open enrollment and is accredited by a nationally recognized accrediting agency for higher education in the United States; and

(5) community college as defined in K.S.A. 74-3201b, and amendments thereto.

Sec. 2. K.S.A. 8-1,142 is hereby amended to read as follows: 8-1,142. (a) As used in this section, "educational institution" means:

(1) Any state educational institution under the control and supervision of the state board of regents;

(2) any municipal university;

(3) any not-for-profit independent institution of higher education

that is accredited by the north central association of colleges and secondary schools accrediting agency based on its requirements as of April 1, 1985 an accrediting agency or association recognized by the United States department of education in the database maintained by such department, is operated independently and not controlled or administered by the state or any agency or subdivision thereof, maintains open enrollment and the main campus or principal place of operation of which is located in Kansas;

(4) any community college organized and operating under the laws of this state; and

(5) Haskell Indian Nations university.

(b) Any owner or lessee of one or more passenger vehicles, trucks registered for a gross weight of not more than 20,000 pounds or motorcycles, who is a resident of Kansas, upon compliance with the provisions of this section, may be issued one educational institution license plate for each such passenger vehicle, truck or motorcycle. Such license plates shall be issued for the same period of time as other license plates upon proper registration and payment of the regular license fee as provided in K.S.A. 8-143, and amendments thereto, plus the payment of an additional fee of \$5 for each plate, and either the payment to the county treasurer of the logo use royalty payment established by the alumni association or foundation or the presentation of the annual emblem use authorization statement provided for in subsection (c).

(c) Any educational institution may authorize through its officially recognized alumni association or foundation the use of such institution's official emblems to be affixed on license plates as provided by this section. Any royalty payment derived from this section, except reasonable administrative costs, shall be used for recognition of academic achievement or excellence subject to the approval of the chancellor or president of the educational institution. Any motor vehicle owner or lessee may annually apply to the alumni association or foundation for the use of the institution's emblems. Upon annual application and payment to either: (1) The alumni association or foundation in an amount of not less than \$25 nor more than \$100 as an emblem use royalty payment for each educational institution license plate to be issued, the alumni association or foundation shall issue to the motor vehicle owner or lessee, without further charge, an emblem use authorization statement, which shall be presented by the motor vehicle owner or lessee at the time of registration; or (2) the county treasurer of the logo use royalty payment for each license plate to be issued.

(d) Any applicant for an educational institution license plate may make application for such plates not less than 60 days prior to such person's renewal of registration date, on a form prescribed and furnished by the director of vehicles, and any applicant for the educational institution license plates shall provide either the annual emblem use authorization statement provided for in subsection (c) or pay to the county treasurer the logo use royalty payment established by the alumni association or foundation. Application for registration of a passenger vehicle, truck or motorcycle and issuance of the license plates under this section shall be made by the owner or lessee in a manner prescribed by the director of vehicles upon forms furnished by the director.

(e) No registration or educational institution license plate issued under this section shall be transferable to any other person.

(f) The director of vehicles may transfer educational institution license plates from a leased vehicle to a purchased vehicle.

(g) Renewals of registration under this section shall be made

annually, upon payment of the fee prescribed in subsection (b), in the manner prescribed in K.S.A. 8-132(b), and amendments thereto. No renewal of registration shall be made to any applicant until such applicant provides to the county treasurer either the annual emblem use authorization statement provided for in subsection (c) or the payment of the annual emblem use royalty payment established by the alumni association or foundation. If such emblem use authorization statement is not presented at the time of registration or faxed by the alumni association or foundations, or the annual emblem use royalty payment is not made to the county treasurer, the applicant shall be required to comply with K.S.A. 8-143, and amendments thereto, and return the educational institution license plates to the county treasurer of such person's residence.

(h) The director of vehicles shall not issue any educational institution license plates for any educational institution, unless such educational institution's alumni association or foundation guarantees the initial issuance of at least 100 license plates.

(i) The director of vehicles shall discontinue the issuance of an educational institution's license plate authorized under this section if:

(1) Fewer than 100 educational institution license plates, including annual renewals, are issued for an educational institution by the end of the second year of sales; and

(2) fewer than 50 educational institution license plates, including annual renewals, are issued for an educational institution during any subsequent two-year period.

(j) Each educational institution's alumni association or foundation shall:

(1) Pay the initial cost of silk-screening for such educational license plates; and

(2) provide to all county treasurers a toll-free telephone number where applicants can call the alumni association or foundation for information concerning the application process or the status of their license plate application.

(k) Each educational institution's alumni association or foundation, with the approval of the director of vehicles and subject to the availability of materials and equipment, shall design a license plate to be issued under the provisions of this section.

(l) As a condition of receiving the educational institution license plate and any subsequent registration renewal of such plate, the applicant ~~must~~ shall provide consent to the division authorizing the division's release of motor vehicle record information, including the applicant's name, address, emblem use royalty payment amount, plate number and vehicle type to the relevant educational institution and the state treasurer.

(m) Annual royalty payments collected by county treasurers under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. In the case of an educational institution that is a state educational institution as defined by K.S.A. 76-711, and amendments thereto, upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the appropriate account of the restricted fees fund of such state educational institution. In the case of an educational institution ~~which~~ that is not a state educational institution as defined by K.S.A. 76-711, and amendments thereto, upon receipt of each such remittance, the state treasurer shall remit the entire amount to the educational institutions emblem royalty fund, which is hereby created in the state treasury and shall be administered by the state treasurer. All expenditures from the educational institutions emblem royalty fund shall be made in accordance with appropriation

acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or the state treasurer's designee. Payments from the educational institutions emblem royalty fund to the respective educational institutions shall be made on a monthly basis.

Sec. 3. K.S.A. 13-13a46 is hereby amended to read as follows: 13-13a46. The university shall not be eligible to receive payments of state grants from the state general fund unless it is currently a member in good standing of ~~the north central association of colleges and universities~~ *an accrediting agency or association recognized by the United States department of education in the database maintained by such department.*

Sec. 4. K.S.A. 2024 Supp. 58-3046a is hereby amended to read as follows: 58-3046a. (a) Except as provided in K.S.A. 58-3040, and amendments thereto, any person who applies for an original license in this state as a salesperson shall submit evidence, satisfactory to the commission, of attendance of a principles of real estate course, of not less than 30 hours of instruction, approved by the commission and completed within the 12 months immediately preceding the receipt by the commission of the application for salesperson's license. The commission may require the evidence to be furnished to the commission with the original application for license or it may require the applicant to furnish the evidence to the testing service designated by the commission as a prerequisite to taking the examination required by K.S.A. 58-3039, and amendments thereto. If the evidence is furnished to the testing service, the instruction shall have been completed within 12 months immediately preceding the date of the examination.

(b) Except as provided in K.S.A. 58-3040, and amendments thereto, any person who applies for an original license in this state as a broker shall submit evidence, satisfactory to the commission, of attendance of a Kansas real estate fundamentals course, of not less than 30 and no more than 45 hours of instruction, approved by the commission and received within the 12 months immediately preceding the filing of application for broker's license. Such hours shall be in addition to any hours of instruction used to meet the requirements of subsection (c), (d), (e) or (f). The commission may require the evidence to be furnished to the commission with the original application for license, or ~~it~~ *the commission* may require the applicant to furnish the evidence to the testing service designated by the commission as a prerequisite to taking the examination provided in K.S.A. 58-3039, and amendments thereto. If the evidence is furnished to the testing service, the instruction shall have been completed within 12 months immediately preceding the date of the examination.

(c) Any person who applies for an original license in this state as a salesperson shall submit evidence, satisfactory to the commission, of attendance of a Kansas real estate practice course, of not less than 30 hours of instruction, approved by the commission and completed within the six months immediately preceding the receipt by the commission of the application for licensure.

(d) Any person who applies for an original license in this state as a broker on or after January 1, 2020, shall submit evidence, satisfactory to the commission, of attendance of a Kansas real estate management course, of not less than 30 and no more than 45 hours of instruction, approved by the commission and completed within the six months immediately preceding the receipt by the commission of the application for licensure. The hours shall be in addition to any hours of instruction used to meet the requirements of subsection (b), (c), (e) or (f).

(e) Any person who applies for an original license in this state as a broker who is a nonresident of Kansas or who is a resident of Kansas

applying for licensure pursuant to K.S.A. 58-3040(e), and amendments thereto, shall submit evidence, satisfactory to the commission, of attendance of a Kansas real estate course, of not less than four hours of instruction and completed within the six months immediately preceding the filing of the application for licensure. Such course shall be approved by the commission and shall be specific to Kansas law with primary emphasis on issues that arise under the brokerage relationships in real estate transactions act, K.S.A. 58-30,101 et seq., and amendments thereto, and rules or regulations adopted thereunder.

(f) At or prior to each license expiration date established by the commission, any person who is licensed in this state as a broker or as a salesperson shall submit evidence, satisfactory to the commission, of attendance of not less than 12 hours of continuing education approved by the commission and completed after issuance of the license and during the renewal period. This requirement shall not apply to a license on deactivated status pursuant to K.S.A. 58-3047, and amendments thereto.

(g) Except for courses reviewed pursuant to subsection (j), courses of instruction required by this section shall be courses approved by the commission and offered by:

(1) An institution ~~which~~ *that* is accredited by ~~the north central association of colleges and secondary schools accrediting agency an accrediting agency or association recognized by the United States department of education in the database maintained by such department;~~

(2) a technical college as defined by K.S.A. 74-32,407, and amendments thereto;

(3) a private or out-of-state postsecondary educational institution ~~which~~ *that* has been issued a certificate of approval pursuant to the Kansas private and out-of-state postsecondary educational institution act;

(4) any agency of the state of Kansas;

(5) a similar institution, approved by the commission, in another state; or

(6) an entity, approved by the commission, to provide continuing education.

(h) The commission shall adopt rules and regulations to:

(1) Prescribe minimum curricula and standards for all courses offered to fulfill education requirements of this act;

(2) designate a course of study to fulfill any specific requirement, which may include a testing requirement;

(3) prescribe minimum qualifications for instructors of approved courses; and

(4) establish standards and procedures for approval of courses and instructors, monitoring courses, advertising, registration and maintenance of records of courses, and withdrawal of approval of courses and instructors.

(i) The commission may approve distance education courses consisting solely or primarily of instruction provided online or in other computer-assisted formats, or by correspondence, audiotape, videotape or other media. For the purposes of this section, attendance of one hour of instruction shall mean 50 minutes of classroom instruction or the equivalent thereof in distance education study as determined by the commission.

(j) Courses of instruction required by this section shall be courses approved by the commission either before or after their completion. The commission may give credit toward the 12 hours of continuing education required by subsection (f) to any licensee who submits an application for course review obtained from the commission and pays

the fee prescribed by K.S.A. 58-3063, and amendments thereto, if, in the judgment of the commission, the course meets the objectives of continuing education.

(k) The commission shall publish a list of courses approved by the commission.

(l) No license shall be issued or renewed unless the applicable requirements set forth in this section are met within the time prescribed.

Sec. 5. K.S.A. 74-32,120 is hereby amended to read as follows: 74-32,120. As used in this act: (a) "Kansas comprehensive grant program" means a program under ~~which~~ *that* the state, in recognition that the provision of higher education for all residents of the state who have the desire and ability to obtain such education is an important public purpose and in response to the concern that many residents of the state are deterred by financial considerations from attending institutions of higher education, provides assistance to students with financial need through the award of grants.

(b) "Kansas comprehensive grant" means an award of financial assistance under the Kansas comprehensive grant program to an eligible Kansas student.

(c) "Financial need" means the difference between a student's available financial resources and the student's total anticipated cost of attendance at a certain Kansas educational institution. A student's financial resources shall be determined on the basis of criteria provided under the federal methodology of need analysis.

(d) "Full-time, in-state student" means a person who is a resident of Kansas and who is enrolling or enrolled at a Kansas educational institution for at least 12 credit hours each semester or the equivalent thereof. The board of regents shall determine the number of hours for terms other than semesters to constitute the equivalent of 12 credit hours.

(e) "Kansas student" means a full-time, in-state student who has established financial need and who is initially acceptable for entering a Kansas educational institution or who has so entered and is in good standing and making satisfactory progress toward graduation.

(f) "Kansas educational institution" means a state educational institution under the control and supervision of the board of regents, a municipal university; or a not-for-profit independent institution of higher education ~~which that~~ is accredited by ~~the north central association of colleges and secondary schools accrediting agency based on its requirements as of April 1, 1985, or by the higher learning commission of the north central association of colleges and schools based on its requirements as of January 1, 2006~~ *an accrediting agency or association recognized by the United States department of education in the database maintained by such department*, is operated independently and not controlled or administered by the state or any agency or subdivision thereof, maintains open enrollment; and the main campus or principal place of operation of which is located in Kansas.

(g) "Open enrollment" means the policy of an institution of higher education ~~which that~~ provides the opportunity of enrollment for any student who meets its academic and other reasonable enrollment requirements, without regard for race, gender, religion, creed or national origin.

(h) "Board of regents" means the state board of regents provided for in the constitution of this state and described in article 32 of chapter 74 of Kansas Statutes Annotated.

(i) "Term" means one of two or more divisions of an academic year of a Kansas educational institution in which substantially all courses begin and end at substantially the same time; and during which instruction is regularly given to students.

(j) "Semester" means one of two principal terms, when there are only two principal terms in the academic year, whether or not there are other shorter terms during the same academic year.

Sec. 6. K.S.A. 2024 Supp. 79-3602 is hereby amended to read as follows: 79-3602. Except as otherwise provided, as used in the Kansas retailers' sales tax act:

(a) "Agent" means a person appointed by a seller to represent the seller before the member states.

(b) "Agreement" means the multistate agreement entitled the streamlined sales and use tax agreement approved by the streamlined sales tax implementing states at Chicago, Illinois on November 12, 2002.

(c) "Alcoholic beverages" means beverages that are suitable for human consumption and contain 0.05% or more of alcohol by volume.

(d) "Certified automated system (CAS)" means software certified under the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state and maintain a record of the transaction.

(e) "Certified service provider (CSP)" means an agent certified under the agreement to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

(f) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

(g) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(h) "Delivered electronically" means delivered to the purchaser by means other than tangible storage media.

(i) "Delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating and packing. "Delivery charges" ~~shall~~ *does* not include charges for delivery of direct mail if the charges are separately stated on an invoice or similar billing document given to the purchaser.

(j) "Direct mail" means printed material delivered or distributed by United States mail or other delivery services to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

(k) "Director" means the state director of taxation.

(l) "Educational institution" means any nonprofit school, college and university that offers education at a level above the 12<sup>th</sup> grade; and conducts regular classes and courses of study required for accreditation by; or membership in, ~~the higher learning commission~~ *an accrediting agency or association recognized by the United States department of education in the database maintained by such department*, the state board of education; or that otherwise qualify as an "educational institution," as defined by K.S.A. 74-50,103, and amendments thereto. Such phrase shall include: (1) A group of educational institutions that operates exclusively for an educational purpose; (2) nonprofit endowment associations and foundations organized and operated exclusively to receive, hold, invest and administer moneys and property

as a permanent fund for the support and sole benefit of an educational institution; (3) nonprofit trusts, foundations and other entities organized and operated principally to hold and own receipts from intercollegiate sporting events and to disburse such receipts, as well as grants and gifts, in the interest of collegiate and intercollegiate athletic programs for the support and sole benefit of an educational institution; and (4) nonprofit trusts, foundations and other entities organized and operated for the primary purpose of encouraging, fostering and conducting scholarly investigations and industrial and other types of research for the support and sole benefit of an educational institution.

(m) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(n) "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" includes bottled water, candy, dietary supplements, food sold through vending machines and soft drinks. "Food and food ingredients" does not include alcoholic beverages or tobacco.

(o) "Gross receipts" means the total selling price or the amount received as defined in this act, in money, credits, property or other consideration valued in money from sales at retail within this state; and embraced within the provisions of this act. The taxpayer, may take credit in the report of gross receipts for: (1) An amount equal to the selling price of property returned by the purchaser when the full sale price thereof, including the tax collected, is refunded in cash or by credit; and (2) an amount equal to the allowance given for the trade-in of property.

(p) "Ingredient or component part" means tangible personal property that is necessary or essential to, and that is actually used in and becomes an integral and material part of tangible personal property or services produced, manufactured or compounded for sale by the producer, manufacturer or compounder in its regular course of business. The following items of tangible personal property are hereby declared to be ingredients or component parts, but the listing of such property shall not be deemed to be exclusive nor shall such listing be construed to be a restriction upon, or an indication of, the type or types of property to be included within the definition of "ingredient or component part" as herein set forth:

(1) Containers, labels and shipping cases used in the distribution of property produced, manufactured or compounded for sale that are not to be returned to the producer, manufacturer or compounder for reuse.

(2) Containers, labels, shipping cases, paper bags, drinking straws, paper plates, paper cups, twine and wrapping paper used in the distribution and sale of property taxable under the provisions of this act by wholesalers and retailers and that is not to be returned to such wholesaler or retailer for reuse.

(3) Seeds and seedlings for the production of plants and plant products produced for resale.

(4) Paper and ink used in the publication of newspapers.

(5) Fertilizer used in the production of plants and plant products produced for resale.

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

offspring for use for any such purpose or purposes.

(q) "Isolated or occasional sale" means the nonrecurring sale of tangible personal property, or services taxable hereunder by a person not engaged at the time of such sale in the business of selling such property or services. Any religious organization that makes a nonrecurring sale of tangible personal property acquired for the purpose of resale shall be deemed to be not engaged at the time of such sale in the business of selling such property. ~~Such term shall include~~ "Isolated or occasional sale" includes: (1) Any sale by a bank, savings and loan institution, credit union or any finance company licensed under the provisions of the Kansas uniform consumer credit code of tangible personal property that has been repossessed by any such entity; and (2) any sale of tangible personal property made by an auctioneer or agent on behalf of not more than two principals or households if such sale is nonrecurring and any such principal or household is not engaged at the time of such sale in the business of selling tangible personal property.

(r) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A "lease or rental" may include future options to purchase or extend.

(1) "Lease or rental" does not include: (A) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(B) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of \$100 or 1% of the total required payments; or

(C) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator ~~must~~ shall do more than maintain, inspect or set-up the tangible personal property.

(2) "Lease or rental" ~~does include~~ includes agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. § 7701(h)(1).

(3) This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under generally accepted accounting principles, the internal revenue code, the uniform commercial code, K.S.A. 84-1-101 et seq., and amendments thereto, or other provisions of federal, state or local law.

(4) This definition will be applied only prospectively from the effective date of this act and will have no retroactive impact on existing leases or rentals.

(s) "Load and leave" means delivery to the purchaser by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

(t) "Member state" means a state that has entered in the agreement, pursuant to provisions of article VIII of the agreement.

(u) "Model 1 seller" means a seller that has selected a CSP as its agent to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

(v) "Model 2 seller" means a seller that has selected a CAS to perform part of its sales and use tax functions, but retains responsibility for remitting the tax.

(w) "Model 3 seller" means a seller that has sales in at least five member states, has total annual sales revenue of at least \$500,000,000,

has a proprietary system that calculates the amount of tax due each jurisdiction and has entered into a performance agreement with the member states that establishes a tax performance standard for the seller. As used in this subsection a seller includes an affiliated group of sellers using the same proprietary system.

(x) "Municipal corporation" means any city incorporated under the laws of Kansas.

(y) "Nonprofit blood bank" means any nonprofit place, organization, institution or establishment that is operated wholly or in part for the purpose of obtaining, storing, processing, preparing for transfusing, furnishing, donating or distributing human blood or parts or fractions of single blood units or products derived from single blood units, whether or not any remuneration is paid therefor, or whether such procedures are done for direct therapeutic use or for storage for future use of such products.

(z) "Persons" means any individual, firm, copartnership, joint adventure, association, corporation, estate or trust, receiver or trustee, or any group or combination acting as a unit, and the plural as well as the singular number; ~~and shall specifically mean.~~ "Persons" includes any city or other political subdivision of the state of Kansas engaging in a business or providing a service specifically taxable under the provisions of this act.

(aa) "Political subdivision" means any municipality, agency or subdivision of the state that is, or shall hereafter be, authorized to levy taxes upon tangible property within the state or that certifies a levy to a municipality, agency or subdivision of the state that is, or shall hereafter be, authorized to levy taxes upon tangible property within the state. ~~Such term also shall include~~ "Political subdivision" includes any public building commission, housing, airport, port, metropolitan transit or similar authority established pursuant to law and the horsethief reservoir benefit district established pursuant to K.S.A. 82a-2201, and amendments thereto.

(bb) "Prescription" means an order, formula or recipe issued in any form of oral, written, electronic or other means of transmission by a duly licensed practitioner authorized by the laws of this state.

(cc) "Prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. Where a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software, except that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute prewritten computer software.

(dd) "Property which is consumed" means tangible personal property that is essential or necessary to and that is used in the actual process of and consumed, depleted or dissipated within one year in: (1) The production, manufacture, processing, mining, drilling, refining or

compounding of tangible personal property; (2) the providing of services; (3) the irrigation of crops, for sale in the regular course of business; or (4) the storage or processing of grain by a public grain warehouse or other grain storage facility, ~~and which~~ *that* is not reusable for such purpose. The following is a listing of tangible personal property, included by way of illustration but not of limitation, that qualifies as property that is consumed:

(A) Insecticides, herbicides, germicides, pesticides, fungicides, fumigants, antibiotics, biologicals, pharmaceuticals, vitamins and chemicals for use in commercial or agricultural production, processing or storage of fruit, vegetables, feeds, seeds, grains, animals or animal products whether fed, injected, applied, combined with or otherwise used;

(B) electricity, gas and water; and

(C) petroleum products, lubricants, chemicals, solvents, reagents and catalysts.

(ee) "Purchase price" applies to the measure subject to use tax and has the same meaning as sales price.

(ff) "Purchaser" means a person to whom a sale of personal property is made or to whom a service is furnished.

(gg) "Quasi-municipal corporation" means any county, township, school district, drainage district or any other governmental subdivision in the state of Kansas having authority to receive or hold moneys or funds.

(hh) "Registered under this agreement" means registration by a seller with the member states under the central registration system provided in article IV of the agreement.

(ii) "Retailer" means a seller regularly engaged in the business of selling, leasing or renting tangible personal property at retail or furnishing electrical energy, gas, water, services or entertainment; and selling only to the user or consumer and not for resale.

(jj) "Retail sale" or "sale at retail" means any sale, lease or rental for any purpose other than for resale, sublease or subrent.

(kk) "Sale" or "sales" means the exchange of tangible personal property, as well as the sale thereof for money, and every transaction, conditional or otherwise, for a consideration, constituting a sale, including the sale or furnishing of electrical energy, gas, water, services or entertainment taxable under the terms of this act and including, except as provided in the following provision, the sale of the use of tangible personal property by way of a lease, license to use or the rental thereof regardless of the method by which the title, possession or right to use the tangible personal property is transferred. ~~The term "Sale" or "sales" shall~~ *does* not mean the sale of the use of any tangible personal property used as a dwelling by way of a lease or rental thereof for a term of more than 28 consecutive days.

(ll) (1) "Sales or selling price" applies to the measure subject to sales tax and means the total amount of consideration, including cash, credit, property and services, for which personal property or services are sold, leased or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

(A) The seller's cost of the property sold;

(B) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller and any other expense of the seller;

(C) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

(D) (i) prior to July 1, 2023, delivery charges; and

(ii) on and after July 1, 2023, delivery charges that are not separately stated on the invoice, bill of sale or similar document given

to the purchaser; and

(E) installation charges.

(2) "Sales or selling price" includes consideration received by the seller from third parties if:

(A) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(D) one of the following criteria is met:

(i) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon, certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;

(ii) the purchaser identifies to the seller that the purchaser is a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group; or

(iii) the price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

(3) "Sales or selling price" ~~shall~~ *does* not include:

(A) Discounts, including cash, term or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(B) interest, financing and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale or similar document given to the purchaser;

(C) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale or similar document given to the purchaser;

(D) the amount equal to the allowance given for the trade-in of property, if separately stated on the invoice, billing or similar document given to the purchaser;

(E) cash rebates granted by a manufacturer to a purchaser or lessee of a new motor vehicle if paid directly to the retailer as a result of the original sale;

(F) commencing on July 1, 2023, delivery charges that are separately stated on the invoice, bill of sale or similar document given to the purchaser; and

(G) notwithstanding the provisions of paragraph (2), coupons issued by a manufacturer, supplier or distributor of a product that entitle the purchaser to a reduction in sales price and allowed by the seller who is reimbursed by the manufacturer, supplier or distributor. When the seller accepts such coupons, only the amount paid by the purchaser is included in the sales price.

(mm) "Seller" means a person making sales, leases or rentals of personal property or services.

(nn) "Service" means those services described in and taxed under the provisions of K.S.A. 79-3603, and amendments thereto.

(oo) "Sourcing rules" means the rules set forth in K.S.A. 79-3670 through 79-3673, 12-191 and 12-191a, and amendments thereto, that

shall apply to identify and determine the state and local taxing jurisdiction sales or use taxes to pay, or collect and remit on a particular retail sale.

(pp) "Tangible personal property" means personal property that can be seen, weighed, measured, felt or touched, or that is in any other manner perceptible to the senses. Tangible personal property includes electricity, water, gas, steam and prewritten computer software.

(qq) "Taxpayer" means any person obligated to account to the director for taxes collected under the terms of this act.

(rr) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco or any other item that contains tobacco.

(ss) "Entity-based exemption" means an exemption based on who purchases the product or who sells the product. An exemption that is available to all individuals shall not be considered an entity-based exemption.

(tt) "Over-the-counter drug" means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. ~~The "Over-the-counter drug" label includes:~~ (1) A drug facts panel; or (2) a statement of the active ingredients with a list of those ingredients contained in the compound, substance or preparation. "Over-the-counter ~~drugs do~~ drug" *does* not include grooming and hygiene products such as soaps, cleaning solutions, shampoo, toothpaste, antiperspirants and sun tan lotions and screens.

(uu) "Ancillary services" means services that are associated with or incidental to the provision of telecommunications services, including, but not limited to, detailed telecommunications billing, directory assistance, vertical service and voice mail services.

(vv) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge.

(ww) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(xx) "Directory assistance" means an ancillary service of providing telephone number information or address information, or both.

(yy) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, that offers advanced calling features that allow customers to identify callers and to manage multiple calls and call connections, including conference bridging services.

(zz) "Voice mail service" means an ancillary service that enables the customer to store, send or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

(aaa) "Telecommunications service" means the electronic transmission, conveyance or routing of voice, data, audio, video or any other information or signals to a point, or between or among points. ~~The term~~ "Telecommunications service" includes such transmission, conveyance or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmissions, conveyance or routing without regard to whether such service is referred to as voice over internet protocol services or is classified by the federal communications commission as enhanced or value added. "Telecommunications service" does not include:

(1) Data processing and information services that allow data to be generated, acquired, stored, processed or retrieved and delivered by an

electronic transmission to a purchaser where such purchaser's primary purpose for the underlying transaction is the processed data or information;

(2) installation or maintenance of wiring or equipment on a customer's premises;

(3) tangible personal property;

(4) advertising, including, but not limited to, directory advertising;

(5) billing and collection services provided to third parties;

(6) internet access service;

(7) radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of such services by the programming service provider. Radio and television audio and video programming services shall include, but not be limited to, cable service as defined in 47 U.S.C. § 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. § 20.3;

(8) ancillary services; or

(9) digital products delivered electronically, including, but not limited to, software, music, video, reading materials or ring tones.

(bbb) "800 service" means a telecommunications service that allows a caller to dial a toll-free number without incurring a charge for the call. The service is typically marketed under the name 800, 855, 866, 877 and 888 toll-free calling; and any subsequent numbers designated by the federal communications commission.

(ccc) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service. "900 service" does not include the charge for collection services provided by the seller of the telecommunications services to the subscriber, or service or product sold by the subscriber to the subscriber's customer. The service is typically marketed under the name 900 service; and any subsequent numbers designated by the federal communications commission.

(ddd) "Value-added non-voice data service" means a service that otherwise meets the definition of telecommunications services in which computer processing applications are used to act on the form, content, code or protocol of the information or data primarily for a purpose other than transmission, conveyance or routing.

(eee) "International" means a telecommunications service that originates or terminates in the United States and terminates or originates outside the United States, respectively. United States includes the District of Columbia or a U.S. territory or possession.

(fff) "Interstate" means a telecommunications service that originates in one United States state, or a United States territory or possession, and terminates in a different United States state or a United States territory or possession.

(ggg) "Intrastate" means a telecommunications service that originates in one United States state or a United States territory or possession, and terminates in the same United States state or a United States territory or possession.

(hhh) "Cereal malt beverage" ~~shall have the same meaning as such term is means the same as~~ defined in K.S.A. 41-2701, and amendments thereto, except that for the purposes of the Kansas retailers' sales tax act and for no other purpose, ~~such term shall include~~. "Cereal malt beverage" includes beer containing not more than 6% alcohol by volume when such beer is sold by a retailer licensed under the Kansas cereal malt beverage act.

(iii) "Nonprofit integrated community care organization" means an

entity that is:

(1) Exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(2) certified to participate in the medicare program as a hospice under 42 C.F.R. § 418 et seq. and focused on providing care to the aging and indigent population at home and through inpatient care, adult daycare or assisted living facilities and related facilities and services across multiple counties; and

(3) approved by the Kansas department for aging and disability services as an organization providing services under the program of all-inclusive care for the elderly as defined in 42 U.S.C. § 1396u-4 and regulations implementing such section.

(jjj) (1) "Bottled water" means water that is placed in a safety sealed container or package for human consumption. "Bottled water" is calorie free and does not contain sweeteners or other additives, except that it may contain:

- (A) Antimicrobial agents;
- (B) fluoride;
- (C) carbonation;
- (D) vitamins, minerals and electrolytes;
- (E) oxygen;
- (F) preservatives; or
- (G) only those flavors, extracts or essences derived from a spice or fruit.

(2) "Bottled water" includes water that is delivered to the buyer in a reusable container that is not sold with the water.

(lll) (1) "Candy" means a preparation of sugar, honey or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops or pieces.

(2) "Candy" does not include any preparation containing flour and shall require no refrigeration.

(mmm) "Dietary supplement" means the same as defined in K.S.A. 79-3606(jjj), and amendments thereto.

(nnn) "Food sold through vending machines" means food dispensed from a machine or other mechanical device that accepts payment.

(ooo) (1) "Prepared food" means:

- (A) Food sold in a heated state or heated by the seller;
- (B) two or more food ingredients mixed or combined by the seller for sale as a single item; or
- (C) food sold with eating utensils provided by the seller, including, but not limited to, plates, knives, forks, spoons, glasses, cups, napkins or straws. A plate does not include a container or packaging used to transport the food.

(2) "Prepared food" does not include:

- (A) Food that is only cut, repackaged or pasteurized by the seller; or
- (B) eggs, fish, meat, poultry or foods containing these raw animal foods that require cooking by the consumer as recommended by the food and drug administration in chapter 3, part 401.11 of the food and drug administration food code so as to prevent food borne illnesses.

(ppp) (1) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners.

(2) "Soft drinks" does not include beverages that contain milk or milk products, soy, rice or similar milk substitutes or beverages that are greater than 50% vegetable or fruit juice by volume.

Sec. 7. K.S.A. 8-1,142, 13-13a46 and 74-32,120 and K.S.A. 2024 Supp. 58-3046a and 79-3602 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

\_\_\_\_\_

SENATE concurred in  
HOUSE amendments \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE  
as amended \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*