

**HOUSE BILL No. 2473**

By Committee on Appropriations

4-26

1 AN ACT reconciling multiple amendments to certain statutes; amending  
2 K.S.A. 8-1103, as amended by section 1 of 2023 House Bill No. 2042,  
3 25-1122, as amended by section 1 of 2023 House Bill No. 2053, 75-  
4 7240, as amended by section 15 of 2023 House Bill No. 2019, and 75-  
5 7242, as amended by section 16 of 2023 House Bill No. 2019, and  
6 K.S.A. 2022 Supp. 21-5701, 21-6614, 25-3009, as amended by section  
7 48 of 2023 Senate Bill No. 221, 65-4101, 79-3234, as amended by  
8 section 72 of 2023 Senate Bill No. 244, and 79-3602 and repealing the  
9 existing sections; also repealing K.S.A. 8-1103, as amended by section  
10 4 of 2023 House Bill No. 2147, 25-1122, as amended by section 28 of  
11 2023 Senate Bill No. 221, 32-837, as amended by section 35 of 2023  
12 House Bill No. 2332, 32-906, as amended by section 52 of 2023 House  
13 Bill No. 2332, 75-1253, as amended by section 127 of 2023 House Bill  
14 No. 2332, 75-7240, as amended by section 8 of 2023 House Bill No.  
15 2395, 75-7242, as amended by section 9 of 2023 House Bill No. 2395,  
16 and K.S.A. 2022 Supp. 21-5701b, 21-6614i, 25-3009, as amended by  
17 section 3 of 2023 House Bill No. 2053, 65-4101d, 79-3234, as  
18 amended by section 141 of 2023 House Bill No. 2332, and 79-3602c.

19

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

21 Section 1. On and after January 1, 2024, K.S.A. 8-1103, as amended  
22 by section 1 of 2023 House Bill No. 2042, is hereby amended to read as  
23 follows: 8-1103. (a) (1) Whenever any person providing wrecker or towing  
24 service, as defined by K.S.A. 66-1329, and amendments thereto, while  
25 lawfully in possession of a vehicle, at the direction of a law enforcement  
26 officer, the owner or, if a city ordinance or county resolution authorizes the  
27 towing of vehicles by a wrecker or towing service, a self-service storage  
28 facility operator as provided by K.S.A. 58-817, and amendments thereto,  
29 or as otherwise provided by a city ordinance or county resolution, renders  
30 any service to the owner thereof by the recovery, transportation,  
31 protection, storage or safekeeping thereof, a first and prior lien on the  
32 vehicle is hereby created in favor of such person rendering such service  
33 and the lien shall amount to the full amount and value of the service  
34 rendered. The lien may be foreclosed in the manner provided in this act.

35 (2) If the name of the owner of the vehicle is known to the person in  
36 possession of such vehicle, then within 15 days, notice shall be given to

1 the owner that the vehicle is being held subject to satisfaction of the lien.  
2 Any vehicle remaining in the possession of a person providing wrecker or  
3 towing service for a period of 30 days after such wrecker or towing service  
4 was provided may be sold to pay the reasonable or agreed charges for such  
5 recovery, transportation, protection, storage or safekeeping of such vehicle  
6 and personal property therein, the costs of such sale, the costs of notice to  
7 the owner of the vehicle and publication after giving the notices required  
8 by this act, unless a court order has been issued to hold such vehicle for  
9 the purpose of a criminal investigation or for use as evidence at a trial.

10 (3) If a court orders any vehicle to be held for the purpose of a  
11 criminal investigation or for use as evidence at a trial, then such order shall  
12 be in writing, and the court shall assess as costs the reasonable or agreed  
13 charges for the protection, storage or safekeeping accrued while the  
14 vehicle was held pursuant to such written order.

15 (4) Any personal property within the vehicle need not be released to  
16 the owner thereof until the reasonable or agreed charges for such recovery,  
17 transportation or safekeeping have been paid, or satisfactory arrangements  
18 for payment have been made, except as provided under subsection (c) or  
19 for personal medical supplies which shall be released to the owner thereof  
20 upon request. The person in possession of such vehicle and personal  
21 property shall be responsible only for the reasonable care of such property.  
22 Any personal property within the vehicle not returned to the owner shall  
23 be sold at the auction authorized by this act.

24 (5) *A person providing wrecker or towing service shall provide a*  
25 *certification of compliance to a purchaser pursuant to section 1 of 2023*  
26 *House Bill No. 2147, and amendments thereto, upon the sale and transfer*  
27 *of a vehicle authorized by this section.*

28 (b) At the time of providing wrecker or towing service, any person  
29 providing such wrecker or towing service shall give written notice to the  
30 driver, if available, of the vehicle being towed that a fee will be charged  
31 for storage of such vehicle. Failure to give such written notice shall  
32 invalidate any lien established for such storage fee.

33 (c) A city ordinance or county resolution authorizing the towing of  
34 vehicles from private property shall specify in such ordinance or  
35 resolution:

36 (1) The maximum rate such wrecker or towing service may charge  
37 for such wrecker or towing service and storage fees;

38 (2) that an owner of a vehicle towed shall have access to personal  
39 property in such vehicle for 48 hours after such vehicle has been towed  
40 and such personal property shall be released to the owner; and

41 (3) that the wrecker or towing service shall report the location of such  
42 vehicle to local law enforcement within two hours of such tow.

43 (d) A person providing towing services shall not tow a vehicle to a

1 location outside of Kansas without the consent of either:

2 (1) The driver or owner of the motor vehicle;

3 (2) a motor club of which the driver or owner of the motor vehicle is  
4 a member; or

5 (3) the insurance company processing a claim with respect to the  
6 vehicle or an agent of such insurance company.

7 Sec. 2. K.S.A. 2022 Supp. 21-5701 is hereby amended to read as  
8 follows: 21-5701. As used in K.S.A. 2022 Supp. 21-5701 through 21-  
9 5717, and amendments thereto:

10 (a) "Controlled substance" means any drug, substance or immediate  
11 precursor included in any of the schedules designated in K.S.A. 65-4105,  
12 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.

13 (b) (1) "Controlled substance analog" means a substance that is  
14 intended for human consumption, and at least one of the following:

15 (A) The chemical structure of the substance is substantially similar to  
16 the chemical structure of a controlled substance listed in or added to the  
17 schedules designated in K.S.A. 65-4105 or 65-4107, and amendments  
18 thereto;

19 (B) the substance has a stimulant, depressant or hallucinogenic effect  
20 on the central nervous system substantially similar to the stimulant,  
21 depressant or hallucinogenic effect on the central nervous system of a  
22 controlled substance included in the schedules designated in K.S.A. 65-  
23 4105 or 65-4107, and amendments thereto; or

24 (C) with respect to a particular individual, such individual represents  
25 or intends the substance to have a stimulant, depressant or hallucinogenic  
26 effect on the central nervous system substantially similar to the stimulant,  
27 depressant or hallucinogenic effect on the central nervous system of a  
28 controlled substance included in the schedules designated in K.S.A. 65-  
29 4105 or 65-4107, and amendments thereto.

30 (2) "Controlled substance analog" does not include:

31 (A) A controlled substance;

32 (B) a substance for which there is an approved new drug application;  
33 or

34 (C) a substance with respect to which an exemption is in effect for  
35 investigational use by a particular person under section 505 of the federal  
36 food, drug, and cosmetic act, 21 U.S.C. § 355, to the extent conduct with  
37 respect to the substance is permitted by the exemption.

38 (c) "Cultivate" means the planting or promotion of growth of five or  
39 more plants that contain or can produce controlled substances.

40 (d) "Distribute" means the actual, constructive or attempted transfer  
41 from one person to another of some item whether or not there is an agency  
42 relationship. "Distribute" includes, but is not limited to, sale, offer for sale  
43 or any act that causes some item to be transferred from one person to

1 another. "Distribute" does not include acts of administering, dispensing or  
2 prescribing a controlled substance as authorized by the pharmacy act of the  
3 state of Kansas, the uniform controlled substances act or otherwise  
4 authorized by law.

5 (e) (1) "Drug" means:

6 (A) Substances recognized as drugs in the official United States  
7 pharmacopeia, official homeopathic pharmacopoeia of the United States or  
8 official national formulary or any supplement to any of them;

9 (B) substances intended for use in the diagnosis, cure, mitigation,  
10 treatment or prevention of disease in humans or animals;

11 (C) substances, other than food, intended to affect the structure or any  
12 function of the body of humans or animals; and

13 (D) substances intended for use as a component of any article  
14 specified in subparagraph (A), (B) or (C).

15 (2) "Drug" does not include devices or their components, parts or  
16 accessories.

17 (f) "Drug paraphernalia" means all equipment and materials of any  
18 kind that are used, or primarily intended or designed for use in planting,  
19 propagating, cultivating, growing, harvesting, manufacturing,  
20 compounding, converting, producing, processing, preparing, testing,  
21 analyzing, packaging, repackaging, storing, containing, concealing,  
22 injecting, ingesting, inhaling or otherwise introducing into the human body  
23 a controlled substance and in violation of this act. "Drug paraphernalia"  
24 shall include, but is not limited to:

25 (1) Kits used or intended for use in planting, propagating, cultivating,  
26 growing or harvesting any species of plant that is a controlled substance or  
27 from which a controlled substance can be derived;

28 (2) kits used or intended for use in manufacturing, compounding,  
29 converting, producing, processing or preparing controlled substances;

30 (3) isomerization devices used or intended for use in increasing the  
31 potency of any species of plant that is a controlled substance;

32 (4) testing equipment used or intended for use in identifying or in  
33 analyzing the strength, effectiveness or purity of controlled substances;

34 (5) scales and balances used or intended for use in weighing or  
35 measuring controlled substances;

36 (6) diluents and adulterants, including, but not limited to, quinine  
37 hydrochloride, mannitol, mannite, dextrose and lactose that are used or  
38 intended for use in cutting controlled substances;

39 (7) separation gins and sifters used or intended for use in removing  
40 twigs and seeds from or otherwise cleaning or refining marijuana;

41 (8) blenders, bowls, containers, spoons and mixing devices used or  
42 intended for use in compounding controlled substances;

43 (9) capsules, balloons, envelopes, bags and other containers used or

- 1 intended for use in packaging small quantities of controlled substances;
- 2 (10) containers and other objects used or intended for use in storing  
3 or concealing controlled substances;
- 4 (11) hypodermic syringes, needles and other objects used or intended  
5 for use in parenterally injecting controlled substances into the human  
6 body; *and*
- 7 (12) objects used or primarily intended or designed for use in  
8 ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish,  
9 hashish oil, phencyclidine (PCP), methamphetamine or amphetamine into  
10 the human body, such as:
- 11 (A) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with  
12 or without screens, permanent screens, hashish heads or punctured metal  
13 bowls;
- 14 (B) water pipes, bongos or smoking pipes designed to draw smoke  
15 through water or another cooling device;
- 16 (C) carburetion pipes, glass or other ~~heat-resistant~~ *heat-resistant* tubes  
17 or any other device used, intended to be used or designed to be used to  
18 cause vaporization of a controlled substance for inhalation;
- 19 (D) smoking and carburetion masks;
- 20 (E) roach clips, objects used to hold burning material, such as a  
21 marijuana cigarette, that has become too small or too short to be held in  
22 the hand;
- 23 (F) miniature cocaine spoons and cocaine vials;
- 24 (G) chamber smoking pipes;
- 25 (H) carburetor smoking pipes;
- 26 (I) electric smoking pipes;
- 27 (J) air-driven smoking pipes;
- 28 (K) chillums;
- 29 (L) bongos;
- 30 (M) ice pipes or chillers;
- 31 (N) any smoking pipe manufactured to disguise its intended purpose;
- 32 (O) wired cigarette papers; or
- 33 (P) cocaine freebase kits.
- 34 "Drug paraphernalia" shall not include any products, chemicals or  
35 materials described in K.S.A. 2022 Supp. 21-5709(a), and amendments  
36 thereto.
- 37 (g) "Immediate precursor" means a substance that the state board of  
38 pharmacy has found to be and by rules and regulations designates as being  
39 the principal compound commonly used or produced primarily for use and  
40 that is an immediate chemical intermediary used or likely to be used in the  
41 manufacture of a controlled substance, the control of which is necessary to  
42 prevent, curtail or limit manufacture.
- 43 (h) "Isomer" means all enantiomers and diastereomers.

1 (i) "Manufacture" means the production, preparation, propagation,  
2 compounding, conversion or processing of a controlled substance either  
3 directly or indirectly or by extraction from substances of natural origin or  
4 independently by means of chemical synthesis or by a combination of  
5 extraction and chemical synthesis. "Manufacture" does not include:

6 (1) The preparation or compounding of a controlled substance by an  
7 individual for the individual's own lawful use or the preparation,  
8 compounding, packaging or labeling of a controlled substance:

9 (A) By a practitioner or the practitioner's agent pursuant to a lawful  
10 order of a practitioner as an incident to the practitioner's administering or  
11 dispensing of a controlled substance in the course of the practitioner's  
12 professional practice; or

13 (B) by a practitioner or by the practitioner's authorized agent under  
14 such practitioner's supervision for the purpose of or as an incident to  
15 research, teaching or chemical analysis or by a pharmacist or medical care  
16 facility as an incident to dispensing of a controlled substance; or

17 (2) the addition of diluents or adulterants, including, but not limited to,  
18 quinine hydrochloride, mannitol, mannite, dextrose or lactose that are  
19 intended for use in cutting a controlled substance.

20 (j) "Marijuana" means all parts of all varieties of the plant Cannabis  
21 whether growing or not, the seeds thereof, the resin extracted from any  
22 part of the plant and every compound, manufacture, salt, derivative,  
23 mixture or preparation of the plant, its seeds or resin. "Marijuana" does not  
24 include:

25 (1) The mature stalks of the plant, fiber produced from the stalks, oil  
26 or cake made from the seeds of the plant, any other compound,  
27 manufacture, salt, derivative, mixture or preparation of the mature stalks,  
28 except the resin extracted therefrom, fiber, oil or cake or the sterilized seed  
29 of the plant that is incapable of germination;

30 (2) any substance listed in schedules II through V of the uniform  
31 controlled substances act;

32 (3) drug products approved by the United States food and drug  
33 administration as of the effective date of this act;

34 (4) cannabidiol (other trade name: 2-[(3-methyl-6-(1-methylethenyl)-  
35 2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol); or

36 (5) industrial hemp as defined in K.S.A. 2-3901, and amendments  
37 thereto, when cultivated, produced, possessed or used for activities  
38 authorized by the commercial industrial hemp act.

39 (k) "Minor" means a person under 18 years of age.

40 (l) "Narcotic drug" means any of the following whether produced  
41 directly or indirectly by extraction from substances of vegetable origin or  
42 independently by means of chemical synthesis or by a combination of  
43 extraction and chemical synthesis:

1 (1) Opium and opiate and any salt, compound, derivative or  
2 preparation of opium or opiate;

3 (2) any salt, compound, isomer, derivative or preparation thereof that  
4 is chemically equivalent or identical with any of the substances referred to  
5 in paragraph (1) but not including the isoquinoline alkaloids of opium;

6 (3) opium poppy and poppy straw; *and*

7 (4) coca leaves and any salt, compound, derivative or preparation of  
8 coca leaves and any salt, compound, isomer, derivative or preparation  
9 thereof that is chemically equivalent or identical with any of these  
10 substances, but not including decocainized coca leaves or extractions of  
11 coca leaves that do not contain cocaine or ecgonine.

12 (m) "Opiate" means any substance having an addiction-forming or  
13 addiction-sustaining liability similar to morphine or being capable of  
14 conversion into a drug having addiction-forming or addiction-sustaining  
15 liability. "Opiate" does not include, unless specifically designated as  
16 controlled under K.S.A. 65-4102, and amendments thereto, the  
17 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts  
18 (dextromethorphan). "Opiate" does include its racemic and levorotatory  
19 forms.

20 (n) "Opium poppy" means the plant of the species *Papaver*  
21 *somniferum* L. except its seeds.

22 (o) "Person" means an individual, corporation, government or  
23 governmental subdivision or agency, business trust, estate, trust,  
24 partnership, association or any other legal entity.

25 (p) "Poppy straw" means all parts, except the seeds, of the opium  
26 poppy, after mowing.

27 ~~(q) "Possession" means having joint or exclusive control over an item  
28 with knowledge of and intent to have such control or knowingly keeping  
29 some item in a place where the person has some measure of access and  
30 right of control.~~

31 (†) "School property" means property upon which is located a  
32 structure used by a unified school district or an accredited nonpublic  
33 school for student instruction or attendance or extracurricular activities of  
34 pupils enrolled in kindergarten or any of the grades one through 12. This  
35 definition shall not be construed as requiring that school be in session or  
36 that classes are actually being held at the time of the offense or that  
37 children must be present within the structure or on the property during the  
38 time of any alleged criminal act. If the structure or property meets the  
39 above definition, the actual use of that structure or property at the time  
40 alleged shall not be a defense to the crime charged or the sentence  
41 imposed.

42 (s)(r) "Simulated controlled substance" means any product that  
43 identifies itself by a common name or slang term associated with a

1 controlled substance and that indicates on its label or accompanying  
2 promotional material that the product simulates the effect of a controlled  
3 substance.

4 Sec. 3. K.S.A. 2022 Supp. 21-6614 is hereby amended to read as  
5 follows: 21-6614. (a) (1) Except as provided in subsections (b), (c), (d), (e)  
6 and (f), any person convicted in this state of a traffic infraction, cigarette  
7 or tobacco infraction, misdemeanor or a class D or E felony, or for crimes  
8 committed on or after July 1, 1993, any nongrid felony or felony ranked in  
9 severity levels 6 through 10 of the nondrug grid, or for crimes committed  
10 on or after July 1, 1993, but prior to July 1, 2012, any felony ranked in  
11 severity level 4 of the drug grid, or for crimes committed on or after July  
12 1, 2012, any felony ranked in severity level 5 of the drug grid may petition  
13 the convicting court for the expungement of such conviction or related  
14 arrest records if three or more years have elapsed since the person: (A)  
15 Satisfied the sentence imposed; or (B) was discharged from probation, a  
16 community correctional services program, parole, postrelease supervision,  
17 conditional release or a suspended sentence.

18 (2) Except as provided in subsections (b), (c), (d), (e) and (f), any  
19 person who has fulfilled the terms of a diversion agreement may petition  
20 the district court for the expungement of such diversion agreement and  
21 related arrest records if three or more years have elapsed since the terms of  
22 the diversion agreement were fulfilled.

23 (3) *Notwithstanding the provisions of subsection (a)(1), and except as*  
24 *provided in subsections (b), (c), (d), (e) and (f), any person who has*  
25 *completed the requirements of a specialty court program established*  
26 *pursuant to K.S.A. 2022 Supp. 20-173, and amendments thereto, may*  
27 *petition the district court for the expungement of the conviction and*  
28 *related arrest records. The court may waive all or part of the docket fee*  
29 *imposed for filing a petition pursuant to this subsection.*

30 (b) Any person convicted of prostitution, as defined in K.S.A. 21-  
31 3512, prior to its repeal, convicted of a violation of K.S.A. 2022 Supp. 21-  
32 6419, and amendments thereto, or who entered into a diversion agreement  
33 in lieu of further criminal proceedings for such violation, may petition the  
34 convicting court for the expungement of such conviction or diversion  
35 agreement and related arrest records if:

36 (1) One or more years have elapsed since the person satisfied the  
37 sentence imposed or the terms of a diversion agreement or was discharged  
38 from probation, a community correctional services program, parole,  
39 postrelease supervision, conditional release or a suspended sentence; and

40 (2) such person can prove they were acting under coercion caused by  
41 the act of another. For purposes of this subsection, "coercion" means:  
42 Threats of harm or physical restraint against any person; a scheme, plan or  
43 pattern intended to cause a person to believe that failure to perform an act

1 would result in bodily harm or physical restraint against any person; or the  
2 abuse or threatened abuse of the legal process.

3 (c) Except as provided in subsections (e) and (f), no person may  
4 petition for expungement until five or more years have elapsed since the  
5 person satisfied the sentence imposed or the terms of a diversion  
6 agreement or was discharged from probation, a community correctional  
7 services program, parole, postrelease supervision, conditional release or a  
8 suspended sentence, if such person was convicted of a class A, B or C  
9 felony, or for crimes committed on or after July 1, 1993, if convicted of an  
10 off-grid felony or any felony ranked in severity levels 1 through 5 of the  
11 nondrug grid, or for crimes committed on or after July 1, 1993, but prior to  
12 July 1, 2012, any felony ranked in severity levels 1 through 3 of the drug  
13 grid, or for crimes committed on or after July 1, 2012, any felony ranked  
14 in severity levels 1 through 4 of the drug grid, or:

15 (1) Vehicular homicide, as defined in K.S.A. 21-3405, prior to its  
16 repeal, or K.S.A. 2022 Supp. 21-5406, and amendments thereto, or as  
17 prohibited by any law of another state that is in substantial conformity  
18 with that statute;

19 (2) driving while the privilege to operate a motor vehicle on the  
20 public highways of this state has been canceled, suspended or revoked, as  
21 prohibited by K.S.A. 8-262, and amendments thereto, or as prohibited by  
22 any law of another state that is in substantial conformity with that statute;

23 (3) perjury resulting from a violation of K.S.A. 8-261a, and  
24 amendments thereto, or resulting from the violation of a law of another  
25 state that is in substantial conformity with that statute;

26 (4) violating the provisions of K.S.A. 8-142 *Fifth*, and amendments  
27 thereto, relating to fraudulent applications or violating the provisions of a  
28 law of another state that is in substantial conformity with that statute;

29 (5) any crime punishable as a felony wherein a motor vehicle was  
30 used in the perpetration of such crime;

31 (6) failing to stop at the scene of an accident and perform the duties  
32 required by K.S.A. 8-1603, prior to its repeal, or K.S.A. 8-1602 or 8-1604,  
33 and amendments thereto, or required by a law of another state that is in  
34 substantial conformity with those statutes;

35 (7) violating the provisions of K.S.A. 40-3104, and amendments  
36 thereto, relating to motor vehicle liability insurance coverage; or

37 (8) a violation of K.S.A. 21-3405b, prior to its repeal.

38 (d) (1) No person may petition for expungement until five or more  
39 years have elapsed since the person satisfied the sentence imposed or the  
40 terms of a diversion agreement or was discharged from probation, a  
41 community correctional services program, parole, postrelease supervision,  
42 conditional release or a suspended sentence, if such person was convicted  
43 of a first violation of K.S.A. 8-1567, and amendments thereto, including

1 any diversion for such violation.

2 (2) No person may petition for expungement until 10 or more years  
3 have elapsed since the person satisfied the sentence imposed or was  
4 discharged from probation, a community correctional services program,  
5 parole, postrelease supervision, conditional release or a suspended  
6 sentence, if such person was convicted of a second or subsequent violation  
7 of K.S.A. 8-1567, and amendments thereto.

8 (3) Except as provided further, the provisions of this subsection shall  
9 apply to all violations committed on or after July 1, 2006. The provisions  
10 of subsection (d)(2) shall not apply to violations committed on or after  
11 July 1, 2014, but prior to July 1, 2015.

12 (e) There shall be no expungement of convictions for the following  
13 offenses or of convictions for an attempt to commit any of the following  
14 offenses:

15 (1) Rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A.  
16 2022 Supp. 21-5503, and amendments thereto;

17 (2) indecent liberties with a child or aggravated indecent liberties  
18 with a child, as defined in K.S.A. 21-3503 or 21-3504, prior to their repeal,  
19 or K.S.A. 2022 Supp. 21-5506, and amendments thereto;

20 (3) criminal sodomy, as defined in K.S.A. 21-3505(a)(2) or (a)(3),  
21 prior to its repeal, or K.S.A. 2022 Supp. 21-5504(a)(3) or (a)(4), and  
22 amendments thereto;

23 (4) aggravated criminal sodomy, as defined in K.S.A. 21-3506, prior  
24 to its repeal, or K.S.A. 2022 Supp. 21-5504, and amendments thereto;

25 (5) indecent solicitation of a child or aggravated indecent solicitation  
26 of a child, as defined in K.S.A. 21-3510 or 21-3511, prior to their repeal,  
27 or K.S.A. 2022 Supp. 21-5508, and amendments thereto;

28 (6) sexual exploitation of a child, as defined in K.S.A. 21-3516, prior  
29 to its repeal, or K.S.A. 2022 Supp. 21-5510, and amendments thereto;

30 (7) internet trading in child pornography or aggravated internet  
31 trading in child pornography, as defined in K.S.A. 2022 Supp. 21-5514,  
32 and amendments thereto;

33 (8) aggravated incest, as defined in K.S.A. 21-3603, prior to its  
34 repeal, or K.S.A. 2022 Supp. 21-5604, and amendments thereto;

35 (9) endangering a child or aggravated endangering a child, as defined  
36 in K.S.A. 21-3608 or 21-3608a, prior to their repeal, or K.S.A. 2022 Supp.  
37 21-5601, and amendments thereto;

38 (10) abuse of a child, as defined in K.S.A. 21-3609, prior to its repeal,  
39 or K.S.A. 2022 Supp. 21-5602, and amendments thereto;

40 (11) capital murder, as defined in K.S.A. 21-3439, prior to its repeal,  
41 or K.S.A. 2022 Supp. 21-5401, and amendments thereto;

42 (12) murder in the first degree, as defined in K.S.A. 21-3401, prior to  
43 its repeal, or K.S.A. 2022 Supp. 21-5402, and amendments thereto;

- 1 (13) murder in the second degree, as defined in K.S.A. 21-3402, prior
- 2 to its repeal, or K.S.A. 2022 Supp. 21-5403, and amendments thereto;
- 3 (14) voluntary manslaughter, as defined in K.S.A. 21-3403, prior to
- 4 its repeal, or K.S.A. 2022 Supp. 21-5404, and amendments thereto;
- 5 (15) involuntary manslaughter, as defined in K.S.A. 21-3404, prior to
- 6 its repeal, or K.S.A. 2022 Supp. 21-5405, and amendments thereto;
- 7 (16) sexual battery, as defined in K.S.A. 21-3517, prior to its repeal,
- 8 or K.S.A. 2022 Supp. 21-5505, and amendments thereto, when the victim
- 9 was less than 18 years of age at the time the crime was committed;
- 10 (17) aggravated sexual battery, as defined in K.S.A. 21-3518, prior to
- 11 its repeal, or K.S.A. 2022 Supp. 21-5505, and amendments thereto;
- 12 (18) a violation of K.S.A. 8-2,144, and amendments thereto,
- 13 including any diversion for such violation; or
- 14 (19) any conviction for any offense in effect at any time prior to July
- 15 1, 2011, that is comparable to any offense as provided in this subsection.
- 16 (f) Except as provided in K.S.A. 22-4908, and amendments thereto,
- 17 for any offender who is required to register as provided in the Kansas
- 18 offender registration act, K.S.A. 22-4901 et seq., and amendments thereto,
- 19 there shall be no expungement of any conviction or any part of the
- 20 offender's criminal record while the offender is required to register as
- 21 provided in the Kansas offender registration act.
- 22 (g) (1) When a petition for expungement is filed, the court shall set a
- 23 date for a hearing of such petition and shall cause notice of such hearing to
- 24 be given to the prosecutor and the arresting law enforcement agency. The
- 25 petition shall state the:
  - 26 (A) Defendant's full name;
  - 27 (B) full name of the defendant at the time of arrest, conviction or
  - 28 diversion, if different than the defendant's current name;
  - 29 (C) defendant's sex, race and date of birth;
  - 30 (D) crime for which the defendant was arrested, convicted or
  - 31 diverted;
  - 32 (E) date of the defendant's arrest, conviction or diversion; and
  - 33 (F) identity of the convicting court, arresting law enforcement
  - 34 authority or diverting authority.
- 35 (2) Except as otherwise provided by law, a petition for expungement
- 36 shall be accompanied by a docket fee in the amount of \$176. On and after
- 37 July 1, 2019, through June 30, 2025, the supreme court may impose a
- 38 charge, not to exceed \$19 per case, to fund the costs of non-judicial
- 39 personnel. The charge established in this section shall be the only fee
- 40 collected or moneys in the nature of a fee collected for the case. Such
- 41 charge shall only be established by an act of the legislature and no other
- 42 authority is established by law or otherwise to collect a fee.
- 43 (3) All petitions for expungement shall be docketed in the original

1 criminal action. Any person who may have relevant information about the  
2 petitioner may testify at the hearing. The court may inquire into the  
3 background of the petitioner and shall have access to any reports or  
4 records relating to the petitioner that are on file with the secretary of  
5 corrections or the prisoner review board.

6 (h) At the hearing on the petition, the court shall order the petitioner's  
7 arrest record, conviction or diversion expunged if the court finds that:

8 (1) (A) The petitioner has not been convicted of a felony in the past  
9 two years and no proceeding involving any such crime is presently  
10 pending or being instituted against the petitioner *if the petition is filed*  
11 *under subsection (a)(1) or (a)(2); or*

12 (B) *no proceeding involving a felony is presently pending or being*  
13 *instituted against the petitioner if the petition is filed under subsection (a)*  
14 *(3);*

15 (2) the circumstances and behavior of the petitioner warrant the  
16 expungement;

17 (3) the expungement is consistent with the public welfare; and

18 (4) with respect to petitions seeking expungement of a felony  
19 conviction, possession of a firearm by the petitioner is not likely to pose a  
20 threat to the safety of the public.

21 (i) When the court has ordered an arrest record, conviction or  
22 diversion expunged, the order of expungement shall state the information  
23 required to be contained in the petition. The clerk of the court shall send a  
24 certified copy of the order of expungement to the Kansas bureau of  
25 investigation that shall notify the federal bureau of investigation, the  
26 secretary of corrections and any other criminal justice agency that may  
27 have a record of the arrest, conviction or diversion. If the case was  
28 appealed from municipal court, the clerk of the district court shall send a  
29 certified copy of the order of expungement to the municipal court. The  
30 municipal court shall order the case expunged once the certified copy of  
31 the order of expungement is received. After the order of expungement is  
32 entered, the petitioner shall be treated as not having been arrested,  
33 convicted or diverted of the crime, except that:

34 (1) Upon conviction for any subsequent crime, the conviction that  
35 was expunged may be considered as a prior conviction in determining the  
36 sentence to be imposed;

37 (2) the petitioner shall disclose that the arrest, conviction or diversion  
38 occurred if asked about previous arrests, convictions or diversions:

39 (A) In any application for licensure as a private detective, private  
40 detective agency, certification as a firearms trainer pursuant to K.S.A. 75-  
41 7b21, and amendments thereto, or employment as a detective with a  
42 private detective agency, as defined by K.S.A. 75-7b01, and amendments  
43 thereto; as security personnel with a private patrol operator, as defined by

1 K.S.A. 75-7b01, and amendments thereto; or with an institution, as defined  
2 in K.S.A. 76-12a01, and amendments thereto, of the Kansas department  
3 for aging and disability services;

4 (B) in any application for admission, or for an order of reinstatement,  
5 to the practice of law in this state;

6 (C) to aid in determining the petitioner's qualifications for  
7 employment with the Kansas lottery or for work in sensitive areas within  
8 the Kansas lottery as deemed appropriate by the executive director of the  
9 Kansas lottery;

10 (D) to aid in determining the petitioner's qualifications for executive  
11 director of the Kansas racing and gaming commission, for employment  
12 with the commission or for work in sensitive areas in parimutuel racing as  
13 deemed appropriate by the executive director of the commission, or to aid  
14 in determining qualifications for licensure or renewal of licensure by the  
15 commission;

16 (E) to aid in determining the petitioner's qualifications for the  
17 following under the Kansas expanded lottery act: (i) Lottery gaming  
18 facility manager or prospective manager, racetrack gaming facility  
19 manager or prospective manager, licensee or certificate holder; or (ii) an  
20 officer, director, employee, owner, agent or contractor thereof;

21 (F) upon application for a commercial driver's license under K.S.A.  
22 8-2,125 through 8-2,142, and amendments thereto;

23 (G) to aid in determining the petitioner's qualifications to be an  
24 employee of the state gaming agency;

25 (H) to aid in determining the petitioner's qualifications to be an  
26 employee of a tribal gaming commission or to hold a license issued  
27 pursuant to a tribal-state gaming compact;

28 (I) in any application for registration as a broker-dealer, agent,  
29 investment adviser or investment adviser representative all as defined in  
30 K.S.A. 17-12a102, and amendments thereto;

31 (J) in any application for employment as a law enforcement officer as  
32 defined in K.S.A. 22-2202 or 74-5602, and amendments thereto; or

33 (K) to aid in determining the petitioner's qualifications for a license to  
34 act as a bail enforcement agent pursuant to K.S.A. 75-7e01 through 75-  
35 7e09, and amendments thereto, and K.S.A. 2022 Supp. 50-6,141, and  
36 amendments thereto;

37 (3) the court, in the order of expungement, may specify other  
38 circumstances under which the conviction is to be disclosed;

39 (4) the conviction may be disclosed in a subsequent prosecution for  
40 an offense that requires as an element of such offense a prior conviction of  
41 the type expunged; and

42 (5) upon commitment to the custody of the secretary of corrections,  
43 any previously expunged record in the possession of the secretary of

1 corrections may be reinstated and the expungement disregarded, and the  
2 record continued for the purpose of the new commitment.

3 (j) Whenever a person is convicted of a crime, pleads guilty and pays  
4 a fine for a crime, is placed on parole, postrelease supervision or  
5 probation, is assigned to a community correctional services program, is  
6 granted a suspended sentence or is released on conditional release, the  
7 person shall be informed of the ability to expunge the arrest records or  
8 conviction. Whenever a person enters into a diversion agreement, the  
9 person shall be informed of the ability to expunge the diversion.

10 (k) (1) Subject to the disclosures required pursuant to subsection (i),  
11 in any application for employment, license or other civil right or privilege,  
12 or any appearance as a witness, a person whose arrest records, conviction  
13 or diversion of a crime has been expunged under this statute may state that  
14 such person has never been arrested, convicted or diverted of such crime.

15 (2) A person whose arrest record, conviction or diversion of a crime  
16 that resulted in such person being prohibited by state or federal law from  
17 possessing a firearm has been expunged under this statute shall be deemed  
18 to have had such person's right to keep and bear arms fully restored. This  
19 restoration of rights shall include, but not be limited to, the right to use,  
20 transport, receive, purchase, transfer and possess firearms. The provisions  
21 of this paragraph shall apply to all orders of expungement, including any  
22 orders issued prior to July 1, 2021.

23 (l) Whenever the record of any arrest, conviction or diversion has  
24 been expunged under the provisions of this section or under the provisions  
25 of any other existing or former statute, the custodian of the records of  
26 arrest, conviction, diversion and incarceration relating to that crime shall  
27 not disclose the existence of such records, except when requested by:

28 (1) The person whose record was expunged;

29 (2) a private detective agency or a private patrol operator, and the  
30 request is accompanied by a statement that the request is being made in  
31 conjunction with an application for employment with such agency or  
32 operator by the person whose record has been expunged;

33 (3) a court, upon a showing of a subsequent conviction of the person  
34 whose record has been expunged;

35 (4) the secretary for aging and disability services, or a designee of the  
36 secretary, for the purpose of obtaining information relating to employment  
37 in an institution, as defined in K.S.A. 76-12a01, and amendments thereto,  
38 of the Kansas department for aging and disability services of any person  
39 whose record has been expunged;

40 (5) a person entitled to such information pursuant to the terms of the  
41 expungement order;

42 (6) a prosecutor, and such request is accompanied by a statement that  
43 the request is being made in conjunction with a prosecution of an offense

1 that requires a prior conviction as one of the elements of such offense;

2 (7) the supreme court, the clerk or disciplinary administrator thereof,  
3 the state board for admission of attorneys or the state board for discipline  
4 of attorneys, and the request is accompanied by a statement that the  
5 request is being made in conjunction with an application for admission, or  
6 for an order of reinstatement, to the practice of law in this state by the  
7 person whose record has been expunged;

8 (8) the Kansas lottery, and the request is accompanied by a statement  
9 that the request is being made to aid in determining qualifications for  
10 employment with the Kansas lottery or for work in sensitive areas within  
11 the Kansas lottery as deemed appropriate by the executive director of the  
12 Kansas lottery;

13 (9) the governor or the Kansas racing and gaming commission, or a  
14 designee of the commission, and the request is accompanied by a  
15 statement that the request is being made to aid in determining  
16 qualifications for executive director of the commission, for employment  
17 with the commission, for work in sensitive areas in parimutuel racing as  
18 deemed appropriate by the executive director of the commission or for  
19 licensure, renewal of licensure or continued licensure by the commission;

20 (10) the Kansas racing and gaming commission, or a designee of the  
21 commission, and the request is accompanied by a statement that the  
22 request is being made to aid in determining qualifications of the following  
23 under the Kansas expanded lottery act: (A) Lottery gaming facility  
24 managers and prospective managers, racetrack gaming facility managers  
25 and prospective managers, licensees and certificate holders; and (B) their  
26 officers, directors, employees, owners, agents and contractors;

27 (11) the Kansas sentencing commission;

28 (12) the state gaming agency, and the request is accompanied by a  
29 statement that the request is being made to aid in determining  
30 qualifications: (A) To be an employee of the state gaming agency; or (B)  
31 to be an employee of a tribal gaming commission or to hold a license  
32 issued pursuant to a tribal-gaming compact;

33 (13) the Kansas securities commissioner or a designee of the  
34 commissioner, and the request is accompanied by a statement that the  
35 request is being made in conjunction with an application for registration as  
36 a broker-dealer, agent, investment adviser or investment adviser  
37 representative by such agency and the application was submitted by the  
38 person whose record has been expunged;

39 (14) the Kansas commission on peace officers' standards and training  
40 and the request is accompanied by a statement that the request is being  
41 made to aid in determining certification eligibility as a law enforcement  
42 officer pursuant to K.S.A. 74-5601 et seq., and amendments thereto;

43 (15) a law enforcement agency and the request is accompanied by a

1 statement that the request is being made to aid in determining eligibility  
2 for employment as a law enforcement officer as defined by K.S.A. 22-  
3 2202, and amendments thereto;

4 (16) (A) the attorney general and the request is accompanied by a  
5 statement that the request is being made to aid in determining  
6 qualifications for a license to act as a bail enforcement agent pursuant to  
7 K.S.A. 75-7e01 through 75-7e09, and amendments thereto, and K.S.A.  
8 2022 Supp. 50-6,141, and amendments thereto; or

9 (B) the attorney general for any other purpose authorized by law,  
10 except that an expungement record shall not be the basis for denial of a  
11 license to carry a concealed handgun under the personal and family  
12 protection act; or

13 (17) the Kansas bureau of investigation, for the purpose of  
14 completing a person's criminal history record information within the  
15 central repository, in accordance with K.S.A. 22-4701 et seq., and  
16 amendments thereto.

17 (m) (1) The provisions of subsection (l)(17) shall apply to records  
18 created prior to, on and after July 1, 2011.

19 (2) Upon the issuance of an order of expungement that resulted in the  
20 restoration of a person's right to keep and bear arms, the Kansas bureau of  
21 investigation shall report to the federal bureau of investigation that such  
22 expunged record be withdrawn from the national instant criminal  
23 background check system. The Kansas bureau of investigation shall  
24 include such order of expungement in the person's criminal history record  
25 for purposes of documenting the restoration of such person's right to keep  
26 and bear arms.

27 Sec. 4. K.S.A. 25-1122, as amended by section 1 of 2023 House Bill  
28 No. 2053, is hereby amended to read as follows: 25-1122. (a) Any  
29 registered voter may file with the county election officer where ~~the~~ *such*  
30 person is a resident, or where ~~the~~ *such* person is authorized by law to vote  
31 as a former precinct resident, an application for an advance voting ballot.  
32 The signed application shall be transmitted only to the county election  
33 officer by personal delivery, mail, facsimile or as otherwise provided by  
34 law.

35 (b) If the registered voter is applying for an advance voting ballot to  
36 be transmitted in person, the voter shall provide identification pursuant to  
37 K.S.A. 25-2908, and amendments thereto.

38 (c) If the registered voter is applying for an advance voting ballot to  
39 be transmitted by mail, the voter shall provide with the application for an  
40 advance voting ballot the voter's current and valid Kansas driver's license  
41 number, nondriver's identification card number or a photocopy of any  
42 other identification provided by K.S.A. 25-2908, and amendments thereto.

43 (d) A voter may vote a provisional ballot according to K.S.A. 25-409,

1 and amendments thereto, if:

2 (1) The voter is unable or refuses to provide current and valid  
3 identification; or

4 (2) the name and address of the voter provided on the application for  
5 an advance voting ballot do not match the voter's name and address on the  
6 registration book. The voter shall provide a valid form of identification as  
7 defined in K.S.A. 25-2908, and amendments thereto, to the county election  
8 officer in person or provide a copy by mail or electronic means before the  
9 meeting of the county board of canvassers. At the meeting of the county  
10 board of canvassers the county election officer shall present copies of  
11 identification received from provisional voters and the corresponding  
12 provisional ballots. If the county board of canvassers determines that a  
13 voter's identification is valid and the provisional ballot was properly cast,  
14 the ballot shall be counted.

15 (e) No county election officer shall provide an advance voting ballot  
16 to a person who is requesting an advance voting ballot to be transmitted by  
17 mail unless:

18 (1) The county election official verifies that the signature of the  
19 person matches that on file in the county voter registration records, except  
20 that verification of the voter's signature shall not be required if a voter has  
21 a disability preventing the voter from signing. Signature verification may  
22 occur by electronic device or by human inspection. In the event that the  
23 signature of a person who is requesting an advance voting ballot does not  
24 match that on file, the county election officer shall attempt to contact the  
25 person and shall offer the person another opportunity to provide the  
26 person's signature for the purposes of verifying the person's identity. If the  
27 county election officer is unable to reach the person, the county election  
28 officer may transmit a provisional ballot, however, such provisional ballot  
29 may not be counted unless a signature is included therewith that can be  
30 verified; and

31 (2) the person provides such person's full Kansas driver's license  
32 number, Kansas nondriver's identification card number issued by the  
33 division of vehicles, or submits such person's application for an advance  
34 voting ballot and a copy of identification provided by K.S.A. 25-2908, and  
35 amendments thereto, to the county election officer for verification. If a  
36 person applies for an advance voting ballot to be transmitted by mail but  
37 fails to provide identification pursuant to this subsection or the  
38 identification of the person cannot be verified by the county election  
39 officer, the county election officer shall provide information to the person  
40 regarding the voter rights provisions of subsection (d) and shall provide  
41 the person an opportunity to provide identification pursuant to this  
42 subsection. For the purposes of this act, Kansas state offices and offices of  
43 any subdivision of the state will allow any person seeking to vote by an

1 advance voting ballot the use of a photocopying device to make one  
2 photocopy of an identification document at no cost.

3 (f) (1) Applications for advance voting ballots to be transmitted to the  
4 voter by mail shall be filed only at the following times:

5 (A) For the primary election occurring on the first Tuesday in August  
6 in both even-numbered and odd-numbered years, between April 1 of such  
7 year and the Tuesday of the week preceding such primary election;

8 (B) for the general election occurring on the Tuesday following the  
9 first Monday in November in both even-numbered and odd-numbered  
10 years, between 90 days prior to such election and the Tuesday of the week  
11 preceding such general election;

12 (C) for the presidential preference primary election held pursuant to  
13 K.S.A. 25-4501a, and amendments thereto, between January 1 of the year  
14 in which such election is held and 30 days prior to the day of such  
15 election;

16 (D) for question submitted elections occurring on the date of a  
17 primary or general election, the same as is provided for ballots for election  
18 of officers at such election;

19 (E) for question submitted elections not occurring on the date of a  
20 primary or general election, between the time of the first published notice  
21 thereof and the Tuesday of the week preceding such question submitted  
22 election, except that if the question submitted election is held on a day  
23 other than a Tuesday, the final date for mailing of advance voting ballots  
24 shall be one week before such election; and

25 (F) for any special election of officers, at such time as is specified by  
26 the secretary of state.

27 (2) The county election officer of any county may receive  
28 applications prior to the time specified in this subsection and hold such  
29 applications until the beginning of the prescribed application period. Such  
30 applications shall be treated as filed on that date.

31 (g) (1) Unless an earlier date is designated by the county election  
32 office, applications for advance voting ballots transmitted to the voter in  
33 person ~~in the office of the county election officer~~ shall be filed on the  
34 Tuesday next preceding the election and on each subsequent business day  
35 until no later than 12 noon on the day preceding such election. If the  
36 county election officer so provides, applications for advance voting ballots  
37 transmitted to the voter in person in the office of the county election  
38 officer also may be filed on the Saturday preceding the election. Upon  
39 receipt of any such properly executed application, the county election  
40 officer shall deliver to the voter such ballots and instructions as are  
41 provided for in this act.

42 (2) An application for an advance voting ballot filed by a voter who  
43 has a temporary illness or disability or who is not proficient in reading the

1 English language or by a person rendering assistance to such voter may be  
2 filed during the regular advance ballot application periods until the close  
3 of the polls on election day.

4 (3) The county election officer may designate places other than the  
5 central county election office as satellite advance voting sites. At any  
6 satellite advance voting site, a registered voter may obtain an application  
7 for advance voting ballots. Ballots and instructions shall be delivered to  
8 the voter in the same manner and subject to the same limitations as  
9 otherwise provided by this subsection.

10 (h) Any person having a permanent disability or an illness that has  
11 been diagnosed as a permanent illness is hereby authorized to make an  
12 application for permanent advance voting status. Applications for  
13 permanent advance voting status shall be in the form and contain such  
14 information as is required for application for advance voting ballots and  
15 also shall contain information that establishes the voter's right to  
16 permanent advance voting status.

17 (i) On receipt of any application filed under the provisions of this  
18 section, the county election officer shall prepare and maintain in such  
19 officer's office a list of the names of all persons who have filed such  
20 applications, together with their correct post office address and the  
21 precinct, ward, township or voting area in which the persons claim to be  
22 registered voters or to be authorized by law to vote as former precinct  
23 residents and the present resident address of each applicant. Names and  
24 addresses shall remain so listed until the day of such election. The county  
25 election officer shall maintain a separate listing of the names and addresses  
26 of persons qualifying for permanent advance voting status. All such lists  
27 shall be available for inspection upon request in compliance with this  
28 subsection by any registered voter during regular business hours. The  
29 county election officer upon receipt of the applications shall enter upon a  
30 record kept by such officer the name and address of each applicant, which  
31 record shall conform to the list above required. Before inspection of any  
32 advance voting ballot application list, the person desiring to make the  
33 inspection shall provide to the county election officer identification in the  
34 form of driver's license or other reliable identification and shall sign a log  
35 book or application form maintained by the officer stating the person's  
36 name and address and showing the date and time of inspection. All records  
37 made by the county election officer shall be subject to public inspection,  
38 except that the voter identification information required by subsections (b)  
39 and (c) and the identifying number on ballots and ballot envelopes and  
40 records of such numbers shall not be made public.

41 (j) If a person on the permanent advance voting list fails to vote in  
42 four consecutive general elections ~~held on the Tuesday succeeding the first~~  
43 ~~Monday in November of each even-numbered and odd-numbered year,~~ the

1 county election officer may mail a notice to such voter. The notice shall  
2 inform the voter that the voter's name will be removed from the permanent  
3 advance voting list unless the voter renews the application for permanent  
4 advance voting status within 30 days after the notice is mailed. If the voter  
5 fails to renew such application, the county election officer shall remove the  
6 voter's name from the permanent advance voting list. Failure to renew the  
7 application for permanent advance voting status shall not result in removal  
8 of the voter's name from the voter registration list.

9 (k) (1) Any person who solicits by mail a registered voter to file an  
10 application for an advance voting ballot and includes an application for an  
11 advance voting ballot in such mailing shall include on the exterior of such  
12 mailing, and on each page contained therein, except the application, a clear  
13 and conspicuous label in 14-point font or larger that includes:

14 (A) The name of the individual or organization that caused such  
15 solicitation to be mailed;

16 (B) if an organization, the name of the president, chief executive  
17 officer or executive director of such organization;

18 (C) the address of such individual or organization; and

19 (D) the following statement: "Disclosure: This is not a government  
20 mailing. It is from a private individual or organization."

21 (2) The application for an advance voting ballot included in such  
22 mailing shall be the official application for advance ballot by mail  
23 provided by the secretary of state. No portion of such application shall be  
24 completed prior to mailing such application to the registered voter.

25 (3) An application for an advance voting ballot shall include an  
26 envelope addressed to the appropriate county election office for the  
27 mailing of such application. In no case shall the person who mails the  
28 application to the voter direct that the completed application be returned to  
29 such person.

30 (4) The provisions of this subsection shall not apply to:

31 (A) The secretary of state or any election official or county election  
32 office; or

33 (B) the official protection and advocacy for voting access agency for  
34 this state as designated pursuant to the federal help America vote act of  
35 2002, public law 107-252, or any other entity required to provide  
36 information concerning elections and voting procedures by federal law.

37 (5) A violation of this subsection is a class C nonperson  
38 misdemeanor.

39 (l) (1) No person shall mail or cause to be mailed an application for  
40 an advance voting ballot, unless such person is a resident of this state or is  
41 otherwise domiciled in this state.

42 (2) Any individual may file a complaint in writing with the attorney  
43 general alleging a violation of this subsection. Such complaint shall

1 include the name of the person alleged to have violated this subsection and  
2 any other information as required by the attorney general. Upon receipt of  
3 a complaint, the attorney general shall investigate and may file an action  
4 against any person found to have violated this subsection.

5 (3) Any person who violates the provisions of this subsection is  
6 subject to a civil penalty of \$20. Each instance in which a person mails an  
7 application for an advance voting ballot in violation of this section shall  
8 constitute a separate violation.

9 (m) *A county election officer shall not mail a ballot to a voter unless*  
10 *such voter has submitted an application for an advance voting ballot,*  
11 *except that a ballot may be mailed to a voter if such voter has permanent*  
12 *advance voting ballot status pursuant to subsection (h) or if the election is*  
13 *conducted pursuant to the mail ballot election act, K.S.A. 25-431 et seq.,*  
14 *and amendments thereto.*

15 (n) The secretary of state may adopt rules and regulations in order to  
16 implement the provisions of this section and to define valid forms of  
17 identification.

18 Sec. 5. K.S.A. 2022 Supp. 25-3009, as amended by section 48 of  
19 2023 Senate Bill No. 221, is hereby amended to read as follows: 25-3009.

20 (a) After an election and prior to the meeting of the county board of  
21 canvassers to certify the official election results for any election in which  
22 the canvassers certify the results, the county election officer shall conduct  
23 a manual audit or tally of each vote cast, regardless of the method of  
24 voting, in 1% of all precincts, with a minimum of one precinct located  
25 within the county. The precinct or precincts shall be randomly selected and  
26 the selection shall take place after the election.

27 (b) (1) The audit shall be performed manually and shall review all  
28 paper ballots selected pursuant to subsection (a). The audit shall be  
29 performed by a sworn election board consisting of bipartisan trained board  
30 members. The county election officer shall determine the members of the  
31 sworn election board who will conduct the audit.

32 (2) The audit shall review contested races as follows:

33 (A) In presidential election years:

34 (i) One federal race;

35 (ii) one state legislative race;

36 (iii) one county race; and

37 (iv) one constitutional amendment question, if any.

38 (B) In even-numbered, non-presidential election years:

39 (i) One federal race;

40 (ii) one statewide race;

41 (iii) one state legislative race;

42 (iv) one county race; and

43 (v) one constitutional amendment question, if any.

1 (C) In even-numbered election years, any federal, statewide or state  
 2 legislative race that is within 1% of the total number of votes cast tallied  
 3 on election night, as determined by the secretary of state, shall be audited.  
 4 The county election officer shall conduct the audit in the manner set forth  
 5 in subsection (a) in 10% of all county precincts in the specified race, with  
 6 a minimum of one precinct in the county. The precincts audited pursuant to  
 7 this subsection shall be in addition to the precincts audited under  
 8 subparagraphs (2)(A) and (B).

9 (D) In odd-numbered election years, two local races will be randomly  
 10 selected, and the selection shall take place after the election.

11 (E) *Any presidential preference primary election held pursuant to*  
 12 *K.S.A. 25-4501a, and amendments thereto.*

13 (c) At least five days prior to the audit, notice of the time and location  
 14 of the audit shall be provided to the public on the official county website.  
 15 The audit shall be conducted in a public setting. Any candidate or entity  
 16 who is authorized to appoint a poll agent may appoint a poll agent for the  
 17 audit.

18 (d) The results of the audit shall be compared to the unofficial  
 19 election night returns and a report shall be submitted to the county election  
 20 office and to the secretary of state's office prior to the meeting of the  
 21 county board of canvassers. If a discrepancy is reported between the audit  
 22 and the unofficial returns and cannot be resolved, the county election  
 23 officer or the secretary of state may require audits of additional precincts.  
 24 Once the audit has been completed, the results of the audit shall be used by  
 25 the county board of canvassers when certifying the official election results.

26 (e) Upon publication of the notice of the audit pursuant to subsection  
 27 (c), the signed and certified official abstracts required by K.S.A. 25-3006,  
 28 and amendments thereto, shall be made available by the county election  
 29 office for review by any authorized poll agent. Such abstracts shall be  
 30 from all precincts and shall not be limited to those precincts that are  
 31 subject to the audit. The abstracts shall be available for review until  
 32 commencement of the original canvass.

33 (f) The secretary of state shall adopt rules and regulations governing  
 34 the conduct and procedure of the audit, including the random selection of  
 35 the precincts and offices involved in the audit.

36 Sec. 6. K.S.A. 2022 Supp. 65-4101 is hereby amended to read as  
 37 follows: 65-4101. As used in this act:

38 (a) "Administer" means the direct application of a controlled  
 39 substance, whether by injection, inhalation, ingestion or any other means,  
 40 to the body of a patient or research subject by:

- 41 (1) A practitioner or pursuant to the lawful direction of a practitioner;
- 42 or
- 43 (2) the patient or research subject at the direction and in the presence

1 of the practitioner.

2 (b) "Agent" means an authorized person who acts on behalf of or at  
3 the direction of a manufacturer, distributor or dispenser. ~~It~~ "Agent" does  
4 not include a common carrier, public warehouseman or employee of the  
5 carrier or warehouseman.

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

10 (d) "Board" means the state board of pharmacy.

11 (e) "Bureau" means the bureau of narcotics and dangerous drugs,  
12 United States department of justice, or its successor agency.

13 (f) "Controlled substance" means any drug, substance or immediate  
14 precursor included in any of the schedules designated in K.S.A. 65-4105,  
15 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.

16 (g) (1) "Controlled substance analog" means a substance that is  
17 intended for human consumption, and at least one of the following:

18 (A) The chemical structure of the substance is substantially similar to  
19 the chemical structure of a controlled substance listed in or added to the  
20 schedules designated in K.S.A. 65-4105 or 65-4107, and amendments  
21 thereto;

22 (B) the substance has a stimulant, depressant or hallucinogenic effect  
23 on the central nervous system substantially similar to the stimulant,  
24 depressant or hallucinogenic effect on the central nervous system of a  
25 controlled substance included in the schedules designated in K.S.A. 65-  
26 4105 or 65-4107, and amendments thereto; or

27 (C) with respect to a particular individual, such individual represents  
28 or intends the substance to have a stimulant, depressant or hallucinogenic  
29 effect on the central nervous system substantially similar to the stimulant,  
30 depressant or hallucinogenic effect on the central nervous system of a  
31 controlled substance included in the schedules designated in K.S.A. 65-  
32 4105 or 65-4107, and amendments thereto.

33 (2) "Controlled substance analog" does not include:

34 (A) A controlled substance;

35 (B) a substance for which there is an approved new drug application;  
36 or

37 (C) a substance with respect to which an exemption is in effect for  
38 investigational use by a particular person under section 505 of the federal  
39 food, drug and cosmetic act, 21 U.S.C. § 355, to the extent conduct with  
40 respect to the substance is permitted by the exemption.

41 (h) "Counterfeit substance" means a controlled substance that, or the  
42 container or labeling of which, without authorization bears the trademark,  
43 trade name or other identifying mark, imprint, number or device or any

1 likeness thereof of a manufacturer, distributor or dispenser other than the  
2 person who in fact manufactured, distributed or dispensed the substance.

3 (i) "Cultivate" means the planting or promotion of growth of five or  
4 more plants that contain or can produce controlled substances.

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

7 (k) "Deliver" or "delivery" means the actual, constructive or  
8 attempted transfer from one person to another of a controlled substance,  
9 whether or not there is an agency relationship.

10 (l) "Dispense" means to deliver a controlled substance to an ultimate  
11 user or research subject by or pursuant to the lawful order of a practitioner,  
12 including the packaging, labeling or compounding necessary to prepare the  
13 substance for that delivery, or pursuant to the prescription of a mid-level  
14 practitioner.

15 (m) "Dispenser" means a practitioner or pharmacist who dispenses, or  
16 a physician assistant who has authority to dispense prescription-only drugs  
17 in accordance with K.S.A. 65-28a08(b), and amendments thereto.

18 (n) "Distribute" means to deliver other than by administering or  
19 dispensing a controlled substance.

20 (o) "Distributor" means a person who distributes.

21 (p) (1) "Drug" means *substances*:

22 (A) ~~Substances~~—Recognized as drugs in the official United States  
23 pharmacopeia, official homeopathic pharmacopoeia of the United States or  
24 official national formulary or any supplement to any of them;

25 (B) ~~substances~~—intended for use in the diagnosis, cure, mitigation,  
26 treatment or prevention of disease in human or animals;

27 (C) ~~substances~~—(other than food) intended to affect the structure or  
28 any function of the body of human or animals; and

29 (D) ~~substances~~—intended for use as a component of any article  
30 specified in subparagraph (A), (B) or (C).

31 (2) "Drug" does not include devices or their components, parts or  
32 accessories.

33 (q) "Immediate precursor" means a substance that the board has  
34 found to be and by rule and regulation designates as being the principal  
35 compound commonly used or produced primarily for use and that is an  
36 immediate chemical intermediary used or likely to be used in the  
37 manufacture of a controlled substance, the control of which is necessary to  
38 prevent, curtail or limit manufacture.

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

42 (s) "Electronic prescription application" means software that is used  
43 to create electronic prescriptions and that is intended to be installed on the

1 prescriber's computers and servers where access and records are controlled  
2 by the prescriber.

3 (t) "Electronic signature" means a confidential personalized digital  
4 key, code, number or other method for secure electronic data transmissions  
5 that identifies a particular person as the source of the message,  
6 authenticates the signatory of the message and indicates the person's  
7 approval of the information contained in the transmission.

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

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

14 (w) "Facsimile transmission" or "fax transmission" means the  
15 transmission of a digital image of a prescription from the prescriber or the  
16 prescriber's agent to the pharmacy. "Facsimile transmission" includes, but  
17 is not limited to, transmission of a written prescription between the  
18 prescriber's fax machine and the pharmacy's fax machine; transmission of  
19 an electronically prepared prescription from the prescriber's electronic  
20 prescription application to the pharmacy's fax machine, computer or  
21 printer; or transmission of an electronically prepared prescription from the  
22 prescriber's fax machine to the pharmacy's fax machine, computer or  
23 printer.

24 (x) "Intermediary" means any technology system that receives and  
25 transmits an electronic prescription between the prescriber and the  
26 pharmacy.

27 (y) "Isomer" means all enantiomers and diastereomers.

28 (z) "Manufacture" means the production, preparation, propagation,  
29 compounding, conversion or processing of a controlled substance either  
30 directly or indirectly or by extraction from substances of natural origin or  
31 independently by means of chemical synthesis or by a combination of  
32 extraction and chemical synthesis and includes any packaging or  
33 repackaging of the substance or labeling or relabeling of its container,  
34 except that this term does not include the preparation or compounding of a  
35 controlled substance by an individual for the individual's own lawful use  
36 or the preparation, compounding, packaging or labeling of a controlled  
37 substance:

38 (1) By a practitioner or the practitioner's agent pursuant to a lawful  
39 order of a practitioner as an incident to the practitioner's administering or  
40 dispensing of a controlled substance in the course of the practitioner's  
41 professional practice; or

42 (2) by a practitioner or by the practitioner's authorized agent under  
43 such practitioner's supervision for the purpose of or as an incident to

1 research, teaching or chemical analysis or by a pharmacist or medical care  
2 facility as an incident to dispensing of a controlled substance.

3 (aa) "Marijuana" means all parts of all varieties of the plant Cannabis  
4 whether growing or not, the seeds thereof, the resin extracted from any  
5 part of the plant and every compound, manufacture, salt, derivative,  
6 mixture or preparation of the plant, its seeds or resin. It does not include:

7 (1) The mature stalks of the plant, fiber produced from the stalks, oil  
8 or cake made from the seeds of the plant, any other compound,  
9 manufacture, salt, derivative, mixture or preparation of the mature stalks,  
10 except the resin extracted therefrom, fiber, oil or cake or the sterilized seed  
11 of the plant that is incapable of germination;

12 (2) any substance listed in schedules II through V of the uniform  
13 controlled substances act;

14 (3) drug products approved by the United States food and drug  
15 administration as of the effective date of this act;

16 (4) cannabidiol (other trade name: 2-[(3-methyl-6-(1-methylethenyl)-  
17 2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol); or

18 (5) industrial hemp as defined in K.S.A. 2-3901, and amendments  
19 thereto, when cultivated, produced, possessed or used for activities  
20 authorized by the commercial industrial hemp act.

21 (bb) "Medical care facility" shall have the meaning ascribed to that  
22 term in K.S.A. 65-425, and amendments thereto.

23 (cc) "Mid-level practitioner" means a certified nurse-midwife  
24 engaging in the independent practice of midwifery under the independent  
25 practice of midwifery act, an advanced practice registered nurse issued a  
26 license pursuant to K.S.A. 65-1131, and amendments thereto, who has  
27 authority to prescribe drugs ~~pursuant to a written protocol with a~~  
28 ~~responsible physician~~ under K.S.A. 65-1130, and amendments thereto, or a  
29 physician assistant licensed under the physician assistant licensure act who  
30 has authority to prescribe drugs pursuant to a written agreement with a  
31 supervising physician under K.S.A. 65-28a08, and amendments thereto.

32 (dd) "Narcotic drug" means any of the following whether produced  
33 directly or indirectly by extraction from substances of vegetable origin or  
34 independently by means of chemical synthesis or by a combination of  
35 extraction and chemical synthesis:

36 (1) Opium and opiate and any salt, compound, derivative or  
37 preparation of opium or opiate;

38 (2) any salt, compound, isomer, derivative or preparation thereof that  
39 is chemically equivalent or identical with any of the substances referred to  
40 in paragraph (1) but not including the isoquinoline alkaloids of opium;

41 (3) opium poppy and poppy straw;

42 (4) coca leaves and any salt, compound, derivative or preparation of  
43 coca leaves, and any salt, compound, isomer, derivative or preparation

1 thereof that is chemically equivalent or identical with any of these  
2 substances, but not including decocainized coca leaves or extractions of  
3 coca leaves that do not contain cocaine or ecgonine.

4 (ee) "Opiate" means any substance having an addiction-forming or  
5 addiction-sustaining liability similar to morphine or being capable of  
6 conversion into a drug having addiction-forming or addiction-sustaining  
7 liability. It does not include, unless specifically designated as controlled  
8 under K.S.A. 65-4102, and amendments thereto, the dextrorotatory isomer  
9 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does  
10 include its racemic and levorotatory forms.

11 (ff) "Opium poppy" means the plant of the species *Papaver*  
12 *somniferum* L. except its seeds.

13 (gg) "Person" means an individual, corporation, government, or  
14 governmental subdivision or agency, business trust, estate, trust,  
15 partnership or association or any other legal entity.

16 (hh) "Pharmacist" means any natural person licensed under K.S.A.  
17 65-1625 et seq., and amendments thereto, to practice pharmacy.

18 (ii) "Pharmacist intern" means: (1) A student currently enrolled in an  
19 accredited pharmacy program; (2) a graduate of an accredited pharmacy  
20 program serving such person's internship; or (3) a graduate of a pharmacy  
21 program located outside of the United States that is not accredited and who  
22 had successfully passed equivalency examinations approved by the board.

23 (jj) "Pharmacy prescription application" means software that is used  
24 to process prescription information, is installed on a pharmacy's computers  
25 and servers, and is controlled by the pharmacy.

26 (kk) "Poppy straw" means all parts, except the seeds, of the opium  
27 poppy, after mowing.

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

33 (mm) "Prescriber" means a practitioner or a mid-level practitioner.

34 (nn) "Production" includes the manufacture, planting, cultivation,  
35 growing or harvesting of a controlled substance.

36 (oo) "Readily retrievable" means that records kept by automatic data  
37 processing applications or other electronic or mechanized recordkeeping  
38 systems can be separated out from all other records within a reasonable  
39 time not to exceed 48 hours of a request from the board or other authorized  
40 agent or that hard-copy records are kept on which certain items are  
41 asterisked, redlined or in some other manner visually identifiable apart  
42 from other items appearing on the records.

43 (pp) "Ultimate user" means a person who lawfully possesses a

1 controlled substance for such person's own use or for the use of a member  
2 of such person's household or for administering to an animal owned by  
3 such person or by a member of such person's household.

4 Sec. 7. K.S.A. 75-7240, as amended by section 15 of 2023 House Bill  
5 No. 2019, is hereby amended to read as follows: 75-7240. (a) The  
6 executive branch agency heads shall:

7 (1) Be solely responsible for security of all data and information  
8 technology resources under such agency's purview, irrespective of the  
9 location of the data or resources. Locations of data may include:

- 10 (A) Agency sites;
- 11 (B) agency real property;
- 12 (C) infrastructure in state data centers;
- 13 (D) third-party locations; and
- 14 (E) in transit between locations;

15 (2) ensure that an agency-wide information security program is in  
16 place;

17 (3) designate an information security officer to administer the  
18 agency's information security program that reports directly to executive  
19 leadership;

20 (4) participate in CISO-sponsored statewide cybersecurity program  
21 initiatives and services;

22 (5) implement policies and standards to ensure that all the agency's  
23 data and information technology resources are maintained in compliance  
24 with applicable state and federal laws and rules and regulations;

25 (6) implement appropriate cost-effective safeguards to reduce,  
26 eliminate or recover from identified threats to data and information  
27 technology resources;

28 (7) include all appropriate cybersecurity requirements in the agency's  
29 request for proposal specifications for procuring data and information  
30 technology systems and services;

31 (8) (A) submit a cybersecurity self-assessment report to the CISO by  
32 October 16 of each even-numbered year, including an executive summary  
33 of the findings, that assesses the extent to which the agency is vulnerable  
34 to unauthorized access or harm, including the extent to which the agency's  
35 or contractor's electronically stored information is vulnerable to alteration,  
36 damage, erasure or inappropriate use;

37 (B) ensure that the agency conducts annual internal assessments of its  
38 security program. Internal assessment results shall be considered  
39 confidential and shall not be subject to discovery by or release to any  
40 person or agency, outside of the KISO or CISO, without authorization  
41 from the executive branch agency director or head. ~~This provision  
42 regarding confidentiality shall expire on July 1, 2023, unless the  
43 legislature reviews and reenacts such provision pursuant to K.S.A. 45-229,~~

1 ~~and amendments thereto, prior to July 1, 2023; and~~

2 (C) prepare or have prepared a financial summary identifying  
3 cybersecurity expenditures addressing the findings of the cybersecurity  
4 self-assessment report required in subparagraph (A), excluding  
5 information that might put the data or information resources of the agency  
6 or its contractors at risk and submit such report to the house of  
7 representatives committee on appropriations and the senate committee on  
8 ways and means; and

9 (9) ensure that if an agency owns, licenses or maintains computerized  
10 data that includes personal information, confidential information or  
11 information, the disclosure of which is regulated by law, such agency  
12 shall, in the event of a breach or suspected breach of system security or an  
13 unauthorized exposure of that information:

14 (A) Comply with the notification requirements set out in K.S.A. 2022  
15 Supp. 50-7a01 et seq., and amendments thereto, and applicable federal  
16 laws and rules and regulations, to the same extent as a person who  
17 conducts business in this state; and

18 (B) not later than 48 hours after the discovery of the breach,  
19 suspected breach or unauthorized exposure, notify: (i) The CISO; and (ii)  
20 if the breach, suspected breach or unauthorized exposure involves election  
21 data, the secretary of state.

22 (b) The director or head of each state agency shall:

23 (1) Participate in annual agency leadership training to ensure  
24 understanding of:

25 (A) The potential impact of common types of cyberattacks and data  
26 breaches on the agency's operations and assets;

27 (B) how cyberattacks and data breaches on the agency's operations  
28 and assets may impact the operations and assets of other governmental  
29 entities on the state enterprise network;

30 (C) how cyberattacks and data breaches occur; and

31 (D) steps to be undertaken by the executive director or agency head  
32 and agency employees to protect their information and information  
33 systems;

34 (2) ensure that all information technology login credentials are  
35 disabled the same day that any employee ends their employment with the  
36 state; and

37 (3) require that all employees with access to information technology  
38 receive a minimum of one hour of information technology security  
39 training per year.

40 (c) (1) The CISO, with input from the joint committee on information  
41 technology and the joint committee on Kansas security, shall develop a  
42 self-assessment report template for use under subsection (a)(8)(A). The  
43 most recent version of such template shall be made available to state

1 agencies prior to July 1 of each even-numbered year. The CISO shall  
2 aggregate data from the self-assessments received under subsection (a)(8)  
3 (A) and provide a summary of such data to the joint committee on  
4 information technology and the joint committee on Kansas security.

5 (2) Self-assessment reports made to the CISO pursuant to subsection  
6 (a)(8)(A) shall be confidential and shall not be subject to the provisions of  
7 the Kansas open records act, K.S.A. 45-215 et seq., and amendments  
8 thereto. The provisions of this paragraph shall expire on July 1, 2028,  
9 unless the legislature reviews and reenacts this provision pursuant to  
10 K.S.A. 45-229, and amendments thereto, prior to July 1, 2028.

11 Sec. 8. K.S.A. 75-7242, as amended by section 16 of 2023 House Bill  
12 No. 2019, is hereby amended to read as follows: 75-7242. Information  
13 collected to effectuate this act shall be considered confidential by all state  
14 and local governmental organizations unless all data elements or  
15 information that specifically identifies a target, vulnerability or weakness  
16 that would place the organization at risk have been redacted, including: (a)  
17 System information logs; (b) vulnerability reports; (c) risk assessment  
18 reports; (d) system security plans; (e) detailed system design plans; (f)  
19 network or system diagrams; and (g) audit reports. ~~The provisions of this  
20 section shall expire on July 1, 2023, unless the legislature reviews and  
21 reenacts this provision pursuant to K.S.A. 45-229, and amendments  
22 thereto, prior to July 1, 2023.~~

23 Sec. 9. K.S.A. 2022 Supp. 79-3234, as amended by section 72 of  
24 2023 Senate Bill No. 244, is hereby amended to read as follows: 79-3234.  
25 (a) All reports and returns required by this act shall be preserved for three  
26 years and thereafter until the director orders them to be destroyed.

27 (b) Except in accordance with proper judicial order, or as provided in  
28 subsection (c) or K.S.A. 46-1106(e), 46-1114 or 79-32,153a, and  
29 amendments thereto, it shall be unlawful for the secretary, the director, any  
30 deputy, agent, clerk or other officer, employee or former employee of the  
31 department of revenue or any other state officer or employee or former  
32 state officer or employee to divulge, or to make known in any way, the  
33 amount of income or any particulars set forth or disclosed in any report,  
34 return, federal return or federal return information required under this act;  
35 and it shall be unlawful for the secretary, the director, any deputy, agent,  
36 clerk or other officer or employee engaged in the administration of this act  
37 to engage in the business or profession of tax accounting or to accept  
38 employment, with or without consideration, from any person, firm or  
39 corporation for the purpose, directly or indirectly, of preparing tax returns  
40 or reports required by the laws of the state of Kansas, by any other state or  
41 by the United States government, or to accept any employment for the  
42 purpose of advising, preparing material or data, or the auditing of books or  
43 records to be used in an effort to defeat or cancel any tax or part thereof

1 that has been assessed by the state of Kansas, any other state or by the  
2 United States government.

3 (c) The secretary or the secretary's designee may:

4 (1) Publish statistics, so classified as to prevent the identification of  
5 particular reports or returns and the items thereof;

6 (2) allow the inspection of returns by the attorney general or other  
7 legal representatives of the state;

8 (3) provide the post auditor access to all income tax reports or returns  
9 in accordance with and subject to the provisions of K.S.A. 46-1106(e) or  
10 46-1114, and amendments thereto;

11 (4) disclose taxpayer information from income tax returns to persons  
12 or entities contracting with the secretary of revenue where the secretary  
13 has determined disclosure of such information is essential for completion  
14 of the contract and has taken appropriate steps to preserve confidentiality;

15 (5) disclose to the secretary of commerce the following: (A) Specific  
16 taxpayer information related to financial information previously submitted  
17 by the taxpayer to the secretary of commerce concerning or relevant to any  
18 income tax credits, for purposes of verification of such information or  
19 evaluating the effectiveness of any tax credit or economic incentive  
20 program administered by the secretary of commerce; (B) the amount of  
21 payroll withholding taxes an employer is retaining pursuant to K.S.A. 74-  
22 50,212, and amendments thereto; (C) information received from  
23 businesses completing the form required by K.S.A. 74-50,217, and  
24 amendments thereto; and (D) findings related to a compliance audit  
25 conducted by the department of revenue upon the request of the secretary  
26 of commerce pursuant to K.S.A. 74-50,215, and amendments thereto;

27 (6) disclose income tax returns to the state gaming agency to be used  
28 solely for the purpose of determining qualifications of licensees of and  
29 applicants for licensure in tribal gaming. Any information received by the  
30 state gaming agency shall be confidential and shall not be disclosed except  
31 to the executive director, employees of the state gaming agency and  
32 members and employees of the tribal gaming commission;

33 (7) disclose the taxpayer's name, last known address and residency  
34 status to the Kansas department of wildlife; *and* parks ~~and tourism~~ to be  
35 used solely in its license fraud investigations;

36 (8) disclose the name, residence address, employer or Kansas  
37 adjusted gross income of a taxpayer who may have a duty of support in a  
38 title IV-D case to the secretary of the Kansas department for children and  
39 families for use solely in administrative or judicial proceedings to  
40 establish, modify or enforce such support obligation in a title IV-D case. In  
41 addition to any other limits on use, such use shall be allowed only where  
42 subject to a protective order which prohibits disclosure outside of the title  
43 IV-D proceeding. As used in this section, "title IV-D case" means a case

1 being administered pursuant to part D of title IV of the federal social  
2 security act, 42 U.S.C. § 651 et seq., and amendments thereto. Any person  
3 receiving any information under the provisions of this subsection shall be  
4 subject to the confidentiality provisions of subsection (b) and to the  
5 penalty provisions of subsection (e);

6 (9) permit the commissioner of internal revenue of the United States,  
7 or the proper official of any state imposing an income tax, or the  
8 authorized representative of either, to inspect the income tax returns made  
9 under this act and the secretary of revenue may make available or furnish  
10 to the taxing officials of any other state or the commissioner of internal  
11 revenue of the United States or other taxing officials of the federal  
12 government, or their authorized representatives, information contained in  
13 income tax reports or returns or any audit thereof or the report of any  
14 investigation made with respect thereto, filed pursuant to the income tax  
15 laws, as the secretary may consider proper, but such information shall not  
16 be used for any other purpose than that of the administration of tax laws of  
17 such state, the state of Kansas or of the United States;

18 (10) communicate to the executive director of the Kansas lottery  
19 information as to whether a person, partnership or corporation is current in  
20 the filing of all applicable tax returns and in the payment of all taxes,  
21 interest and penalties to the state of Kansas, excluding items under formal  
22 appeal, for the purpose of determining whether such person, partnership or  
23 corporation is eligible to be selected as a lottery retailer;

24 (11) communicate to the executive director of the Kansas racing  
25 commission as to whether a person, partnership or corporation has failed  
26 to meet any tax obligation to the state of Kansas for the purpose of  
27 determining whether such person, partnership or corporation is eligible for  
28 a facility owner license or facility manager license pursuant to the Kansas  
29 parimutuel racing act;

30 (12) provide such information to the executive director of the Kansas  
31 public employees retirement system for the purpose of determining that  
32 certain individuals' reported compensation is in compliance with the  
33 Kansas public employees retirement act, K.S.A. 74-4901 et seq., and  
34 amendments thereto;

35 (13) (A) provide taxpayer information of persons suspected of  
36 violating K.S.A. 44-766, and amendments thereto, to the secretary of labor  
37 or such secretary's designee for the purpose of determining compliance by  
38 any person with the provisions of K.S.A. 44-703(i)(3)(D) and 44-766, and  
39 amendments thereto. The information to be provided shall include all  
40 relevant information in the possession of the department of revenue  
41 necessary for the secretary of labor to make a proper determination of  
42 compliance with the provisions of K.S.A. 44-703(i)(3)(D) and 44-766, and  
43 amendments thereto, and to calculate any unemployment contribution

1 taxes due. Such information to be provided by the department of revenue  
2 shall include, but not be limited to, withholding tax and payroll  
3 information, the identity of any person that has been or is currently being  
4 audited or investigated in connection with the administration and  
5 enforcement of the withholding and declaration of estimated tax act,  
6 K.S.A. 79-3294 et seq., and amendments thereto, and the results or status  
7 of such audit or investigation;

8 (B) any person receiving tax information under the provisions of this  
9 paragraph shall be subject to the same duty of confidentiality imposed by  
10 law upon the personnel of the department of revenue and shall be subject  
11 to any civil or criminal penalties imposed by law for violations of such  
12 duty of confidentiality; and

13 (C) each of the secretary of labor and the secretary of revenue may  
14 adopt rules and regulations necessary to effect the provisions of this  
15 paragraph;

16 (14) provide such information to the state treasurer for the sole  
17 purpose of carrying out the provisions of K.S.A. 58-3934, and  
18 amendments thereto. Such information shall be limited to current and prior  
19 addresses of taxpayers or associated persons who may have knowledge as  
20 to the location of an owner of unclaimed property. For the purposes of this  
21 paragraph, "associated persons" includes spouses or dependents listed on  
22 income tax returns;

23 (15) after receipt of information pursuant to subsection (f), forward  
24 such information and provide the following reported Kansas individual  
25 income tax information for each listed defendant, if available, to the state  
26 board of indigents' defense services in an electronic format and in the  
27 manner determined by the secretary: (A) The defendant's name; (B) social  
28 security number; (C) Kansas adjusted gross income; (D) number of  
29 exemptions claimed; and (E) the relevant tax year of such records. Any  
30 social security number provided to the secretary and the state board of  
31 indigents' defense services pursuant to this section shall remain  
32 confidential; and

33 (16) disclose taxpayer information that is received from income tax  
34 returns to the department of commerce that may be disclosed pursuant to  
35 the provisions of K.S.A. 2022 Supp. 74-50,227, and amendments thereto,  
36 for the purpose of including such information in the database required by  
37 K.S.A. 2022 Supp. 74-50,227, and amendments thereto.

38 (d) Any person receiving information under the provisions of  
39 subsection (c) shall be subject to the confidentiality provisions of  
40 subsection (b) and to the penalty provisions of subsection (e).

41 (e) Any violation of subsection (b) or (c) is a class A nonperson  
42 misdemeanor and, if the offender is an officer or employee of the state,  
43 such officer or employee shall be dismissed from office.

1 (f) For the purpose of determining whether a defendant is financially  
2 able to employ legal counsel under the provisions of K.S.A. 22-4504, and  
3 amendments thereto, in all felony cases with appointed counsel where the  
4 defendant's social security number is accessible from the records of the  
5 district court, the court shall electronically provide the defendant's name,  
6 social security number, district court case number and county to the  
7 secretary of revenue in the manner and format agreed to by the office of  
8 judicial administration and the secretary.

9 (g) Nothing in this section shall be construed to allow disclosure of  
10 the amount of income or any particulars set forth or disclosed in any  
11 report, return, federal return or federal return information, where such  
12 disclosure is prohibited by the federal internal revenue code as in effect on  
13 September 1, 1996, and amendments thereto, related federal internal  
14 revenue rules or regulations, or other federal law.

15 Sec. 10. K.S.A. 2022 Supp. 79-3602 is hereby amended to read as  
16 follows: 79-3602. Except as otherwise provided, as used in the Kansas  
17 retailers' sales tax act:

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

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

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

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

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

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

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

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

40 (i) "Delivery charges" means charges by the seller of personal  
41 property or services for preparation and delivery to a location designated  
42 by the purchaser of personal property or services including, but not limited  
43 to, transportation, shipping, postage, handling, crating and packing.

1 Delivery charges shall not include charges for delivery of direct mail if the  
2 charges are separately stated on an invoice or similar billing document  
3 given to the purchaser.

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

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

13 (l) "Educational institution" means any nonprofit school, college and  
14 university that offers education at a level above the 12<sup>th</sup> grade, and  
15 conducts regular classes and courses of study required for accreditation by,  
16 or membership in, the higher learning commission, the state board of  
17 education, or that otherwise qualify as an "educational institution," as  
18 defined by K.S.A. 74-50,103, and amendments thereto. Such phrase shall  
19 include: (1) A group of educational institutions that operates exclusively  
20 for an educational purpose; (2) nonprofit endowment associations and  
21 foundations organized and operated exclusively to receive, hold, invest  
22 and administer moneys and property as a permanent fund for the support  
23 and sole benefit of an educational institution; (3) nonprofit trusts,  
24 foundations and other entities organized and operated principally to hold  
25 and own receipts from intercollegiate sporting events and to disburse such  
26 receipts, as well as grants and gifts, in the interest of collegiate and  
27 intercollegiate athletic programs for the support and sole benefit of an  
28 educational institution; and (4) nonprofit trusts, foundations and other  
29 entities organized and operated for the primary purpose of encouraging,  
30 fostering and conducting scholarly investigations and industrial and other  
31 types of research for the support and sole benefit of an educational  
32 institution.

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

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

42 (o) "Gross receipts" means the total selling price or the amount  
43 received as defined in this act, in money, credits, property or other

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

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

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

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

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

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

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

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

37 (q) "Isolated or occasional sale" means the nonrecurring sale of  
38 tangible personal property, or services taxable hereunder by a person not  
39 engaged at the time of such sale in the business of selling such property or  
40 services. Any religious organization that makes a nonrecurring sale of  
41 tangible personal property acquired for the purpose of resale shall be  
42 deemed to be not engaged at the time of such sale in the business of selling  
43 such property. Such term shall include: (1) Any sale by a bank, savings and

1 loan institution, credit union or any finance company licensed under the  
2 provisions of the Kansas uniform consumer credit code of tangible  
3 personal property that has been repossessed by any such entity; and (2)  
4 any sale of tangible personal property made by an auctioneer or agent on  
5 behalf of not more than two principals or households if such sale is  
6 nonrecurring and any such principal or household is not engaged at the  
7 time of such sale in the business of selling tangible personal property.

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

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

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

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

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

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

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

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

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

42 (u) "Model 1 seller" means a seller that has selected a CSP as its  
43 agent to perform all the seller's sales and use tax functions, other than the

1 seller's obligation to remit tax on its own purchases.

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

5 (w) "Model 3 seller" means a seller that has sales in at least five  
6 member states, has total annual sales revenue of at least \$500,000,000, has  
7 a proprietary system that calculates the amount of tax due each jurisdiction  
8 and has entered into a performance agreement with the member states that  
9 establishes a tax performance standard for the seller. As used in this  
10 subsection a seller includes an affiliated group of sellers using the same  
11 proprietary system.

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

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

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

27 (aa) "Political subdivision" means any municipality, agency or  
28 subdivision of the state that is, or shall hereafter be, authorized to levy  
29 taxes upon tangible property within the state or that certifies a levy to a  
30 municipality, agency or subdivision of the state that is, or shall hereafter  
31 be, authorized to levy taxes upon tangible property within the state. Such  
32 term also shall include any public building commission, housing, airport,  
33 port, metropolitan transit or similar authority established pursuant to law  
34 and the horsethief reservoir benefit district established pursuant to K.S.A.  
35 82a-2201, and amendments thereto.

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

39 (cc) "Prewritten computer software" means computer software,  
40 including prewritten upgrades, that is not designed and developed by the  
41 author or other creator to the specifications of a specific purchaser. The  
42 combining of two or more prewritten computer software programs or  
43 prewritten portions thereof does not cause the combination to be other than

1 prewritten computer software. Prewritten computer software includes  
2 software designed and developed by the author or other creator to the  
3 specifications of a specific purchaser when it is sold to a person other than  
4 the purchaser. Where a person modifies or enhances computer software of  
5 which the person is not the author or creator, the person shall be deemed to  
6 be the author or creator only of such person's modifications or  
7 enhancements. Prewritten computer software or a prewritten portion  
8 thereof that is modified or enhanced to any degree, where such  
9 modification or enhancement is designed and developed to the  
10 specifications of a specific purchaser, remains prewritten computer  
11 software, except that where there is a reasonable, separately stated charge  
12 or an invoice or other statement of the price given to the purchaser for  
13 such modification or enhancement, such modification or enhancement  
14 shall not constitute prewritten computer software.

15 (dd) "Property which is consumed" means tangible personal property  
16 that is essential or necessary to and that is used in the actual process of and  
17 consumed, depleted or dissipated within one year in: (1) The production,  
18 manufacture, processing, mining, drilling, refining or compounding of  
19 tangible personal property; (2) the providing of services; (3) the irrigation  
20 of crops, for sale in the regular course of business; or (4) the storage or  
21 processing of grain by a public grain warehouse or other grain storage  
22 facility, and which is not reusable for such purpose. The following is a  
23 listing of tangible personal property, included by way of illustration but  
24 not of limitation, that qualifies as property that is consumed:

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

30 (B) electricity, gas and water; and

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

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

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

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

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

43 (ii) "Retailer" means a seller regularly engaged in the business of

1 selling, leasing or renting tangible personal property at retail or furnishing  
2 electrical energy, gas, water, services or entertainment, and selling only to  
3 the user or consumer and not for resale.

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

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

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

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

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

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

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

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

33 (E) installation charges.

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

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

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

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

1 (D) one of the following criteria is met:

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

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

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

15 (3) "Sales or selling price" shall not include:

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

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

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

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

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

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

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

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

38 (oo) "Sourcing rules" means the rules set forth in K.S.A. 79-3670  
39 through 79-3673, 12-191 and 12-191a, and amendments thereto, that shall  
40 apply to identify and determine the state and local taxing jurisdiction sales  
41 or use taxes to pay, or collect and remit on a particular retail sale.

42 (pp) "Tangible personal property" means personal property that can  
43 be seen, weighed, measured, felt or touched, or that is in any other manner

1 perceptible to the senses. Tangible personal property includes electricity,  
2 water, gas, steam and prewritten computer software.

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

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

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

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

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

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

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

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

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

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

42 (aaa) "Telecommunications service" means the electronic  
43 transmission, conveyance or routing of voice, data, audio, video or any

1 other information or signals to a point, or between or among points. The  
2 term telecommunications service includes such transmission, conveyance  
3 or routing in which computer processing applications are used to act on the  
4 form, code or protocol of the content for purposes of transmissions,  
5 conveyance or routing without regard to whether such service is referred to  
6 as voice over internet protocol services or is classified by the federal  
7 communications commission as enhanced or value added.  
8 Telecommunications service does not include:

9 (1) Data processing and information services that allow data to be  
10 generated, acquired, stored, processed or retrieved and delivered by an  
11 electronic transmission to a purchaser where such purchaser's primary  
12 purpose for the underlying transaction is the processed data or  
13 information;

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

16 (3) tangible personal property;

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

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

19 (6) internet access service;

20 (7) radio and television audio and video programming services,  
21 regardless of the medium, including the furnishing of transmission,  
22 conveyance and routing of such services by the programming service  
23 provider. Radio and television audio and video programming services shall  
24 include, but not be limited to, cable service as defined in 47 U.S.C. §  
25 522(6) and audio and video programming services delivered by  
26 commercial mobile radio service providers, as defined in 47 C.F.R. § 20.3;

27 (8) ancillary services; or

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

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

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

43 (ddd) "Value-added non-voice data service" means a service that

1 otherwise meets the definition of telecommunications services in which  
2 computer processing applications are used to act on the form, content,  
3 code or protocol of the information or data primarily for a purpose other  
4 than transmission, conveyance or routing.

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

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

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

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

23 (iii) "Nonprofit integrated community care organization" means an  
24 entity that is:

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

27 (2) certified to participate in the medicare program as a hospice under  
28 42 C.F.R. § 418 et seq. and focused on providing care to the aging and  
29 indigent population at home and through inpatient care, adult daycare or  
30 assisted living facilities and related facilities and services across multiple  
31 counties; and

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

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

40 (A) *Antimicrobial agents;*

41 (B) *fluoride;*

42 (C) *carbonation;*

43 (D) *vitamins, minerals and electrolytes;*

1 (E) oxygen;  
2 (F) preservatives; or  
3 (G) only those flavors, extracts or essences derived from a spice or  
4 fruit.

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

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

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

12 (mmm) "Dietary supplement" means the same as defined in K.S.A.  
13 79-3606(jjj), and amendments thereto.

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

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

17 (A) Food sold in a heated state or heated by the seller;

18 (B) two or more food ingredients mixed or combined by the seller for  
19 sale as a single item; or

20 (C) food sold with eating utensils provided by the seller, including,  
21 but not limited to, plates, knives, forks, spoons, glasses, cups, napkins or  
22 straws. A plate does not include a container or packaging used to  
23 transport the food.

24 (2) "Prepared food" does not include:

25 (A) Food that is only cut, repackaged or pasteurized by the seller; or

26 (B) eggs, fish, meat, poultry or foods containing these raw animal  
27 foods that require cooking by the consumer as recommended by the food  
28 and drug administration in chapter 3, part 401.11 of the food and drug  
29 administration food code so as to prevent food borne illnesses.

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

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

35 Sec. 11. K.S.A. 8-1103, as amended by section 4 of 2023 House Bill  
36 No. 2147, 25-1122, as amended by section 1 of 2023 House Bill No. 2053,  
37 25-1122, as amended by section 28 of 2023 Senate Bill No. 221, 32-837,  
38 as amended by section 35 of 2023 House Bill No. 2332, 32-906, as  
39 amended by section 52 of 2023 House Bill No. 2332, 75-1253, as amended  
40 by section 127 of 2023 House Bill No. 2332, 75-7240, as amended by  
41 section 15 of 2023 House Bill No. 2019, 75-7240, as amended by section 8  
42 of 2023 House Bill No. 2395, 75-7242, as amended by section 16 of 2023  
43 House Bill No. 2019, and 75-7242, as amended by section 9 of 2023

1 House Bill No. 2395, and K.S.A. 2022 Supp. 21-5701, 21-5701b, 21-6614,  
2 21-6614i, 25-3009, as amended by section 48 of 2023 Senate Bill No. 221,  
3 25-3009, as amended by section 3 of 2023 House Bill No. 2053, 65-4101,  
4 65-4101d, 79-3234, as amended by section 72 of 2023 Senate Bill No.  
5 244, 79-3234, as amended by section 141 of 2023 House Bill No. 2332,  
6 79-3602 and 79-3602c are hereby repealed.

7 Sec. 12. On and after January 1, 2024, K.S.A. 8-1103, as amended by  
8 section 1 of 2023 House Bill No. 2042, is hereby repealed.

9 Sec. 13. This act shall take effect and be in force from and after its  
10 publication in the statute book.