

SENATE BILL No. 54

By Committee on Assessment and Taxation

1-18

1 AN ACT concerning sales taxation; relating to rates; expanding the
2 eligible uses for the 0% state rate for sales of certain utilities and
3 providing for the levying of such tax by cities and counties; amending
4 K.S.A. 12-189a and K.S.A. 2022 Supp. 79-3603 and repealing the
5 existing sections.
6

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

8 Section 1. K.S.A. 12-189a is hereby amended to read as follows: 12-
9 189a. The following sales shall be subject to the taxes levied and collected
10 by all cities and counties under the provisions of K.S.A. 12-187 et seq.,
11 and amendments thereto:

12 (a) All sales of natural gas, electricity, heat and water delivered
13 through mains, lines or pipes to residential premises for noncommercial
14 use by the occupant of such premises and all sales of natural gas,
15 electricity, heat and water delivered through mains, lines or pipes for
16 agricultural use, except that effective January 1, 2006, the provisions of
17 this subsection shall expire for sales of water pursuant to this subsection.

18 *The provisions of this subsection shall expire on June 30, 2024;*

19 (b) all sales of propane gas, LP-gas, coal, wood and other fuel sources
20 for the production of heat or lighting for noncommercial use of an
21 occupant of residential premises. *The provisions of this subsection shall*
22 *expire on June 30, 2024;*

23 (c) *on and after July 1, 2024, all sales of natural gas, electricity and*
24 *heat delivered through mains, lines or pipes to any premises for*
25 *commercial or noncommercial use by the occupant of such premises and*
26 *all sales of natural gas, electricity and heat delivered through mains, lines*
27 *or pipes for agricultural use;*

28 (d) *on and after July 1, 2024, all sales of propane gas, LP-gas, coal,*
29 *wood and other fuel sources for the production of heat or lighting for*
30 *commercial or noncommercial use of an occupant of any premises;*

31 ~~(e)~~(e) all sales of intrastate telephone and telegraph services for
32 noncommercial use; and

33 ~~(f)~~(f) all sales of food and food ingredients.

34 Sec. 2. K.S.A. 2022 Supp. 79-3603 is hereby amended to read as
35 follows: 79-3603. For the privilege of engaging in the business of selling
36 tangible personal property at retail in this state or rendering or furnishing

1 any of the services taxable under this act, there is hereby levied and there
2 shall be collected and paid a tax at the rate of 6.5%. On and after January
3 1, 2023, 17% and on and after January 1, 2025, 18% of the tax rate
4 imposed pursuant to this section and the rate provided in K.S.A. 2022
5 Supp. 79-3603d, and amendments thereto, shall be levied for the state
6 highway fund, the state highway fund purposes and those purposes
7 specified in K.S.A. 68-416, and amendments thereto, and all revenue
8 collected and received from such tax levy shall be deposited in the state
9 highway fund.

10 Within a redevelopment district established pursuant to K.S.A. 74-
11 8921, and amendments thereto, there is hereby levied and there shall be
12 collected and paid an additional tax at the rate of 2% until the earlier of the
13 date the bonds issued to finance or refinance the redevelopment project
14 have been paid in full or the final scheduled maturity of the first series of
15 bonds issued to finance any part of the project.

16 Such tax shall be imposed upon:

17 (a) The gross receipts received from the sale of tangible personal
18 property at retail within this state;

19 (b) the gross receipts from intrastate, interstate or international
20 telecommunications services and any ancillary services sourced to this
21 state in accordance with K.S.A. 79-3673, and amendments thereto, except
22 that telecommunications service does not include: (1) Any interstate or
23 international 800 or 900 service; (2) any interstate or international private
24 communications service as defined in K.S.A. 79-3673, and amendments
25 thereto; (3) any value-added nonvoice data service; (4) any
26 telecommunication service to a provider of telecommunication services
27 which will be used to render telecommunications services, including
28 carrier access services; or (5) any service or transaction defined in this
29 section among entities classified as members of an affiliated group as
30 provided by section 1504 of the federal internal revenue code of 1986, as
31 in effect on January 1, 2001;

32 (c) (1) the gross receipts from the sale or furnishing of gas, water,
33 electricity and heat, which sale is not otherwise exempt from taxation
34 under the provisions of this act, and whether furnished by municipally or
35 privately owned utilities, except that, on and after January 1, 2006, for
36 sales of gas, electricity and heat delivered through mains, lines or pipes to
37 residential premises for noncommercial use by the occupant of such
38 premises, and for agricultural use and also, for such use, all sales of
39 propane gas, the state rate shall be 0%; and for all sales of propane gas, ~~LP~~
40 ~~gas LP-gas~~, coal, wood and other fuel sources for the production of heat or
41 lighting for noncommercial use of an occupant of residential premises, the
42 state rate shall be 0%, but such tax shall not be levied and collected upon
43 the gross receipts from: ~~(+)~~ (A) The sale of a rural water district benefit

1 unit;~~(2)~~ (B) a water system impact fee, system enhancement fee or similar
2 fee collected by a water supplier as a condition for establishing service; or
3 ~~(3)~~ (C) connection or reconnection fees collected by a water supplier. *The*
4 *provisions of this paragraph shall expire on June 30, 2024; and*

5 (2) *on and after July 1, 2024, the gross receipts from the sale or*
6 *furnishing of gas, water, electricity and heat, which sale is not otherwise*
7 *exempt from taxation under the provisions of this act, and whether*
8 *furnished by municipally or privately owned utilities, except that for sales*
9 *of gas, electricity and heat delivered through mains, lines or pipes to any*
10 *premises for commercial or noncommercial use by the occupant of such*
11 *premises, and for agricultural use and also, for such use, all sales of*
12 *propane gas, the state rate shall be 0%; and for all sales of propane gas,*
13 *LP-gas, coal, wood and other fuel sources for the production of heat or*
14 *lighting for commercial or noncommercial use of an occupant of any*
15 *premises, the state rate shall be 0%, but such tax shall not be levied and*
16 *collected upon the gross receipts from: (A) The sale of a rural water*
17 *district benefit unit; (B) a water system impact fee, system enhancement*
18 *fee or similar fee collected by a water supplier as a condition for*
19 *establishing service; or (C) connection or reconnection fees collected by a*
20 *water supplier;*

21 (d) the gross receipts from the sale of meals or drinks furnished at any
22 private club, drinking establishment, catered event, restaurant, eating
23 house, dining car, hotel, drugstore or other place where meals or drinks are
24 regularly sold to the public;

25 (e) the gross receipts from the sale of admissions to any place
26 providing amusement, entertainment or recreation services including
27 admissions to state, county, district and local fairs, but such tax shall not
28 be levied and collected upon the gross receipts received from sales of
29 admissions to any cultural and historical event which occurs triennially;

30 (f) the gross receipts from the operation of any coin-operated device
31 dispensing or providing tangible personal property, amusement or other
32 services except laundry services, whether automatic or manually operated;

33 (g) the gross receipts from the service of renting of rooms by hotels,
34 as defined by K.S.A. 36-501, and amendments thereto, or by
35 accommodation brokers, as defined by K.S.A. 12-1692, and amendments
36 thereto, but such tax shall not be levied and collected upon the gross
37 receipts received from sales of such service to the federal government and
38 any agency, officer or employee thereof in association with the
39 performance of official government duties;

40 (h) the gross receipts from the service of renting or leasing of tangible
41 personal property except such tax shall not apply to the renting or leasing
42 of machinery, equipment or other personal property owned by a city and
43 purchased from the proceeds of industrial revenue bonds issued prior to

1 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
2 12-1749, and amendments thereto, and any city or lessee renting or leasing
3 such machinery, equipment or other personal property purchased with the
4 proceeds of such bonds who shall have paid a tax under the provisions of
5 this section upon sales made prior to July 1, 1973, shall be entitled to a
6 refund from the sales tax refund fund of all taxes paid thereon;

7 (i) the gross receipts from the rendering of dry cleaning, pressing,
8 dyeing and laundry services except laundry services rendered through a
9 coin-operated device whether automatic or manually operated;

10 (j) the gross receipts from the rendering of the services of washing
11 and washing and waxing of vehicles;

12 (k) the gross receipts from cable, community antennae and other
13 subscriber radio and television services;

14 (l) (1) except as otherwise provided by paragraph (2), the gross
15 receipts received from the sales of tangible personal property to all
16 contractors, subcontractors or repairmen for use by them in erecting
17 structures, or building on, or otherwise improving, altering, or repairing
18 real or personal property.

19 (2) Any such contractor, subcontractor or repairman who maintains
20 an inventory of such property both for sale at retail and for use by them for
21 the purposes described by paragraph (1) shall be deemed a retailer with
22 respect to purchases for and sales from such inventory, except that the
23 gross receipts received from any such sale, other than a sale at retail, shall
24 be equal to the total purchase price paid for such property and the tax
25 imposed thereon shall be paid by the deemed retailer;

26 (m) the gross receipts received from fees and charges by public and
27 private clubs, drinking establishments, organizations and businesses for
28 participation in sports, games and other recreational activities, but such tax
29 shall not be levied and collected upon the gross receipts received from: (1)
30 Fees and charges by any political subdivision, by any organization exempt
31 from property taxation pursuant to K.S.A. 79-201 *Ninth*, and amendments
32 thereto, or by any youth recreation organization exclusively providing
33 services to persons 18 years of age or younger which is exempt from
34 federal income taxation pursuant to section 501(c)(3) of the federal
35 internal revenue code of 1986, for participation in sports, games and other
36 recreational activities; and (2) entry fees and charges for participation in a
37 special event or tournament sanctioned by a national sporting association
38 to which spectators are charged an admission which is taxable pursuant to
39 subsection (e);

40 (n) the gross receipts received from dues charged by public and
41 private clubs, drinking establishments, organizations and businesses,
42 payment of which entitles a member to the use of facilities for recreation
43 or entertainment, but such tax shall not be levied and collected upon the

1 gross receipts received from: (1) Dues charged by any organization exempt
2 from property taxation pursuant to K.S.A. 79-201 *Eighth* and *Ninth*, and
3 amendments thereto; and (2) sales of memberships in a nonprofit
4 organization which is exempt from federal income taxation pursuant to
5 section 501(c)(3) of the federal internal revenue code of 1986, and whose
6 purpose is to support the operation of a nonprofit zoo;

7 (o) the gross receipts received from the isolated or occasional sale of
8 motor vehicles or trailers but not including: (1) The transfer of motor
9 vehicles or trailers by a person to a corporation or limited liability
10 company solely in exchange for stock securities or membership interest in
11 such corporation or limited liability company; (2) the transfer of motor
12 vehicles or trailers by one corporation or limited liability company to
13 another when all of the assets of such corporation or limited liability
14 company are transferred to such other corporation or limited liability
15 company; or (3) the sale of motor vehicles or trailers which are subject to
16 taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and
17 amendments thereto, by an immediate family member to another
18 immediate family member. For the purposes of paragraph (3), immediate
19 family member means lineal ascendants or descendants, and their spouses.
20 Any amount of sales tax paid pursuant to the Kansas retailers sales tax act
21 on the isolated or occasional sale of motor vehicles or trailers on and after
22 July 1, 2004, which the base for computing the tax was the value pursuant
23 to K.S.A. 79-5105(a), (b)(1) and (b)(2), and amendments thereto, when
24 such amount was higher than the amount of sales tax which would have
25 been paid under the law as it existed on June 30, 2004, shall be refunded to
26 the taxpayer pursuant to the procedure prescribed by this section. Such
27 refund shall be in an amount equal to the difference between the amount of
28 sales tax paid by the taxpayer and the amount of sales tax which would
29 have been paid by the taxpayer under the law as it existed on June 30,
30 2004. Each claim for a sales tax refund shall be verified and submitted not
31 later than six months from the effective date of this act to the director of
32 taxation upon forms furnished by the director and shall be accompanied by
33 any additional documentation required by the director. The director shall
34 review each claim and shall refund that amount of tax paid as provided by
35 this act. All such refunds shall be paid from the sales tax refund fund, upon
36 warrants of the director of accounts and reports pursuant to vouchers
37 approved by the director of taxation or the director's designee. No refund
38 for an amount less than \$10 shall be paid pursuant to this act. In
39 determining the base for computing the tax on such isolated or occasional
40 sale, the fair market value of any motor vehicle or trailer traded in by the
41 purchaser to the seller may be deducted from the selling price;

42 (p) the gross receipts received for the service of installing or applying
43 tangible personal property which when installed or applied is not being

1 held for sale in the regular course of business, and whether or not such
2 tangible personal property when installed or applied remains tangible
3 personal property or becomes a part of real estate, except that no tax shall
4 be imposed upon the service of installing or applying tangible personal
5 property in connection with the original construction of a building or
6 facility, the original construction, reconstruction, restoration, remodeling,
7 renovation, repair or replacement of a residence or the construction,
8 reconstruction, restoration, replacement or repair of a bridge or highway.

9 For the purposes of this subsection:

10 (1) "Original construction" means the first or initial construction of a
11 new building or facility. The term "original construction" shall include the
12 addition of an entire room or floor to any existing building or facility, the
13 completion of any unfinished portion of any existing building or facility
14 and the restoration, reconstruction or replacement of a building, facility or
15 utility structure damaged or destroyed by fire, flood, tornado, lightning,
16 explosion, windstorm, ice loading and attendant winds, terrorism or
17 earthquake, but such term, except with regard to a residence, shall not
18 include replacement, remodeling, restoration, renovation or reconstruction
19 under any other circumstances;

20 (2) "building" means only those enclosures within which individuals
21 customarily are employed, or which are customarily used to house
22 machinery, equipment or other property, and including the land
23 improvements immediately surrounding such building;

24 (3) "facility" means a mill, plant, refinery, oil or gas well, water well,
25 feedlot or any conveyance, transmission or distribution line of any
26 cooperative, nonprofit, membership corporation organized under or subject
27 to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or
28 municipal or quasi-municipal corporation, including the land
29 improvements immediately surrounding such facility;

30 (4) "residence" means only those enclosures within which individuals
31 customarily live;

32 (5) "utility structure" means transmission and distribution lines
33 owned by an independent transmission company or cooperative, the
34 Kansas electric transmission authority or natural gas or electric public
35 utility; and

36 (6) "windstorm" means straight line winds of at least 80 miles per
37 hour as determined by a recognized meteorological reporting agency or
38 organization;

39 (q) the gross receipts received for the service of repairing, servicing,
40 altering or maintaining tangible personal property which when such
41 services are rendered is not being held for sale in the regular course of
42 business, and whether or not any tangible personal property is transferred
43 in connection therewith. The tax imposed by this subsection shall be

1 applicable to the services of repairing, servicing, altering or maintaining an
2 item of tangible personal property which has been and is fastened to,
3 connected with or built into real property;

4 (r) the gross receipts from fees or charges made under service or
5 maintenance agreement contracts for services, charges for the providing of
6 which are taxable under the provisions of subsection (p) or (q);

7 (s) on and after January 1, 2005, the gross receipts received from the
8 sale of prewritten computer software and the sale of the services of
9 modifying, altering, updating or maintaining prewritten computer
10 software, whether the prewritten computer software is installed or
11 delivered electronically by tangible storage media physically transferred to
12 the purchaser or by load and leave;

13 (t) the gross receipts received for telephone answering services;

14 (u) the gross receipts received from the sale of prepaid calling service
15 and prepaid wireless calling service as defined in K.S.A. 79-3673, and
16 amendments thereto;

17 (v) all sales of bingo cards, bingo faces and instant bingo tickets by
18 licensees under K.S.A. 75-5171 et seq., and amendments thereto, shall be
19 exempt from taxes imposed pursuant to this section;

20 (w) all sales of charitable raffle tickets in accordance with K.S.A. 75-
21 5171 et seq., and amendments thereto, shall be exempt from taxes imposed
22 pursuant to this section; and

23 (x) commencing on January 1, 2023, and thereafter, the state rate on
24 the gross receipts from the sale of food and food ingredients shall be as set
25 forth in K.S.A. 2022 Supp. 79-3603d, and amendments thereto.

26 Sec. 3. K.S.A. 12-189a and K.S.A. 2022 Supp. 79-3603 are hereby
27 repealed.

28 Sec. 4. This act shall take effect and be in force from and after its
29 publication in the statute book.