

HOUSE BILL No. 2221

By Committee on Taxation

1-30

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; authorizing
4 cities and counties to exempt sales of such utilities from such city or
5 county taxes; amending K.S.A. 12-189a and K.S.A. 2022 Supp. 79-
6 3603 and repealing the existing sections.

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

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

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

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

20 ~~(b)~~(2) all sales of propane gas, LP-gas, coal, wood and other fuel
21 sources for the production of heat or lighting for noncommercial use of an
22 occupant of residential premises. *The provisions of this subsection shall*
23 *expire on June 30, 2024;*

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

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

32 ~~(e)~~(5) all sales of intrastate telephone and telegraph services for
33 noncommercial use; and

34 ~~(d)~~(6) all sales of food and food ingredients.

35 (b) *On and after July 1, 2024, the governing body of any city or the*
36 *board of county commissioners of any county may exempt all sales subject*

1 *to tax under the provisions of subsection (a)(3) or (a)(4), or both, from the*
2 *taxes levied by such city or county under the provisions of K.S.A. 12-187*
3 *et seq., and amendments thereto, by the adoption of an ordinance or*
4 *resolution authorizing the exemption. A certified copy of the ordinance or*
5 *resolution authorizing or repealing an exemption pursuant to this*
6 *subsection shall be submitted to the director of taxation within 30 days*
7 *after adoption of any such ordinance or resolution. The director of*
8 *taxation shall cause such exemption to be applied at the same time and in*
9 *the same manner provided for the administration of the Kansas retailers'*
10 *sales tax act. The director of taxation shall confirm that all provisions of*
11 *law applicable to the authorization of the exemption have been followed*
12 *prior to causing the exemption. Any repeal of an exemption authorized*
13 *pursuant to this subsection may be accomplished by the adoption of an*
14 *ordinance or resolution repealing such exemption.*

15 Sec. 2. K.S.A. 2022 Supp. 79-3603 is hereby amended to read as
16 follows: 79-3603. For the privilege of engaging in the business of selling
17 tangible personal property at retail in this state or rendering or furnishing
18 any of the services taxable under this act, there is hereby levied and there
19 shall be collected and paid a tax at the rate of 6.5%. On and after January
20 1, 2023, 17% and on and after January 1, 2025, 18% of the tax rate
21 imposed pursuant to this section and the rate provided in K.S.A. 2022
22 Supp. 79-3603d, and amendments thereto, shall be levied for the state
23 highway fund, the state highway fund purposes and those purposes
24 specified in K.S.A. 68-416, and amendments thereto, and all revenue
25 collected and received from such tax levy shall be deposited in the state
26 highway fund.

27 Within a redevelopment district established pursuant to K.S.A. 74-
28 8921, and amendments thereto, there is hereby levied and there shall be
29 collected and paid an additional tax at the rate of 2% until the earlier of the
30 date the bonds issued to finance or refinance the redevelopment project
31 have been paid in full or the final scheduled maturity of the first series of
32 bonds issued to finance any part of the project.

33 Such tax shall be imposed upon:

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

36 (b) the gross receipts from intrastate, interstate or international
37 telecommunications services and any ancillary services sourced to this
38 state in accordance with K.S.A. 79-3673, and amendments thereto, except
39 that telecommunications service does not include: (1) Any interstate or
40 international 800 or 900 service; (2) any interstate or international private
41 communications service as defined in K.S.A. 79-3673, and amendments
42 thereto; (3) any value-added nonvoice data service; (4) any
43 telecommunication service to a provider of telecommunication services

1 which will be used to render telecommunications services, including
2 carrier access services; or (5) any service or transaction defined in this
3 section among entities classified as members of an affiliated group as
4 provided by section 1504 of the federal internal revenue code of 1986, as
5 in effect on January 1, 2001;

6 (c) (1) the gross receipts from the sale or furnishing of gas, water,
7 electricity and heat, which sale is not otherwise exempt from taxation
8 under the provisions of this act, and whether furnished by municipally or
9 privately owned utilities, except that, on and after January 1, 2006, for
10 sales of gas, electricity and heat delivered through mains, lines or pipes to
11 residential premises for noncommercial use by the occupant of such
12 premises, and for agricultural use and also, for such use, all sales of
13 propane gas, the state rate shall be 0%; and for all sales of propane gas, ~~LP~~
14 ~~gas LP-gas~~, coal, wood and other fuel sources for the production of heat or
15 lighting for noncommercial use of an occupant of residential premises, the
16 state rate shall be 0%, but such tax shall not be levied and collected upon
17 the gross receipts from: ~~(1)~~ (A) The sale of a rural water district benefit
18 unit; ~~(2)~~ (B) a water system impact fee, system enhancement fee or similar
19 fee collected by a water supplier as a condition for establishing service; or
20 ~~(3)~~ (C) connection or reconnection fees collected by a water supplier. *The*
21 *provisions of this paragraph shall expire on June 30, 2024; and*

22 (2) *on and after July 1, 2024, the gross receipts from the sale or*
23 *furnishing of gas, water, electricity and heat, which sale is not otherwise*
24 *exempt from taxation under the provisions of this act, and whether*
25 *furnished by municipally or privately owned utilities, except that for sales*
26 *of gas, electricity and heat delivered through mains, lines or pipes to any*
27 *premises for commercial or noncommercial use by the occupant of such*
28 *premises, and for agricultural use and also, for such use, all sales of*
29 *propane gas, the state rate shall be 0%; and for all sales of propane gas,*
30 *LP-gas, coal, wood and other fuel sources for the production of heat or*
31 *lighting for commercial or noncommercial use of an occupant of any*
32 *premises, the state rate shall be 0%, but such tax shall not be levied and*
33 *collected upon the gross receipts from: (A) The sale of a rural water*
34 *district benefit unit; (B) a water system impact fee, system enhancement*
35 *fee or similar fee collected by a water supplier as a condition for*
36 *establishing service; or (C) connection or reconnection fees collected by a*
37 *water supplier;*

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

42 (e) the gross receipts from the sale of admissions to any place
43 providing amusement, entertainment or recreation services including

1 admissions to state, county, district and local fairs, but such tax shall not
2 be levied and collected upon the gross receipts received from sales of
3 admissions to any cultural and historical event which occurs triennially;

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

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

14 (h) the gross receipts from the service of renting or leasing of tangible
15 personal property except such tax shall not apply to the renting or leasing
16 of machinery, equipment or other personal property owned by a city and
17 purchased from the proceeds of industrial revenue bonds issued prior to
18 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
19 12-1749, and amendments thereto, and any city or lessee renting or leasing
20 such machinery, equipment or other personal property purchased with the
21 proceeds of such bonds who shall have paid a tax under the provisions of
22 this section upon sales made prior to July 1, 1973, shall be entitled to a
23 refund from the sales tax refund fund of all taxes paid thereon;

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

27 (j) the gross receipts from the rendering of the services of washing
28 and washing and waxing of vehicles;

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

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

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

43 (m) the gross receipts received from fees and charges by public and

1 private clubs, drinking establishments, organizations and businesses for
2 participation in sports, games and other recreational activities, but such tax
3 shall not be levied and collected upon the gross receipts received from: (1)
4 Fees and charges by any political subdivision, by any organization exempt
5 from property taxation pursuant to K.S.A. 79-201 *Ninth*, and amendments
6 thereto, or by any youth recreation organization exclusively providing
7 services to persons 18 years of age or younger which is exempt from
8 federal income taxation pursuant to section 501(c)(3) of the federal
9 internal revenue code of 1986, for participation in sports, games and other
10 recreational activities; and (2) entry fees and charges for participation in a
11 special event or tournament sanctioned by a national sporting association
12 to which spectators are charged an admission which is taxable pursuant to
13 subsection (e);

14 (n) the gross receipts received from dues charged by public and
15 private clubs, drinking establishments, organizations and businesses,
16 payment of which entitles a member to the use of facilities for recreation
17 or entertainment, but such tax shall not be levied and collected upon the
18 gross receipts received from: (1) Dues charged by any organization exempt
19 from property taxation pursuant to K.S.A. 79-201 *Eighth* and *Ninth*, and
20 amendments thereto; and (2) sales of memberships in a nonprofit
21 organization which is exempt from federal income taxation pursuant to
22 section 501(c)(3) of the federal internal revenue code of 1986, and whose
23 purpose is to support the operation of a nonprofit zoo;

24 (o) the gross receipts received from the isolated or occasional sale of
25 motor vehicles or trailers but not including: (1) The transfer of motor
26 vehicles or trailers by a person to a corporation or limited liability
27 company solely in exchange for stock securities or membership interest in
28 such corporation or limited liability company; (2) the transfer of motor
29 vehicles or trailers by one corporation or limited liability company to
30 another when all of the assets of such corporation or limited liability
31 company are transferred to such other corporation or limited liability
32 company; or (3) the sale of motor vehicles or trailers which are subject to
33 taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and
34 amendments thereto, by an immediate family member to another
35 immediate family member. For the purposes of paragraph (3), immediate
36 family member means lineal ascendants or descendants, and their spouses.
37 Any amount of sales tax paid pursuant to the Kansas retailers sales tax act
38 on the isolated or occasional sale of motor vehicles or trailers on and after
39 July 1, 2004, which the base for computing the tax was the value pursuant
40 to K.S.A. 79-5105(a), (b)(1) and (b)(2), and amendments thereto, when
41 such amount was higher than the amount of sales tax which would have
42 been paid under the law as it existed on June 30, 2004, shall be refunded to
43 the taxpayer pursuant to the procedure prescribed by this section. Such

1 refund shall be in an amount equal to the difference between the amount of
2 sales tax paid by the taxpayer and the amount of sales tax which would
3 have been paid by the taxpayer under the law as it existed on June 30,
4 2004. Each claim for a sales tax refund shall be verified and submitted not
5 later than six months from the effective date of this act to the director of
6 taxation upon forms furnished by the director and shall be accompanied by
7 any additional documentation required by the director. The director shall
8 review each claim and shall refund that amount of tax paid as provided by
9 this act. All such refunds shall be paid from the sales tax refund fund, upon
10 warrants of the director of accounts and reports pursuant to vouchers
11 approved by the director of taxation or the director's designee. No refund
12 for an amount less than \$10 shall be paid pursuant to this act. In
13 determining the base for computing the tax on such isolated or occasional
14 sale, the fair market value of any motor vehicle or trailer traded in by the
15 purchaser to the seller may be deducted from the selling price;

16 (p) the gross receipts received for the service of installing or applying
17 tangible personal property which when installed or applied is not being
18 held for sale in the regular course of business, and whether or not such
19 tangible personal property when installed or applied remains tangible
20 personal property or becomes a part of real estate, except that no tax shall
21 be imposed upon the service of installing or applying tangible personal
22 property in connection with the original construction of a building or
23 facility, the original construction, reconstruction, restoration, remodeling,
24 renovation, repair or replacement of a residence or the construction,
25 reconstruction, restoration, replacement or repair of a bridge or highway.

26 For the purposes of this subsection:

27 (1) "Original construction" means the first or initial construction of a
28 new building or facility. The term "original construction" shall include the
29 addition of an entire room or floor to any existing building or facility, the
30 completion of any unfinished portion of any existing building or facility
31 and the restoration, reconstruction or replacement of a building, facility or
32 utility structure damaged or destroyed by fire, flood, tornado, lightning,
33 explosion, windstorm, ice loading and attendant winds, terrorism or
34 earthquake, but such term, except with regard to a residence, shall not
35 include replacement, remodeling, restoration, renovation or reconstruction
36 under any other circumstances;

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

41 (3) "facility" means a mill, plant, refinery, oil or gas well, water well,
42 feedlot or any conveyance, transmission or distribution line of any
43 cooperative, nonprofit, membership corporation organized under or subject

1 to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or
2 municipal or quasi-municipal corporation, including the land
3 improvements immediately surrounding such facility;

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

6 (5) "utility structure" means transmission and distribution lines
7 owned by an independent transmission company or cooperative, the
8 Kansas electric transmission authority or natural gas or electric public
9 utility; and

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

13 (q) the gross receipts received for the service of repairing, servicing,
14 altering or maintaining tangible personal property which when such
15 services are rendered is not being held for sale in the regular course of
16 business, and whether or not any tangible personal property is transferred
17 in connection therewith. The tax imposed by this subsection shall be
18 applicable to the services of repairing, servicing, altering or maintaining an
19 item of tangible personal property which has been and is fastened to,
20 connected with or built into real property;

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

24 (s) on and after January 1, 2005, the gross receipts received from the
25 sale of prewritten computer software and the sale of the services of
26 modifying, altering, updating or maintaining prewritten computer
27 software, whether the prewritten computer software is installed or
28 delivered electronically by tangible storage media physically transferred to
29 the purchaser or by load and leave;

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

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

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

37 (w) all sales of charitable raffle tickets in accordance with K.S.A. 75-
38 5171 et seq., and amendments thereto, shall be exempt from taxes imposed
39 pursuant to this section; and

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

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

1 repealed.

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