

## HOUSE BILL No. 2585

By Committee on Taxation

Requested by Jason Watkins on behalf of Hutton Construction

1-24

1 AN ACT concerning sales taxation; relating to the taxation of services;  
2 excluding from taxation the service of installing or applying tangible  
3 personal property for the reconstruction, restoration, remodeling,  
4 renovation, repair or replacement of a building or facility; amending  
5 K.S.A. 2023 Supp. 79-3603 and repealing the existing section.  
6

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

8 Section 1. K.S.A. 2023 Supp. 79-3603 is hereby amended to read as  
9 follows: 79-3603. For the privilege of engaging in the business of selling  
10 tangible personal property at retail in this state or rendering or furnishing  
11 any of the services taxable under this act, there is hereby levied and there  
12 shall be collected and paid a tax at the rate of 6.5%. On and after January  
13 1, 2023, 17% and on and after January 1, 2025, 18% of the tax rate  
14 imposed pursuant to this section and the rate provided in K.S.A. 2023  
15 Supp. 79-3603d, and amendments thereto, shall be levied for the state  
16 highway fund, the state highway fund purposes and those purposes  
17 specified in K.S.A. 68-416, and amendments thereto, and all revenue  
18 collected and received from such tax levy shall be deposited in the state  
19 highway fund.

20 Within a redevelopment district established pursuant to K.S.A. 74-  
21 8921, and amendments thereto, there is hereby levied and there shall be  
22 collected and paid an additional tax at the rate of 2% until the earlier of the  
23 date the bonds issued to finance or refinance the redevelopment project  
24 have been paid in full or the final scheduled maturity of the first series of  
25 bonds issued to finance any part of the project.

26 Such tax shall be imposed upon:

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

29 (b) the gross receipts from intrastate, interstate or international  
30 telecommunications services and any ancillary services sourced to this  
31 state in accordance with K.S.A. 79-3673, and amendments thereto, except  
32 that telecommunications service does not include: (1) Any interstate or  
33 international 800 or 900 service; (2) any interstate or international private  
34 communications service as defined in K.S.A. 79-3673, and amendments  
35 thereto; (3) any value-added nonvoice data service; (4) any

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

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (n) the gross receipts received from dues charged by public and  
42 private clubs, drinking establishments, organizations and businesses,  
43 payment of which entitles a member to the use of facilities for recreation

1 or entertainment, but such tax shall not be levied and collected upon the  
2 gross receipts received from: (1) Dues charged by any organization exempt  
3 from property taxation pursuant to K.S.A. 79-201 *Eighth* and *Ninth*, and  
4 amendments thereto; and (2) sales of memberships in a nonprofit  
5 organization which is exempt from federal income taxation pursuant to  
6 section 501(c)(3) of the federal internal revenue code of 1986, and whose  
7 purpose is to support the operation of a nonprofit zoo;

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

43 (p) (l) the gross receipts received for the service of installing or

1 applying tangible personal property which when installed or applied is not  
 2 being held for sale in the regular course of business, and whether or not  
 3 such tangible personal property when installed or applied remains tangible  
 4 personal property or becomes a part of real estate, ~~except that.~~

5 (2) No tax shall be imposed *pursuant to paragraph (1)* upon the  
 6 service of installing or applying tangible personal property in connection  
 7 with:

8 (A) The original construction, *reconstruction, restoration,*  
 9 *remodeling, renovation, repair or replacement* of a building or facility;

10 (B) the original construction, reconstruction, restoration, remodeling,  
 11 renovation, repair or replacement of a residence; or

12 (C) the construction, reconstruction, restoration, replacement or  
 13 repair of a bridge or highway.

14 (3) For the purposes of this subsection:

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

25 ~~(B)~~(B) "building" means only those enclosures within which  
 26 individuals customarily are employed, or which are customarily used to  
 27 house machinery, equipment or other property, and including the land  
 28 improvements immediately surrounding such building;

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

35 ~~(D)~~(D) "residence" means only those enclosures within which  
 36 individuals customarily live;

37 ~~(E)~~(E) "utility structure" means transmission and distribution lines  
 38 owned by an independent transmission company or cooperative, the  
 39 Kansas electric transmission authority or natural gas or electric public  
 40 utility; and

41 ~~(F)~~(F) "windstorm" means straight line winds of at least 80 miles per  
 42 hour as determined by a recognized meteorological reporting agency or  
 43 organization;

1 (q) the gross receipts received for the service of repairing, servicing,  
2 altering or maintaining tangible personal property which when such  
3 services are rendered is not being held for sale in the regular course of  
4 business, and whether or not any tangible personal property is transferred  
5 in connection therewith. The tax imposed by this subsection shall be  
6 applicable to the services of repairing, servicing, altering or maintaining an  
7 item of tangible personal property which has been and is fastened to,  
8 connected with or built into real property;

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

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

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

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

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

25 (w) all sales of charitable raffle tickets in accordance with K.S.A. 75-  
26 5171 et seq., and amendments thereto, shall be exempt from taxes imposed  
27 pursuant to this section; and

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

31 Sec. 2. K.S.A. 2023 Supp. 79-3603 is hereby repealed.

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