

As Amended by Senate Committee

Session of 2023

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~~ **2023** 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~~ **December 31,***
19 *2024;*

20 (b) all sales of propane gas, LP-gas, coal, wood and other fuel sources
21 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~~ **December 31, 2024;***

24 (c) *on and after ~~July 1, 2024~~ **January 1, 2025,** all sales of natural*
25 *gas, electricity and heat delivered through mains, lines or pipes to any*
26 *premises for commercial or noncommercial use by the occupant of such*
27 *premises and all sales of natural gas, electricity and heat delivered*
28 *through mains, lines or pipes for agricultural use;*

29 (d) *on and after ~~July 1, 2024~~ **January 1, 2025,** all sales of propane*
30 *gas, LP-gas, coal, wood and other fuel sources for the production of heat*
31 *or lighting for commercial or noncommercial use of an occupant of any*
32 *premises;*

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

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

36 Sec. 2. K.S.A. ~~2022~~ **2023** Supp. 79-3603 is hereby amended to read

1 as follows: 79-3603. For the privilege of engaging in the business of
2 selling tangible personal property at retail in this state or rendering or
3 furnishing any of the services taxable under this act, there is hereby levied
4 and there shall be collected and paid a tax at the rate of 6.5%. On and after
5 January 1, 2023, 17% and on and after January 1, 2025, 18% of the tax
6 rate imposed pursuant to this section and the rate provided in K.S.A. ~~2022~~
7 **2023** Supp. 79-3603d, and amendments thereto, shall be levied for the
8 state highway fund, the state highway fund purposes and those purposes
9 specified in K.S.A. 68-416, and amendments thereto, and all revenue
10 collected and received from such tax levy shall be deposited in the state
11 highway fund.

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

18 Such tax shall be imposed upon:

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

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

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

1 state rate shall be 0%, but such tax shall not be levied and collected upon
2 the gross receipts from: ~~(1)~~ (A) The sale of a rural water district benefit
3 unit; ~~(2)~~ (B) a water system impact fee, system enhancement fee or similar
4 fee collected by a water supplier as a condition for establishing service; or
5 ~~(3)~~ (C) connection or reconnection fees collected by a water supplier. *The*
6 *provisions of this paragraph shall expire on ~~June 30~~ **December 31, 2024***;
7 *and*

8 (2) *on and after ~~July 1, 2024~~ **January 1, 2025**, the gross receipts*
9 *from the sale or furnishing of gas, water, electricity and heat, which sale is*
10 *not otherwise exempt from taxation under the provisions of this act, and*
11 *whether furnished by municipally or privately owned utilities, except that*
12 *for sales of gas, electricity and heat delivered through mains, lines or*
13 *pipes to any premises for commercial or noncommercial use by the*
14 *occupant of such premises, and for agricultural use and also, for such use,*
15 *all sales of propane gas, the state rate shall be 0%; and for all sales of*
16 *propane gas, LP-gas, coal, wood and other fuel sources for the production*
17 *of heat or lighting for commercial or noncommercial use of an occupant of*
18 *any premises, the state rate shall be 0%, but such tax shall not be levied*
19 *and collected upon the gross receipts from: (A) The sale of a rural water*
20 *district benefit unit; (B) a water system impact fee, system enhancement*
21 *fee or similar fee collected by a water supplier as a condition for*
22 *establishing service; or (C) connection or reconnection fees collected by a*
23 *water supplier;*

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

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

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

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

43 (h) the gross receipts from the service of renting or leasing of tangible

1 personal property except such tax shall not apply to the renting or leasing
2 of machinery, equipment or other personal property owned by a city and
3 purchased from the proceeds of industrial revenue bonds issued prior to
4 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
5 12-1749, and amendments thereto, and any city or lessee renting or leasing
6 such machinery, equipment or other personal property purchased with the
7 proceeds of such bonds who shall have paid a tax under the provisions of
8 this section upon sales made prior to July 1, 1973, shall be entitled to a
9 refund from the sales tax refund fund of all taxes paid thereon;

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

13 (j) the gross receipts from the rendering of the services of washing
14 and washing and waxing of vehicles;

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

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

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

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

43 (n) the gross receipts received from dues charged by public and

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

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

1 purchaser to the seller may be deducted from the selling price;

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

12 For the purposes of this subsection:

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

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

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

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

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

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

42 (q) the gross receipts received for the service of repairing, servicing,
43 altering or maintaining tangible personal property which when such

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

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

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

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

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

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

23 (w) all sales of charitable raffle tickets in accordance with K.S.A. 75-
24 5171 et seq., and amendments thereto, shall be exempt from taxes imposed
25 pursuant to this section; and

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

29 Sec. 3. K.S.A. 12-189a and K.S.A. ~~2022~~ **2023** Supp. 79-3603 are
30 hereby repealed.

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