As Amended by Senate Committee

Session of 2023

SENATE BILL No. 54

By Committee on Assessment and Taxation

1-18

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

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

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

(a) All sales of natural gas, electricity, heat and water delivered through mains, lines or pipes to residential premises for noncommercial use by the occupant of such premises and all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes for agricultural use, except that effective January 1, 2006, the provisions of this subsection shall expire for sales of water pursuant to this subsection. The provisions of this subsection shall expire on December 31, 2024;

(b) all sales of propane gas, LP-gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises. The provisions of this subsection shall expire on December 31, 2024;

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

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

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

(f) all sales of food and food ingredients.

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

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

Such tax shall be imposed upon:
(a) The gross receipts received from the sale of tangible personal
property at retail within this state;
(b) the gross receipts from intrastate, interstate or international
telecommunications services and any ancillary services sourced to this
state in accordance with K.S.A. 79-3673, and amendments thereto, except
that telecommunications service does not include: (1) Any interstate or
international 800 or 900 service; (2) any interstate or international private
communications service as defined in K.S.A. 79-3673, and amendments
thereto; (3) any value-added nonvoice data service; (4) any
telecommunication service to a provider of telecommunication services
which will be used to render telecommunications services, including
carrier access services; or (5) any service or transaction defined in this
section among entities classified as members of an affiliated group as
provided by section 1504 of the federal internal revenue code of 1986, as
in effect on January 1, 2001;
(c) (1) the gross receipts from the sale or furnishing of gas, water,
electricity and heat, which sale is not otherwise exempt from taxation
under the provisions of this act, and whether furnished by municipally or
privately owned utilities, except that, on and after January 1, 2006, for
sales of gas, electricity and heat delivered through mains, lines or pipes to
residential premises for noncommercial use by the occupant of such
premises, and for agricultural use and also, for such use, all sales of
propane gas, the state rate shall be 0%; and for all sales of propane gas, LP
gas LP-gas, coal, wood and other fuel sources for the production of heat or
lighting for noncommercial use of an occupant of residential premises, the
state rate shall be 0%, but such tax shall not be levied and collected upon
the gross receipts from: {1} (A) The sale of a rural water district benefit
unit; {2} (B) a water system impact fee, system enhancement fee or similar
fee collected by a water supplier as a condition for establishing service; or
{3} (C) connection or reconnection fees collected by a water supplier. The
provisions of this paragraph shall expire on June 30 December 31, 2024;
and
(2) on and after July 1, 2024 January 1, 2025, the gross receipts
from the sale or furnishing of gas, water, electricity and heat, which sale is
not otherwise exempt from taxation under the provisions of this act, and
whether furnished by municipally or privately owned utilities, except that
for sales of gas, electricity and heat delivered through mains, lines or
pipes to any premises for commercial or noncommercial use by the
occupant of such premises, and for agricultural use and also, for such use,
all sales of propane gas, the state rate shall be 0%; and for all sales of
propane gas, LP-gas, coal, wood and other fuel sources for the production
of heat or lighting for commercial or noncommercial use of an occupant of
any premises, the state rate shall be 0%, but such tax shall not be levied
and collected upon the gross receipts from: (A) The sale of a rural water
district benefit unit; (B) a water system impact fee, system enhancement
fee or similar fee collected by a water supplier as a condition for
establishing service; or (C) connection or reconnection fees collected by a
water supplier;
(d) the gross receipts from the sale of meals or drinks furnished at any
private club, drinking establishment, catered event, restaurant, eating
house, dining car, hotel, drugstore or other place where meals or drinks are
regularly sold to the public;
(e) the gross receipts from the sale of admissions to any place
providing amusement, entertainment or recreation services including
admissions to state, county, district and local fairs, but such tax shall not
be levied and collected upon the gross receipts received from sales of
admissions to any cultural and historical event which occurs triennially;
(f) the gross receipts from the operation of any coin-operated device
dispensing or providing tangible personal property, amusement or other
services except laundry services, whether automatic or manually operated;
(g) the gross receipts from the service of renting of rooms by hotels,
as defined by K.S.A. 36-501, and amendments thereto, or by
accommodation brokers, as defined by K.S.A. 12-1692, and amendments
thereto, but such tax shall not be levied and collected upon the gross
receipts received from sales of such service to the federal government and
any agency, officer or employee thereof in association with the
performance of official government duties;
(h) the gross receipts from the service of renting or leasing of tangible
personal property except such tax shall not apply to the renting or leasing
of machinery, equipment or other personal property owned by a city and
purchased from the proceeds of industrial revenue bonds issued prior to
July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
12-1749, and amendments thereto, and any city or lessee renting or leasing
such machinery, equipment or other personal property purchased with the
proceeds of such bonds who shall have paid a tax under the provisions of
this section upon sales made prior to July 1, 1973, shall be entitled to a
refund from the sales tax refund fund of all taxes paid thereon;
   (i) the gross receipts from the rendering of dry cleaning, pressing,
dyeing and laundry services except laundry services rendered through a
coin-operated device whether automatic or manually operated;
   (j) the gross receipts from the rendering of the services of washing
and washing and waxing of vehicles;
   (k) the gross receipts from cable, community antennae and other
subscriber radio and television services;
   (l) (1) except as otherwise provided by paragraph (2), the gross
receipts received from the sales of tangible personal property to all
contractors, subcontractors or repairmen for use by them in erecting
structures, or building on, or otherwise improving, altering, or repairing
real or personal property.
   (2) Any such contractor, subcontractor or repairman who maintains
an inventory of such property both for sale at retail and for use by them for
the purposes described by paragraph (1) shall be deemed a retailer with
respect to purchases for and sales from such inventory, except that the
gross receipts received from any such sale, other than a sale at retail, shall
be equal to the total purchase price paid for such property and the tax
imposed thereon shall be paid by the deemed retailer;
   (m) the gross receipts received from fees and charges by public and
private clubs, drinking establishments, organizations and businesses for
participation in sports, games and other recreational activities, but such tax
shall not be levied and collected upon the gross receipts received from: (1)
Fees and charges by any political subdivision, by any organization exempt
from property taxation pursuant to K.S.A. 79-201 Ninth, and amendments
thereto, or by any youth recreation organization exclusively providing
services to persons 18 years of age or younger which is exempt from
federal income taxation pursuant to section 501(c)(3) of the federal
internal revenue code of 1986, for participation in sports, games and other
recreational activities; and (2) entry fees and charges for participation in a
special event or tournament sanctioned by a national sporting association
to which spectators are charged an admission which is taxable pursuant to
subsection (e);
   (n) the gross receipts received from dues charged by public and
private clubs, drinking establishments, organizations and businesses, payment of which entitles a member to the use of facilities for recreation or entertainment, but such tax shall not be levied and collected upon the gross receipts received from: (1) Dues charged by any organization exempt from property taxation pursuant to K.S.A. 79-201 Eighth and Ninth, and amendments thereto; and (2) sales of memberships in a nonprofit organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and whose purpose is to support the operation of a nonprofit zoo;

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

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

For the purposes of this subsection:

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

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

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

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

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

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

(q) the gross receipts received for the service of repairing, servicing, altering or maintaining tangible personal property which when such
services are rendered is not being held for sale in the regular course of
business, and whether or not any tangible personal property is transferred
in connection therewith. The tax imposed by this subsection shall be
applicable to the services of repairing, servicing, altering or maintaining an
item of tangible personal property which has been and is fastened to,
connected with or built into real property;
(r) the gross receipts from fees or charges made under service or
maintenance agreement contracts for services, charges for the providing of
which are taxable under the provisions of subsection (p) or (q);
(s) on and after January 1, 2005, the gross receipts received from the
sale of prewritten computer software and the sale of the services of
modifying, altering, updating or maintaining prewritten computer
software, whether the prewritten computer software is installed or
delivered electronically by tangible storage media physically transferred to
the purchaser or by load and leave;
(t) the gross receipts received for telephone answering services;
(u) the gross receipts received from the sale of prepaid calling service
and prepaid wireless calling service as defined in K.S.A. 79-3673, and
amendments thereto;
(v) all sales of bingo cards, bingo faces and instant bingo tickets by
licensees under K.S.A. 75-5171 et seq., and amendments thereto, shall be
exempt from taxes imposed pursuant to this section;
(w) all sales of charitable raffle tickets in accordance with K.S.A. 75-
5171 et seq., and amendments thereto, shall be exempt from taxes imposed
pursuant to this section; and
(x) commencing on January 1, 2023, and thereafter, the state rate on
the gross receipts from the sale of food and food ingredients shall be as set
Sec. 3. K.S.A. 12-189a and K.S.A. 2023 Supp. 79-3603 are
hereby repealed.
Sec. 4. This act shall take effect and be in force from and after its
publication in the statute book.