

**SENATE BILL No. 400**

By Committee on Assessment and Taxation

2-10

1 AN ACT concerning taxation; authorizing counties to impose an earnings  
2 tax; amending K.S.A. 2019 Supp. 19-101a and repealing the existing  
3 section.  
4

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

6 New Section 1. (a) Any county is hereby empowered and authorized  
7 in accordance with the provisions of this act to levy an earnings tax upon:  
8 (1) All individuals employed or working within such county; and (2) all  
9 resident individuals of such county who are employed or working outside  
10 such county.

11 (b) The rate of any earnings tax pursuant to subsection (a) shall not  
12 exceed 1% per annum.

13 (c) The revenue derived from the earnings tax authorized by this act  
14 shall be pledged for general county purposes.

15 (d) If any provision of this act or the application thereof to any person  
16 or circumstance is held invalid, the invalidity does not affect other  
17 provisions or applications of this act, which can be given effect without the  
18 invalid provision or application, and to this end the provisions of this act  
19 are severable.

20 New Sec. 2. As used in this act:

21 (a) "Earnings tax" means a tax on the: (1) Salaries, wages,  
22 commissions and other compensation earned by residents of the county;  
23 and (2) salaries, wages, commissions and other compensation earned by  
24 nonresidents of the county for work done or services performed or  
25 rendered in the county.

26 (b) "Salaries, wages, commissions and other compensation" does not  
27 include contributions to any deferred compensation plans, including, but  
28 not limited to, any salary reduction plans, cafeteria plans or any other  
29 similar plans deferring the receipt of compensation by a resident or  
30 nonresident if such contribution is not subject to Kansas state income tax  
31 at the time such contribution is made.

32 New Sec. 3. (a) No county shall levy an earnings tax until the  
33 governing body of such county shall first submit such proposition to and  
34 receive the approval of a majority of the electors of the county voting  
35 thereon at election specified by the county. Any county proposing to adopt  
36 an earnings tax shall adopt a resolution giving notice of its intention to

1 subject such proposition for approval by the electors in the manner  
2 required by K.S.A. 25-105, and amendments thereto. The notice shall state  
3 the time of the election, the rate of the tax and the purpose for which the  
4 proceeds will be expended in accordance with section 1(c), and  
5 amendments thereto. Every election held under this act shall be conducted  
6 by the county election officer.

7 (b) If a majority of the electors voting thereon at such election shall  
8 approve the levying of such tax, the governing body of that county shall  
9 provide by resolution the levy of the tax. Any repeal of such tax, or any  
10 reduction or increase in the rate thereof, within the limits of this act, shall  
11 be accomplished in the manner provided for in this act for the adoption  
12 and approval of such tax, except that the governing body of a county shall  
13 be required to submit such question upon submission of a petition signed  
14 by the electors of such county equal in number to not less than 10% of the  
15 electors of such county. If a majority of the electors voting thereon at such  
16 election fail to approve the proposition, it may be resubmitted under the  
17 conditions and in the manner provided in this act for submission of the  
18 original proposition.

19 (c) Any resolution that has been adopted to give notice of the  
20 intention of the governing body of the county to submit the proposition of  
21 levying an earnings tax to the electors of the county shall contain  
22 provisions pledging the use of the revenue to be received from such tax if  
23 such resolution is approved by the voters in accordance with the provisions  
24 of section 1(c), and amendments thereto. Such description shall be  
25 consistent with that contained in the notice of election required by  
26 subsection (a).

27 (d) In any county imposing an earnings tax pursuant to this act, once  
28 every five years after the initial levy of the earnings tax by the county, the  
29 question whether to continue to impose an earnings tax shall be submitted  
30 to the electors in the same manner provided in this act for the original  
31 proposition.

32 New Sec. 4. Any person exempt from the payment of state income  
33 tax pursuant to K.S.A. 79-32,113, and amendments thereto, shall be  
34 exempt from the payment of an earnings tax levied pursuant to this act.

35 New Sec. 5. The amount of earnings tax paid to another county with  
36 an earnings tax by a resident individual shall be allowed as a credit against  
37 the earnings tax of the county of such individual's residence.

38 New Sec. 6. (a) By resolution, the county may provide for deductions  
39 and exemptions from salaries, wages and commissions and may provide  
40 exemptions on account of spouses and dependents.

41 (b) The earnings subject to earnings tax of any nonresident individual  
42 when work is performed or rendered both within and without the county  
43 may be ascertained by a formula set forth by resolution of the county.

1 (c) The state of Kansas and its political subdivisions shall deduct  
2 from the earnings of their employees the amount of any county earnings  
3 tax levied upon the income of the particular employee and remit the same  
4 to the county levying such tax. The state of Kansas and its political  
5 subdivisions shall be entitled to deduct and retain of the total amount so  
6 collected to compensate such employer for collecting the tax a percentage  
7 as follows: 3% if such county earnings tax is less than 1% of gross  
8 earnings; or 1.5% if such county earnings tax is 1% of gross earnings.

9 (d) Any county levying an earnings tax is hereby authorized to  
10 impose, by resolution, upon employers within the county the duty of  
11 collecting and remitting to the county any tax that may be levied upon the  
12 earnings of employees pursuant to this act and to prescribe penalties for  
13 failure to perform such duty. If any such county should impose such duty  
14 on employers, each such employer shall be entitled to deduct and retain  
15 1.5% of the total amount collected to compensate such employer for  
16 collecting such tax. The governing body of any such county, by resolution,  
17 may reduce, eliminate or reimpose, if eliminated, the fee allowed to  
18 employers by this subsection.

19 (e) (1) All employers within the state, upon request as provided in  
20 this subsection, shall submit to any county levying an earnings tax a  
21 complete listing of all their employees who reside within the territorial  
22 limits or boundaries of the requesting county and their current addresses  
23 according to the records of the employer. Any request shall be made in  
24 writing and shall be mailed to the principal office of the employer. If the  
25 employer is a corporation, the written request shall be made to the  
26 registered agent of the corporation at its registered office. All written  
27 requests provided for in this subsection shall be by registered or certified  
28 mail. Such request may not be made more than once each year. This  
29 subsection shall not apply to employers who deduct from the earnings of  
30 their employees the amount of any county earnings tax levied upon the  
31 income of the particular employee and remit the same to the county  
32 levying such tax.

33 (2) No list of employees furnished to the county shall be used for any  
34 purpose other than in connection with the collection of an earnings tax.  
35 Such lists shall be treated as confidential records and, except in accordance  
36 with a proper judicial order, shall not be disclosed by the county. Such lists  
37 shall not be open to public inspection pursuant to the Kansas open records  
38 act.

39 (3) The provisions of this subsection providing for the confidentiality  
40 of records shall expire on July 1, 2025, unless the legislature reviews and  
41 continues such provisions in accordance with K.S.A. 45-229, and  
42 amendments thereto.

43 Sec. 7. K.S.A. 2019 Supp. 19-101a is hereby amended to read as

1 follows: 19-101a.(a) The board of county commissioners may transact all  
2 county business and perform all powers of local legislation and  
3 administration it deems appropriate, subject only to the following  
4 limitations, restrictions or prohibitions:

5 (1) Counties shall be subject to all acts of the legislature which apply  
6 uniformly to all counties.

7 (2) Counties may not affect the courts located therein.

8 (3) Counties shall be subject to acts of the legislature prescribing  
9 limits of indebtedness.

10 (4) In the exercise of powers of local legislation and administration  
11 authorized under provisions of this section, the home rule power conferred  
12 on cities to determine their local affairs and government shall not be  
13 superseded or impaired without the consent of the governing body of each  
14 city within a county ~~which~~ that may be affected.

15 (5) Counties may not legislate on social welfare administered under  
16 state law enacted pursuant to or in conformity with public law No. 271 –  
17 74<sup>th</sup> congress, or amendments thereof.

18 (6) Counties shall be subject to all acts of the legislature concerning  
19 elections, election commissioners and officers and their duties as such  
20 officers and the election of county officers.

21 (7) Counties shall be subject to the limitations and prohibitions  
22 imposed under K.S.A. 12-187 through 12-195, and amendments thereto,  
23 prescribing limitations upon the levy of retailers' sales taxes by counties.

24 (8) Counties may not exempt from or effect changes in statutes made  
25 nonuniform in application solely by reason of authorizing exceptions for  
26 counties having adopted a charter for county government.

27 (9) No county may levy ad valorem taxes under the authority of this  
28 section upon real property located within any redevelopment project area  
29 established under the authority of K.S.A. 12-1772, and amendments  
30 thereto, unless the resolution authorizing the same specifically authorized  
31 a portion of the proceeds of such levy to be used to pay the principal of  
32 and interest upon bonds issued by a city under the authority of K.S.A. 12-  
33 1774, and amendments thereto.

34 (10) Counties shall have no power under this section to exempt from  
35 any statute authorizing or requiring the levy of taxes and providing  
36 substitute and additional provisions on the same subject, unless the  
37 resolution authorizing the same specifically provides for a portion of the  
38 proceeds of such levy to be used to pay a portion of the principal and  
39 interest on bonds issued by cities under the authority of K.S.A. 12-1774,  
40 and amendments thereto.

41 (11) Counties may not exempt from or effect changes in the  
42 provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

43 (12) Except as otherwise specifically authorized by K.S.A. 12-1,101

1 through 12-1,109, *and amendments thereto, and sections 1 through 6*, and  
2 amendments thereto, counties may not levy and collect taxes on incomes  
3 from whatever source derived.

4 (13) Counties may not exempt from or effect changes in K.S.A. 19-  
5 430, and amendments thereto.

6 (14) Counties may not exempt from or effect changes in K.S.A. 19-  
7 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

8 (15) Counties may not exempt from or effect changes in K.S.A. 19-  
9 15,139, 19-15,140 and 19-15,141, and amendments thereto.

10 (16) Counties may not exempt from or effect changes in the  
11 provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c  
12 and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-  
13 1260 through 12-1270 and 12-1276, and amendments thereto.

14 (17) Counties may not exempt from or effect changes in the  
15 provisions of K.S.A. 19-211, and amendments thereto.

16 (18) Counties may not exempt from or effect changes in the  
17 provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

18 (19) Counties may not regulate the production or drilling of any oil or  
19 gas well in any manner which would result in the duplication of regulation  
20 by the state corporation commission and the Kansas department of health  
21 and environment pursuant to chapter 55 and chapter 65 of the Kansas  
22 Statutes Annotated, and amendments thereto, and any rules and regulations  
23 adopted pursuant thereto. Counties may not require any license or permit  
24 for the drilling or production of oil and gas wells. Counties may not  
25 impose any fee or charge for the drilling or production of any oil or gas  
26 well.

27 (20) Counties may not exempt from or effect changes in K.S.A. 79-  
28 41a04, and amendments thereto.

29 (21) Counties may not exempt from or effect changes in K.S.A. 79-  
30 1611, and amendments thereto.

31 (22) Counties may not exempt from or effect changes in K.S.A. 79-  
32 1494, and amendments thereto.

33 (23) Counties may not exempt from or effect changes in K.S.A. 19-  
34 202(b), and amendments thereto.

35 (24) Counties may not exempt from or effect changes in K.S.A. 19-  
36 204(b), and amendments thereto.

37 (25) Counties may not levy or impose an excise, severance or any  
38 other tax in the nature of an excise tax upon the physical severance and  
39 production of any mineral or other material from the earth or water.

40 (26) Counties may not exempt from or effect changes in K.S.A. 79-  
41 2017 or 79-2101, and amendments thereto.

42 (27) Counties may not exempt from or effect changes in K.S.A. 2-  
43 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-

1 1,178 through 65-1,199, 65-3001 through 65-3028, and amendments  
2 thereto.

3 (28) Counties may not exempt from or effect changes in K.S.A. 80-  
4 121, and amendments thereto.

5 (29) Counties may not exempt from or effect changes in K.S.A. 19-  
6 228, and amendments thereto.

7 (30) Counties may not exempt from or effect changes in the Kansas  
8 911 act.

9 (31) Counties may not exempt from or effect changes in K.S.A. 2019  
10 Supp. 26-601, and amendments thereto.

11 (32) (A) Counties may not exempt from or effect changes in the  
12 Kansas liquor control act except as provided by paragraph (B).

13 (B) Counties may adopt resolutions which are not in conflict with the  
14 Kansas liquor control act.

15 (33) (A) Counties may not exempt from or effect changes in the  
16 Kansas cereal malt beverage act except as provided by paragraph (B).

17 (B) Counties may adopt resolutions which are not in conflict with the  
18 Kansas cereal malt beverage act.

19 (34) Counties may not exempt from or effect changes in the Kansas  
20 lottery act.

21 (35) Counties may not exempt from or effect changes in the Kansas  
22 expanded lottery act.

23 (36) Counties may neither exempt from nor effect changes to the  
24 eminent domain procedure act.

25 (37) Any county granted authority pursuant to the provisions of  
26 K.S.A. 19-5001 through 19-5005, and amendments thereto, shall be  
27 subject to the limitations and prohibitions imposed under K.S.A. 19-5001  
28 through 19-5005, and amendments thereto.

29 (38) Except as otherwise specifically authorized by K.S.A. 19-5001  
30 through 19-5005, and amendments thereto, counties may not exercise any  
31 authority granted pursuant to K.S.A. 19-5001 through 19-5005, and  
32 amendments thereto, including the imposition or levy of any retailers' sales  
33 tax.

34 (b) Counties shall apply the powers of local legislation granted in  
35 subsection (a) by resolution of the board of county commissioners. If no  
36 statutory authority exists for such local legislation other than that set forth  
37 in subsection (a) and the local legislation proposed under the authority of  
38 such subsection is not contrary to any act of the legislature, such local  
39 legislation shall become effective upon passage of a resolution of the  
40 board and publication in the official county newspaper. If the legislation  
41 proposed by the board under authority of subsection (a) is contrary to an  
42 act of the legislature which is applicable to the particular county but not  
43 uniformly applicable to all counties, such legislation shall become

1 effective by passage of a charter resolution in the manner provided in  
2 K.S.A. 19-101b, and amendments thereto.

3 (c) Any resolution adopted by a county ~~which~~ *that* conflicts with the  
4 restrictions in subsection (a) is null and void.

5 Sec. 8. K.S.A. 2019 Supp. 19-101a is hereby repealed.

6 Sec. 9. This act shall take effect and be in force from and after its  
7 publication in the statute book.