

**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 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, 2024;*

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

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

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

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

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

34 Sec. 2. K.S.A. 2022 Supp. 79-3603 is hereby amended to read as  
35 follows: 79-3603. For the privilege of engaging in the business of selling  
36 tangible personal property at retail in this state or rendering or furnishing

1 any of the services taxable under this act, there is hereby levied and there  
2 shall be collected and paid a tax at the rate of 6.5%. On and after January  
3 1, 2023, 17% and on and after January 1, 2025, 18% of the tax rate  
4 imposed pursuant to this section and the rate provided in K.S.A. 2022  
5 Supp. 79-3603d, and amendments thereto, shall be levied for the state  
6 highway fund, the state highway fund purposes and those purposes  
7 specified in K.S.A. 68-416, and amendments thereto, and all revenue  
8 collected and received from such tax levy shall be deposited in the state  
9 highway fund.

10 Within a redevelopment district established pursuant to K.S.A. 74-  
11 8921, and amendments thereto, there is hereby levied and there shall be  
12 collected and paid an additional tax at the rate of 2% until the earlier of the  
13 date the bonds issued to finance or refinance the redevelopment project  
14 have been paid in full or the final scheduled maturity of the first series of  
15 bonds issued to finance any part of the project.

16 Such tax shall be imposed upon:

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

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

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

1 unit;~~(2)~~ (B) a water system impact fee, system enhancement fee or similar  
2 fee collected by a water supplier as a condition for establishing service; or  
3 ~~(3)~~ (C) connection or reconnection fees collected by a water supplier. *The*  
4 *provisions of this paragraph shall expire on June 30, 2024; and*

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (n) the gross receipts received from dues charged by public and  
41 private clubs, drinking establishments, organizations and businesses,  
42 payment of which entitles a member to the use of facilities for recreation  
43 or entertainment, but such tax shall not be levied and collected upon the

1 gross receipts received from: (1) Dues charged by any organization exempt  
2 from property taxation pursuant to K.S.A. 79-201 *Eighth* and *Ninth*, and  
3 amendments thereto; and (2) sales of memberships in a nonprofit  
4 organization which is exempt from federal income taxation pursuant to  
5 section 501(c)(3) of the federal internal revenue code of 1986, and whose  
6 purpose is to support the operation of a nonprofit zoo;

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

42 (p) the gross receipts received for the service of installing or applying  
43 tangible personal property which when installed or applied is not being

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

9 For the purposes of this subsection:

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

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

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

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

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

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

39 (q) the gross receipts received for the service of repairing, servicing,  
40 altering or maintaining tangible personal property which when such  
41 services are rendered is not being held for sale in the regular course of  
42 business, and whether or not any tangible personal property is transferred  
43 in connection therewith. The tax imposed by this subsection shall be

1 applicable to the services of repairing, servicing, altering or maintaining an  
2 item of tangible personal property which has been and is fastened to,  
3 connected with or built into real property;

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

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

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

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

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

20 (w) all sales of charitable raffle tickets in accordance with K.S.A. 75-  
21 5171 et seq., and amendments thereto, shall be exempt from taxes imposed  
22 pursuant to this section; and

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

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

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