

STATE OF KANSAS

SENATE CHAMBER

MR. PRESIDENT:

I move to amend **HB 2237**, as amended by Senate Committee, on page 4, following line 4, by inserting:

"Sec. 4. K.S.A. 2021 Supp. 12-189a is hereby amended to read as follows: 12-189a. (a) 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)(1) 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 paragraph shall expire on June 30, 2023;

(b)(2) 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; ~~and~~. The provisions of this paragraph shall expire on June 30, 2023;

(3) on and after July 1, 2023, all sales of natural gas, electricity and heat delivered through mains, lines or pipes to any premises for any 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;

(4) on and after July 1, 2023, all sales of propane gas, LP-gas, coal, wood and other fuel sources for the production of heat or lighting for any use of an occupant of any premises; and

(5) all sales of intrastate telephone and telegraph services for noncommercial use.

(b) On and after July 1, 2023, the governing body of any city or the board of county commissioners of any county may exempt all sales subject to tax under the provisions of subsection (a)(3) or (a)(4), or both, from the taxes levied by such city or county under the provisions of K.S.A. 12-187 et seq., and amendments thereto, by the adoption of an ordinance or resolution authorizing the exemption. A certified copy of the ordinance or resolution authorizing or repealing an exemption pursuant to this subsection shall be submitted to the director of taxation within 30 days after adoption of any such ordinance or resolution. The director of taxation shall cause such exemption to be applied at the same time and in the same manner provided for the administration of the state retailers' sales tax. The director of taxation shall confirm that all provisions of law applicable to the authorization of the exemption have been followed prior to causing the exemption. Any repeal of an exemption authorized pursuant to this subsection may be accomplished by the adoption of an ordinance or resolution so providing.

Sec. 5. K.S.A. 13-13a39 is hereby amended to read as follows: 13-13a39. ~~The following~~ Sales subject to the countywide and city retailers' sales tax pursuant to K.S.A. 12-189a, and amendment thereto, shall also be subject to the taxes levied by Washburn University of Topeka under the provisions of K.S.A. 13-13a38, 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;~~

~~(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; and~~

~~(c) all sales of intrastate telephone and telegraph services for noncommercial use.~~

Sec. 6. K.S.A. 2021 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 July 1, 2021, 16.154% of the 6.5% rate imposed 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, 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, 2023; and

(2) on and after July 1, 2023, 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 any 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 any 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 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" shall mean 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" shall mean 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" shall mean 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" shall mean only those enclosures within which individuals customarily live;

(5) "utility structure" shall mean 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" shall mean 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; and

(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.

Sec. 7. K.S.A. 79-3607 is hereby amended to read as follows: 79-3607. (a) Retailers shall make returns to the director at the times prescribed by this section in the manner prescribed by the director, including electronic filing, upon forms or format prescribed by the director stating: (1) The name and address of the retailer; (2) the total amount of gross sales of all

tangible personal property and taxable services rendered by the retailer during the period for which the return is made; (3) the total amount received during the period for which the return is made on charge and time sales of tangible personal property made and taxable services rendered prior to the period for which the return is made; (4) deductions allowed by law from such total amount of gross sales and from total amount received during the period for which the return is made on such charge and time sales; (5) receipts during the period for which the return is made from the total amount of sales of tangible personal property and taxable services rendered during such period in the course of such business, after deductions allowed by law have been made; (6) receipts during the period for which the return is made from charge and time sales of tangible personal property made and taxable services rendered prior to such period in the course of such business, after deductions allowed by law have been made; (7) gross receipts during the period for which the return is made from sales of tangible personal property and taxable services rendered in the course of such business upon the basis of which the tax is imposed. The return shall include such other pertinent information as the director may require. In making such return, the retailer shall determine the market value of any consideration, other than money, received in connection with the sale of any tangible personal property in the course of the business and shall include such value in the return. Such value shall be subject to review and revision by the director as hereinafter provided. Refunds made by the retailer during the period for which the return is made on account of tangible personal property returned to the retailer shall be allowed as a deduction under paragraph (4) ~~of this section~~ in case the retailer has theretofore included the receipts from such sale in a return made by such retailer and paid taxes therein imposed by this act. The retailer shall, at the time of making such return, pay to the director the amount of tax herein imposed, except as otherwise provided in this section. The director may extend the time for making returns and paying the tax required by this act for any period not to exceed 60 days

under such rules and regulations as the secretary of revenue may prescribe.

(b) (1) When the total tax for which any retailer is liable under this act, does not exceed the sum of \$400 in any calendar year, the retailer shall file an annual return on or before January 25 of the following year. When the total tax liability does not exceed \$4,000 in any calendar year, the retailer shall file returns quarterly on or before the 25th day of the month following the end of each calendar quarter. When the total tax liability exceeds \$4,000 in any calendar year, the retailer shall file a return for each month on or before the 25th day of the following month. ~~When the total tax liability exceeds \$40,000 in any calendar year, the retailer shall be required to pay the sales tax liability for the first 15 days of each month to the director on or before the 25th day of that month. Any such payment shall accompany the return filed for the preceding month. A retailer will be considered to have complied with the requirements to pay the first 15 days' liability for any month if, on or before the 25th day of that month, the retailer paid 90% of the liability for that fifteen-day period, or 50% of such retailer's liability in the immediate preceding calendar year for the same month as the month in which the fifteen-day period occurs computed at the rate applicable in the month in which the fifteen-day period occurs, and, in either case, paid any underpayment with the payment required on or before the 25th day of the following month. Such retailers shall pay their sales tax liabilities for the remainder of each such month at the time of filing the return for such month. The provisions of this paragraph shall expire on December 31, 2022.~~

(2) On and after January 1, 2023, the retailer shall file:

(A) An annual return on or before January 25 of the following year when the total tax for which any retailer is liable under this act does not exceed the sum of \$1,000 in any calendar year;

(B) returns quarterly on or before the 25th day of the month following the end of each

calendar quarter when the total tax liability does not exceed \$5,000 in any calendar year; or

(C) a return for each month on or before the 25th day of the following month when the total tax liability exceeds \$5,000 in any calendar year.

(3) Determinations of amounts of liability in a calendar year for purposes of determining filing requirements shall be made by the director upon the basis of amounts of liability by those retailers during the preceding calendar year or by estimates in cases of retailers having no previous sales tax histories. The director is hereby authorized to modify the filing schedule for any retailer when it is apparent that the original determination was inaccurate.

~~(b)~~(c) All model 1, model 2 and model 3 sellers are required to file returns electronically. Any model 1, model 2 or model 3 seller may submit its sales and use tax returns in a simplified format approved by the director. Any seller that is registered under the agreement, which does not have a legal requirement to register in this state, and is not a model 1, model 2 or model 3 seller, may submit its sales and use tax returns as follows:

- (1) Upon registration, the director shall provide to the seller the returns required;
- (2) seller shall file a return anytime within one year of the month of initial registration, and future returns are required on an annual basis in succeeding years; and
- (3) in addition to the returns required in subsection ~~(b)(2)~~ (c)(2), sellers are required to submit returns in the month following any month in which they have accumulated state and local sales tax funds for this state in the amount of \$1,600 or more.";

Also on page 4, in line 5, after "K.S.A." by inserting "13-13a39,"; also in line 5, by striking "and" and inserting a comma; also in line 5, after "79-32,267" by inserting "79-3607 and 79-3607, as amended by section 3 of chapter 83 of the 2021 Session Laws of Kansas, and K.S.A. 2021 Supp. 12-189a and 79-3603";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after the semicolon by inserting "relating to taxation;"; in line 5, after the semicolon by inserting "relating to sales tax rates, exemptions, returns and payments; 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 and Washburn university of Topeka; authorizing cities and counties to exempt sales of such utilities from such city or county taxes; time for returns and payment by retailers collecting a certain amount of sales tax; discontinuing the first 15 days of the month remittance requirements for certain retailers;"; also in line 5, after "K.S.A." by inserting "13-13a39,"; also in line 5, by striking the first "and" and inserting a comma; also in line 5, after "79-32,267" by inserting "79-3607 and K.S.A. 2021 Supp. 12-189a and 79-3603; also repealing K.S.A. 79-3607, as amended by section 3 of chapter 83 of the 2021 Session Laws of Kansas";

And by adjusting the repealer and title accordingly if multiple amendments are adopted

Senator _____