

**SENATE BILL No. 359**

By Committee on Assessment and Taxation

1-20

1 AN ACT concerning sales taxation; relating to rates and exemptions;  
2 expanding the eligible uses for the 0% state rate for sales of certain  
3 utilities and providing for the levying of such tax by cities and counties;  
4 authorizing cities and counties to exempt sales of such utilities from  
5 such city or county taxes; amending K.S.A. 2021 Supp. 12-189a and  
6 79-3603 and repealing the existing sections.

7  
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 2021 Supp. 12-189a is hereby amended to read as  
10 follows: 12-189a. (a) The following sales shall be subject to the taxes  
11 levied and collected by all cities and counties under the provisions of  
12 K.S.A. 12-187 et seq., and amendments thereto:

13 ~~(a)(1)~~ (1) All sales of natural gas, electricity, heat and water delivered  
14 through mains, lines or pipes to residential premises for noncommercial  
15 use by the occupant of such premises and all sales of natural gas,  
16 electricity, heat and water delivered through mains, lines or pipes for  
17 agricultural use, except that effective January 1, 2006, the provisions of  
18 this subsection shall expire for sales of water pursuant to this subsection.

19 *The provisions of this subsection shall expire on June 30, 2023;*

20 ~~(b)(2)~~ (2) all sales of propane gas, LP-gas, coal, wood and other fuel  
21 sources for the production of heat or lighting for noncommercial use of an  
22 occupant of residential premises; ~~and~~ *The provisions of this subsection*  
23 *shall expire on June 30, 2023;*

24 (3) *on and after July 1, 2023, all sales of natural gas, electricity and*  
25 *heat delivered through mains, lines or pipes to any premises for any use by*  
26 *the occupant of such premises and all sales of natural gas, electricity and*  
27 *heat delivered through mains, lines or pipes for agricultural use;*

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

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

33 (b) *On and after July 1, 2023, the governing body of any city or the*  
34 *board of county commissioners of any county may exempt all sales subject*  
35 *to tax under the provisions of subsection (a)(3) or (a)(4), or both, from the*  
36 *taxes levied by such city or county under the provisions of K.S.A. 12-187*

1 *et seq., and amendments thereto, by the adoption of an ordinance or*  
2 *resolution authorizing the exemption. A certified copy of the ordinance or*  
3 *resolution authorizing or repealing an exemption pursuant to this*  
4 *subsection shall be submitted to the director of taxation within 30 days*  
5 *after adoption of any such ordinance or resolution. The director of*  
6 *taxation shall cause such exemption to be applied at the same time and in*  
7 *the same manner provided for the administration of the state retailers'*  
8 *sales tax. The director of taxation shall confirm that all provisions of law*  
9 *applicable to the authorization of the exemption have been followed prior*  
10 *to causing the exemption. Any repeal of an exemption authorized pursuant*  
11 *to this subsection may be accomplished by the adoption of an ordinance or*  
12 *resolution so providing.*

13 Sec. 2. K.S.A. 2021 Supp. 79-3603 is hereby amended to read as  
14 follows: 79-3603. For the privilege of engaging in the business of selling  
15 tangible personal property at retail in this state or rendering or furnishing  
16 any of the services taxable under this act, there is hereby levied and there  
17 shall be collected and paid a tax at the rate of 6.5%. On and after July 1,  
18 2021, 16.154% of the 6.5% rate imposed shall be levied for the state  
19 highway fund, the state highway fund purposes and those purposes  
20 specified in K.S.A. 68-416, and amendments thereto, and all revenue  
21 collected and received from such tax levy shall be deposited in the state  
22 highway fund. Within a redevelopment district established pursuant to  
23 K.S.A. 74-8921, and amendments thereto, there is hereby levied and there  
24 shall be collected and paid an additional tax at the rate of 2% until the  
25 earlier of the date the bonds issued to finance or refinance the  
26 redevelopment project have been paid in full or the final scheduled  
27 maturity of the first series of bonds issued to finance any part of the  
28 project. *Such tax shall be imposed upon:*

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

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

1 (c) (1) the gross receipts from the sale or furnishing of gas, water,  
2 electricity and heat, which sale is not otherwise exempt from taxation  
3 under the provisions of this act, and whether furnished by municipally or  
4 privately owned utilities, except that, on and after January 1, 2006, for  
5 sales of gas, electricity and heat delivered through mains, lines or pipes to  
6 residential premises for noncommercial use by the occupant of such  
7 premises, and for agricultural use and also, for such use, all sales of  
8 propane gas, the state rate shall be 0%; and for all sales of propane gas, LP  
9 gas, coal, wood and other fuel sources for the production of heat or  
10 lighting for noncommercial use of an occupant of residential premises, the  
11 state rate shall be 0%, but such tax shall not be levied and collected upon  
12 the gross receipts from: ~~(1)~~ (A) The sale of a rural water district benefit  
13 unit; ~~(2)~~ (B) a water system impact fee, system enhancement fee or similar  
14 fee collected by a water supplier as a condition for establishing service; or  
15 ~~(3)~~ (C) connection or reconnection fees collected by a water supplier. *The*  
16 *provisions of this paragraph shall expire on June 30, 2023; and*

17 (2) *on and after July 1, 2023, the gross receipts from the sale or*  
18 *furnishing of gas, water, electricity and heat, which sale is not otherwise*  
19 *exempt from taxation under the provisions of this act, and whether*  
20 *furnished by municipally or privately owned utilities, except that for sales*  
21 *of gas, electricity and heat delivered through mains, lines or pipes to any*  
22 *premises for any use by the occupant of such premises, and for*  
23 *agricultural use and also, for such use, all sales of propane gas, the state*  
24 *rate shall be 0%; and for all sales of propane gas, LP gas, coal, wood and*  
25 *other fuel sources for the production of heat or lighting for any use of an*  
26 *occupant of any premises, the state rate shall be 0%, but such tax shall not*  
27 *be levied and collected upon the gross receipts from: (A) The sale of a*  
28 *rural water district benefit unit; (B) a water system impact fee, system*  
29 *enhancement fee or similar fee collected by a water supplier as a*  
30 *condition for establishing service; or (C) connection or reconnection fees*  
31 *collected by a water supplier;*

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

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

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

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

8 (h) the gross receipts from the service of renting or leasing of tangible  
9 personal property except such tax shall not apply to the renting or leasing  
10 of machinery, equipment or other personal property owned by a city and  
11 purchased from the proceeds of industrial revenue bonds issued prior to  
12 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through  
13 12-1749, and amendments thereto, and any city or lessee renting or leasing  
14 such machinery, equipment or other personal property purchased with the  
15 proceeds of such bonds who shall have paid a tax under the provisions of  
16 this section upon sales made prior to July 1, 1973, shall be entitled to a  
17 refund from the sales tax refund fund of all taxes paid thereon;

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

21 (j) the gross receipts from the rendering of the services of washing  
22 and washing and waxing of vehicles;

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

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

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

37 (m) the gross receipts received from fees and charges by public and  
38 private clubs, drinking establishments, organizations and businesses for  
39 participation in sports, games and other recreational activities, but such tax  
40 shall not be levied and collected upon the gross receipts received from: (1)  
41 Fees and charges by any political subdivision, by any organization exempt  
42 from property taxation pursuant to K.S.A. 79-201 *Ninth*, and amendments  
43 thereto, or by any youth recreation organization exclusively providing

1 services to persons 18 years of age or younger which is exempt from  
2 federal income taxation pursuant to section 501(c)(3) of the federal  
3 internal revenue code of 1986, for participation in sports, games and other  
4 recreational activities; and (2) entry fees and charges for participation in a  
5 special event or tournament sanctioned by a national sporting association  
6 to which spectators are charged an admission which is taxable pursuant to  
7 subsection (e);

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

18 (o) the gross receipts received from the isolated or occasional sale of  
19 motor vehicles or trailers but not including: (1) The transfer of motor  
20 vehicles or trailers by a person to a corporation or limited liability  
21 company solely in exchange for stock securities or membership interest in  
22 such corporation or limited liability company; (2) the transfer of motor  
23 vehicles or trailers by one corporation or limited liability company to  
24 another when all of the assets of such corporation or limited liability  
25 company are transferred to such other corporation or limited liability  
26 company; or (3) the sale of motor vehicles or trailers which are subject to  
27 taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and  
28 amendments thereto, by an immediate family member to another  
29 immediate family member. For the purposes of paragraph (3), immediate  
30 family member means lineal ascendants or descendants, and their spouses.  
31 Any amount of sales tax paid pursuant to the Kansas retailers sales tax act  
32 on the isolated or occasional sale of motor vehicles or trailers on and after  
33 July 1, 2004, which the base for computing the tax was the value pursuant  
34 to K.S.A. 79-5105(a), (b)(1) and (b)(2), and amendments thereto, when  
35 such amount was higher than the amount of sales tax which would have  
36 been paid under the law as it existed on June 30, 2004, shall be refunded to  
37 the taxpayer pursuant to the procedure prescribed by this section. Such  
38 refund shall be in an amount equal to the difference between the amount of  
39 sales tax paid by the taxpayer and the amount of sales tax which would  
40 have been paid by the taxpayer under the law as it existed on June 30,  
41 2004. Each claim for a sales tax refund shall be verified and submitted not  
42 later than six months from the effective date of this act to the director of  
43 taxation upon forms furnished by the director and shall be accompanied by

1 any additional documentation required by the director. The director shall  
2 review each claim and shall refund that amount of tax paid as provided by  
3 this act. All such refunds shall be paid from the sales tax refund fund, upon  
4 warrants of the director of accounts and reports pursuant to vouchers  
5 approved by the director of taxation or the director's designee. No refund  
6 for an amount less than \$10 shall be paid pursuant to this act. In  
7 determining the base for computing the tax on such isolated or occasional  
8 sale, the fair market value of any motor vehicle or trailer traded in by the  
9 purchaser to the seller may be deducted from the selling price;

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

20 For the purposes of this subsection:

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

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

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

41 (4) "residence" shall mean only those enclosures within which  
42 individuals customarily live;

43 (5) "utility structure" shall mean transmission and distribution lines

1 owned by an independent transmission company or cooperative, the  
2 Kansas electric transmission authority or natural gas or electric public  
3 utility; and

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

7 (q) the gross receipts received for the service of repairing, servicing,  
8 altering or maintaining tangible personal property which when such  
9 services are rendered is not being held for sale in the regular course of  
10 business, and whether or not any tangible personal property is transferred  
11 in connection therewith. The tax imposed by this subsection shall be  
12 applicable to the services of repairing, servicing, altering or maintaining an  
13 item of tangible personal property which has been and is fastened to,  
14 connected with or built into real property;

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

18 (s) on and after January 1, 2005, the gross receipts received from the  
19 sale of prewritten computer software and the sale of the services of  
20 modifying, altering, updating or maintaining prewritten computer  
21 software, whether the prewritten computer software is installed or  
22 delivered electronically by tangible storage media physically transferred to  
23 the purchaser or by load and leave;

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

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

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

31 (w) all sales of charitable raffle tickets in accordance with K.S.A. 75-  
32 5171 et seq., and amendments thereto, shall be exempt from taxes imposed  
33 pursuant to this section.

34 Sec. 3. K.S.A. 2021 Supp. 12-189a and 79-3603 are hereby repealed.

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