



2020 LEGISLATIVE HIGHLIGHTS



SPECIAL SESSION

Omnibus 2020 COVID-19 Pandemic Response

Special Session HB 2016 creates and amends law and makes appropriations regarding the governmental response to the coronavirus disease (COVID-19) 2020 pandemic in Kansas. Among its provisions are the following:

Coronavirus Relief Funds. The bill requires an affirmative vote of the Governor and a majority of the legislative members of the State Finance Council (Council) to make expenditures or transfers from the Coronavirus Relief Fund, as well as any other federal moneys received by the state for aid for coronavirus relief.

State of Disaster Emergencies, Kansas Emergency Management Act (KEMA), and Authority of Local Officials. The bill creates and amends law related to state of disaster emergencies and KEMA, including the following:

The bill ratifies and continues through September 15, 2020, the COVID-19-related state of disaster emergency originally declared by the Governor on March 12, 2020, which was previously continued through various means (including HCR 5025) through May 26, 2020.

The bill prohibits the Governor from proclaiming a new COVID-19-related state of disaster emergency in 2020, unless approved by at least six legislative members of the Council. Similarly, the Governor is prohibited from ordering the closure or cessation of any business or commercial activity until September 15, 2020, at which point the Governor may order up to 15 days of such closure. Any additional closure will require approval by at least six legislative members of the Council, for specified periods of up to 30 days each. These provisions expire January 26, 2021.

The bill amends KEMA to reflect the above provisions and to allow the Council to extend the COVID-19-related state of disaster emergency beyond September 15, 2020, for specified periods of up to 30 days each, until January 26, 2021.

The bill amends the section of KEMA governing the powers of the Governor during a state of disaster emergency to clarify, limit, or modify various powers. These amendments include: requiring review within 24 hours by the Council of any order by the Governor; stating the Governor shall not have the power to make certain orders regarding ammunition, firearms, or elections; and allowing the Board of County Commissioners of any county to issue public health orders with provisions less stringent than a statewide executive order. Under the bill, these amendments would be removed and the statute would return to its previous form on January 26, 2021.

The bill amends the KEMA violations statute to adjust the intent requirement, change the penalty from a class A misdemeanor to a civil penalty of up to \$2,500 per violation, and specify how enforcement actions may be brought.

The bill amends statutes governing states of local disaster emergency, county boards of health, and local health officers to allow the Board of County Commissioners to review, amend, or revoke state of local disaster emergency declarations and orders issued by the county health officer.

School Closure. The bill prohibits closure of public or private school attendance centers by executive order of

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the Governor unless the State Board of Education has reviewed and affirmed the order.

COVID-19 Response and Reopening for Business Liability Protection Act. The bill provides immunity from civil liability for healthcare providers and businesses from certain claims related to COVID-19. The bill provides similar immunity from certain product liability claims. The bill provides an affirmative defense for adult care facilities for a COVID-19 claim under certain conditions.

COVID-19 Contact Tracing Privacy Act. The bill establishes requirements regarding procedures, qualifications, training, privacy and data protections, and participation for COVID-19 contact tracing. These provisions expire May 1, 2021.

Validity of Notarial Acts. The bill creates law validating notarial acts performed while personal appearance requirements are suspended by an executive order or other state law.

First Responder Notifications. The bill requires local health officers to work with first responder agencies to share information with first responders indicating where a person testing positive for, or under quarantine or isolation due to, COVID-19 resides or can be expected to be present, so that first responders may be alert to the need to utilize appropriate personal protective equipment (PPE) while responding.

Adult Care Homes. The bill requires the Kansas Department for Aging and Disability Services to take certain actions regarding adult care homes, including: ensuring infection control inspections are made within 90 days of the bill's effective date; providing the

necessary PPE, sanitizing supplies, and testing kits to each facility based on the facility's needs; and ensuring certain infection prevention and control best practices and recommendations are adopted and made available publicly.

Health Care. The bill creates and amends law regarding a number of health care topics, including the following. (Except as noted below, the following provisions expire January 26, 2021.)

Telemedicine. The bill allows a physician to prescribe medication without an in-person exam of a patient and allows a physician under quarantine to practice telemedicine. A physician licensed in another state may practice telemedicine to treat Kansas patients, under certain conditions, and the Board of Healing Arts (Board) may extend this provision to other healthcare professionals.

Hospitals and Medical Care Facilities. To facilitate COVID-19 treatment, the bill relaxes requirements related to licensed beds, use of non-hospital space, and medical staff membership. These provisions expire 120 calendar days after the expiration or termination of the COVID-19 state of disaster emergency proclamation.

Critical Access Hospitals. Until June 30, 2021, the bill relaxes bed limitations for critical access hospitals as necessary to provide COVID-19 treatment.

Temporary Emergency Licensure. The bill allows the Board to grant a temporary emergency license to practice any profession licensed, certified, registered, or regulated by the Board, for the purpose of preparing for, responding to, or mitigating any effect of COVID-19.

The bill also creates law adjusting licensure and allowable services by various healthcare providers, including physician assistants, advanced practice registered nurses, nurse anesthetists, licensed practical nurses, registered professional nurses, and licensed pharmacists, to facilitate COVID-19 related treatment. The bill allows designated healthcare facilities to utilize the services, as appropriate, of healthcare and medical students, military healthcare personnel, physical therapists, and emergency medical services providers in responding to COVID-19.

The bill allows healthcare professionals licensed and in good standing in another state to practice such profession in Kansas and eases certain healthcare professional licensure renewal or reinstatement requirements.

Court Videoconferencing. The bill extends until March 31, 2021, a provision previously enacted in 2020 House Sub. for SB 102 allowing courts to use videoconferencing.

Sale of Alcoholic Liquor. The bill allows, until January 26, 2021, legal patrons of a club or drinking establishment to remove alcoholic liquor from the premises, subject to certain conditions.

Unemployment Compensation. The bill makes a number of temporary changes to the state unemployment compensation system in response to the COVID-19 pandemic, including waiving the work search and waiting week requirements, requiring employers to provide certain notices, limiting unemployment contribution rates for employers, providing that benefits paid due to employees being discharged as a direct impact of COVID-19 will not be charged to the contributing employer's account, and eliminating provisions prohibiting certain employers from participating in shared work plans.

AGENCY REORGANIZATION

Reorganization of State Employee Health Plan and State Self Insurance Fund

Executive Reorganization Order (ERO) No. 45 moves the State Employee Health Plan (SEHP) and the State Self Insurance Fund (SSIF) from the Department of Health and Environment to the Department of Administration (KDOA). The SEHP administers the Kansas employee health insurance benefit program and supports the Kansas Health Care Commission, which sets rates and programs for state employee health insurance benefits. The SSIF administers workers compensation claims for state employees when they are injured on the job working for the State. The ERO transfers all functions, employees, and fund balances to administer these programs to KDOA, but does not alter the expenditures and positions within the current program, and there will be no interruptions to individuals receiving services through the SEHP.

Disapproval of Kansas Energy Office Reorganization

HR 6031 disapproves Executive Reorganization Order No. 46, which would have established the Kansas Energy Office as an independent entity to be the successor to the powers, duties, and functions of the Kansas Corporation Commission related to energy resources.

Disapproval of the Kansas Department of Human Services Reorganization

HR 6032 disapproves Executive Reorganization Order No. 44, which would have abolished the Kansas Department for Aging and Disability Services (KDADS) and transferred all jurisdiction, powers, functions, and duties of KDADS and Juvenile Services from the Department of Corrections into the Department for

Children and Families, which would have been renamed the Kansas Department of Human Services.

COMMERCE & LABOR

Unemployment Insurance

House Sub. for SB 27 amends unemployment insurance (UI) law to provide workers who initially filed UI claims on or after January 1, 2020, up to 26 weeks of benefits, rather than more limited benefits based on the Kansas unemployment rate. The bill also grants workers benefits for the waiting week upon the completion of the third week of unemployment following the waiting week. [Note: [Special Session HB 2016](#) subsequently waived the waiting week requirement for new claims filed from April 5, 2020, through December 26, 2020.] The bill will sunset on April 1, 2021.

EDUCATION

Waivers for School Year Attendance Requirements

House Sub. for SB 142 expands the circumstances in which a local board of education can apply to the State Board of Education for a waiver of the minimum number of required school hours to include conditions restricting the operation of public schools. The bill also amends the definition of “disaster” to include any declaration of disaster issued by the Governor or the closure of schools by a board of health, a local health officer, or the Secretary of Health and Environment as conditions that would qualify for such a waiver.

The bill includes a statement of legislative intent that school districts continue to pay hourly employees during any school shutdown due to a disaster.

HEALTH

Nursing Facility Quality Care Assessment; Healthcare Access Improvement Program

HB 2168 establishes a sunset date of July 1, 2030, for the Nursing Facility Quality Care Assessment and amends law concerning the hospital provider assessment known as the Healthcare Access Improvement Program (HCAIP). The bill requires the Kansas Department of Health and Environment to continue attempting to gain approval from the federal Centers for Medicare and Medicaid Services (CMS) to: raise the existing hospital provider assessment to 3.0 percent; expand taxable revenue to include a hospital’s outpatient and inpatient net operating revenue; and base such assessment on a hospital’s fiscal year three fiscal years prior to the assessment year. The bill also requires that, should these changes be approved by CMS, all disbursements related to HCAIP be paid from moneys appropriated to the Healthcare Access Improvement Fund (Fund) and that no State General Fund appropriations be used to supplement the Fund. [Note: [HB 2246](#) subsequently amended the provider assessment provision by changing the provider assessment to an amount not less than 1.83 percent of each hospital’s net inpatient operating revenue and not greater than 3.0 percent of each hospital’s net inpatient and outpatient operating revenue].



JUDICIARY

Extension or Suspension of Deadlines and Videoconferencing by Order of the Chief Justice During State of Disaster Emergencies

House Sub. for SB 102 allows the Chief Justice of the Kansas Supreme Court to issue an order to extend or suspend any statutory deadlines or time limitations (including those in the speedy trial statute and the Code of Civil Procedure), or authorize the use of videoconferencing in any court proceeding, when a state of disaster emergency has been declared pursuant to KEMA and the Chief Justice determines such action is necessary to secure the health and safety of court users, staff, and judicial officers. Any order issued may remain in effect for up to 150 days after a state of disaster emergency is terminated, and any criminal trial scheduled during the time the order was in effect must be placed back on the court schedule within 150 days. These provisions will expire on March 31, 2021. [Note: **Special Session HB 2016** subsequently removed the provision limiting the effective length of any videoconferencing order to up to 150 days after termination of a state of disaster emergency, although the overall expiration on March 31, 2021, remains in place.]

Restitution Orders

Senate Sub. for HB 2034 requires a court to order restitution in criminal cases and specifies that ordered restitution shall be due immediately, unless the court orders that the defendant be given a specified time to pay or be allowed to pay in specified installments, or the court finds compelling circumstances that would render restitution unworkable in whole or in part. A defendant subject to a restitution order entered prior to the bill's effective date may file a motion prior to December 31,

2020, proposing payment of restitution in specified installments, if the order does not give the defendant a specified time to pay or set payment in specified installments. The bill requires the provisions to be applied retroactively.



STATE FINANCES

State Budget

SB 66 includes adjusted funding for fiscal year (FY) 2020 and FY 2021 for state agencies, and FY 2020 and FY 2021 capital improvement expenditures for a number of state agencies. The FY 2020 revised budget totals \$18.7 billion, including \$7.8 billion from the State General Fund (SGF). This approved amount includes \$108.7 million of expenditure authority carried forward from FY 2019. The approved budget includes full-time equivalent (FTE) positions totaling 40,787.

The FY 2021 approved budget totals \$19.9 billion, including \$8.0 billion from the SGF. The budget is an all funds increase of \$1.2 billion, or 6.6 percent, and a SGF increase of \$192.9 million, or 2.5 percent, above the FY 2020 approved budget. The approved budget includes FTE positions totaling 40,720.

Major Adjustments to FY 2020 Budget:

Legislative Coordinating Council. Add \$50.0 million, all from the SGF, for the COVID-19 response, to be released by the LCC following submission by the Director of the Budget and review by the joint Legislative Budget Committee.

Adjutant General. Add \$15.0 million, all from the SGF, to the Kansas Division of Emergency Management for the COVID-19 response.

Office of Information Technology Services. Add \$14.9 million, all from the State General Fund, for modernization projects.

Department of Corrections and Correctional Facilities. Add \$6.1 million, all from the SGF, to expand the Lansing and Winfield correctional facilities to provide substance abuse treatment and nursing care.

Kansas Department of Wildlife, Parks and Tourism. Add \$2.0 million for state park flood repairs.

Department for Children and Families. Add \$3.6 million, including \$1.3 million from the SGF, for adoption assistance subsidy expansion.

Kansas Board of Regents. Add \$4.5 million for the Excel in Career Technical Education Program.

Caseloads. Delete \$40.5 million from all funds, including \$32.9 million from the SGF, for school finance consensus estimates, and \$10.7 million, all from the SGF, for Medicaid non-caseload home and community based services waiver expenditures and \$15.3 million, all from the SGF, for human services consensus caseload estimates.

Included in FY 2021 Budget:

Department of Education. Add \$135.8 million, including \$118.7 million from the SGF, for the new estimates of expenditures for state aid to K-12 schools, which is primarily due to the Base Aid for Student Excellence increasing from \$4,436 to \$4,569.

Kansas Department of Health and Environment (KDHE) – Division of Health. Add \$431.0 million, including: \$37.2 million from the SGF, for Medicaid regular medical caseloads. The Legislature also added funding for Medicaid expansion but made that funding

contingent upon the passage of a policy bill during the 2020 legislative session or the \$17.5 million from the State General Fund would shift to the State Finance Council for Coronavirus relief.

Regents and Post-Secondary Education Institutions. An all funds reduction of \$16.3 million and a SGF increase of \$21.7 million including \$11.9 million for distribution to state universities, \$8.5 million for Excel in Career Technical Education, \$5.0 million, all from the SGF, for the Cancer Center Research Fund and \$2.5 million, all from the SGF, for the Comprehensive Grant program with language that the new funds require a 1:1 match.

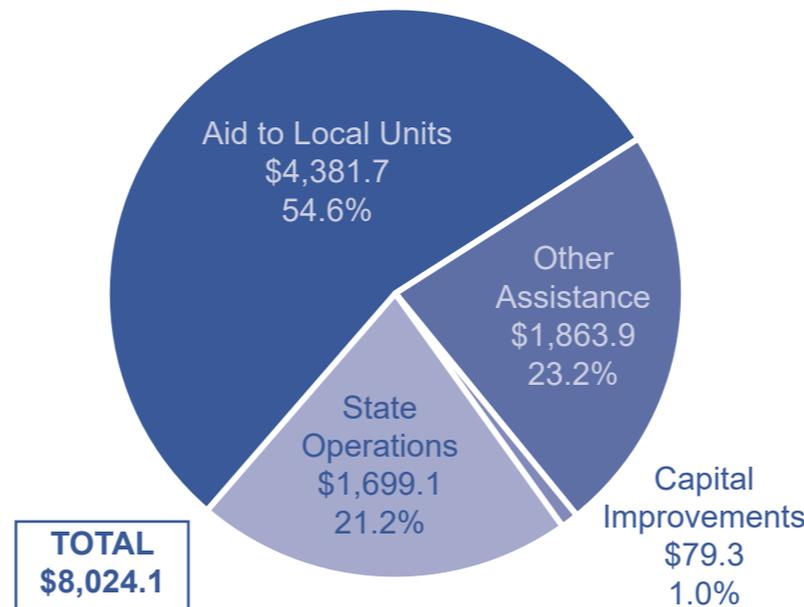
Department of Corrections and Correctional Facilities. Add \$19.1 million, including \$15.9 million from the SGF:

- \$7.7 million, all from the SGF, to increase the number of correctional officers in Kansas correctional facilities and expand the Lansing and Winfield correctional facilities to provide substance abuse treatment and nursing care; and
- \$8.3 million, all from the SGF, for a full year lease payment on the Lansing Correctional Facility.

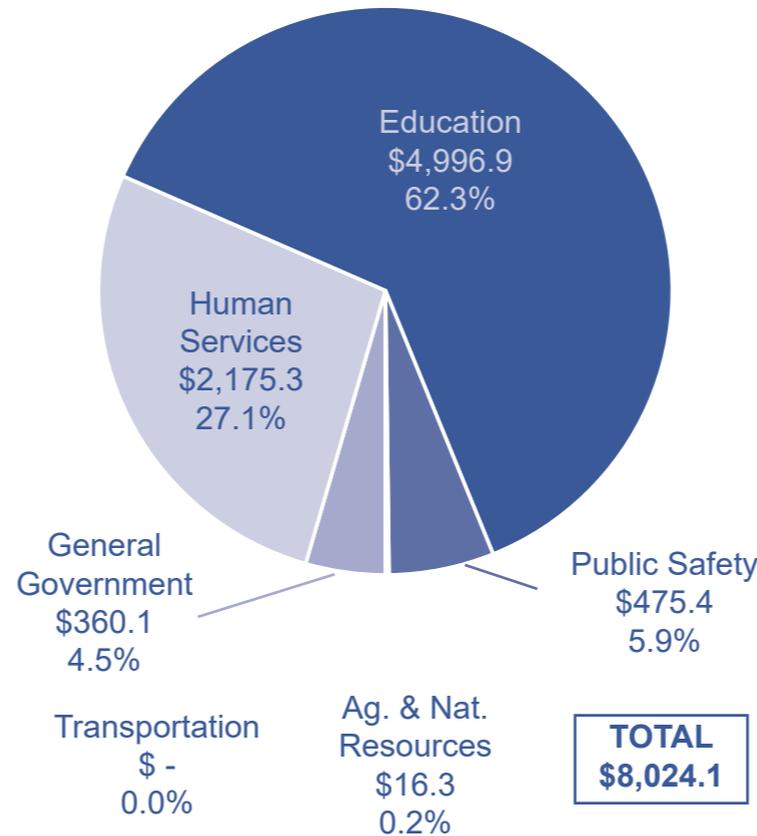
Department for Children and Families. Add \$12.1 million, including \$13.7 million from the SGF, for enhancement initiatives in the Department for Children and Families and human services consensus caseload adjustments; including:

- \$1.6 million, including \$484,529 from the SGF, for adoption assistance subsidy expansion;
- \$13.7 million, including \$9.0 million from the SGF, to adopt the Human Services Consensus Caseload Estimates;

FY 2021 Approved State General Fund Budget by Major Purpose (Dollars in Millions)



FY 2021 Approved State General Fund Budget by Function of Government (Dollars in Millions)



- \$4.0 million, including \$2.0 million from the SGF, to develop a new Comprehensive Child Welfare Information System; and

- \$7.5 million, including \$3.8 million from the SGF, to increase Family First grants and case management staff.

Department for Aging and Disability Services. Add \$60.1 million, including \$34.8 million from the SGF, including:

- \$41.0 million, including \$35.5 million from the SGF for the Human Services Consensus Caseloads Estimate;
- \$6.6 million, including \$2.7 million from the SGF, to provide a 1.0 percent increase in the reimbursement rate for Medicaid nursing facilities;
- \$22.1 million, including \$9.0 million from the SGF, to provide a 5.0 percent increase in the provider reimbursement rates for the Medicaid Home and Community Based Services Intellectual/Developmental Disability waiver;
- \$6.4 million, including \$2.6 million from the SGF, for the Medicaid Home and Community Based Services Technology Assisted waiver.
- \$3.0 million for Senior Care Act services;
- Add the following for mental health, all from the SGF: \$5.0 million for regional mental health inpatient beds, \$4.0 million for eight acute care psychiatric beds for youth in Hays, \$2.0 million to increase grant funding for community mental health centers, \$1.0 million for a psychiatric residential treatment facility pilot program at Ember Hope in Newton; and \$750,000 for the Douglas County Community Crisis Center.

Kansas Department of Transportation. Add \$80.8 million, all from special revenue funds, for the 11th year of the Transportation Works for Kansas Program.

Department of Agriculture and Kansas Water Office. Add \$2.4 million, mostly from the State Water Plan Fund, for several water projects, including: cost share payments for conservation practices, streambank stabilization, watershed dams, Conservation Reserve Enhancement Program, water injection dredging, watershed conservation practices, and dewatering in Haysville.



STATE GOVERNMENT

Agency Duties—Insurance Department; University of Kansas Medical Center; Department of Health and Environment; Wichita State University

HB 2246 amends and enacts law pertaining to the duties of various state agencies.

Kansas Insurance Department. The bill creates and amends law to allow a reciprocal to convert to a Kansas mutual insurance company. The bill also amends penalty provisions governing excess lines coverage and taxation, the effective date specified for the risk-based capital instructions for property and casualty companies and for life insurance companies, the duration permitted for long-term care insurance policies, and law governing the Office of the Securities Commissioner. Under the bill, the Securities Commissioner serves at the pleasure of the Insurance Commissioner.

University of Kansas Medical Center. The bill creates the Cancer Research and Public Information Trust Fund and a transfer to such fund of \$10.0 million from the State General Fund beginning in FY 2022.

Kansas Department of Health and Environment. The bill amends law concerning the HCAIP to adjust the annual hospital provider assessment on services to providers. The bill also requires the annual provider tax to be determined by the Healthcare Access Improvement Panel.

Wichita State University. The bill extends authority to secure bonds for up to \$25.0 million through FY 2021 for a new business school.

State of Disaster Emergency Declaration Ratification

HCR 5025 ratified and extended the Governor's March 12, 2020, state of disaster emergency declaration for the state regarding COVID-19 through May 1, 2020, subject to additional extensions by concurrent resolution of the Legislature.

The resolution provided that, if the Legislature is not in session, the Governor could apply to the State Finance Council (Council) to extend the emergency declaration, and the Council could authorize one additional extension of the declaration for a specified period not to exceed 30 days, by a majority vote of the legislative members of the Council.

Following such Council action, the resolution authorized the Legislative Coordinating Council (LCC) to: ratify a declaration or terminate a state of disaster emergency; revoke orders or proclamations; grant additional extensions of such emergency; and consider whether such orders or proclamations are an exercise of certain listed Kansas Emergency Act (KEMA) powers. The resolution required the LCC to meet at least every 30 days to review the emergency and consider any orders or proclamations issued since the last meeting.

The specific powers referenced by the resolution included powers related to: commandeering private property;

controlling movement of persons and animals; alcoholic beverages, explosives, and combustibles; and the seizure or sale of ammunition or firearms.

[*Note:* [Special Session HB 2016](#) ratified and continued from March 12, 2020 through September 15, 2020, the COVID-19-related state of disaster emergency declared by the Governor on March 12, 2020. It also established or modified statutory procedures and powers related to those addressed in HCR 5025.]



TRANSPORTATION

Eisenhower Legacy Transportation Program

House Sub. for SB 173 authorizes the Secretary of Transportation (Secretary) to initiate a program to be called the Eisenhower Legacy Transportation Program (Program). The bill states the Program shall provide for the construction, improvement, reconstruction, and maintenance of the state highway system and provide for selection of projects that will allow for the flexibility to meet emerging and economic needs. The bill includes no new revenues to the State Highway Fund (SHF). The Kansas Department of Transportation (KDOT) estimates \$9.9 billion could be spent on the Program over ten years, assuming only limited transfers from the SHF beginning 2023.

Program expenditures may include, but are not limited to, preservation, preservation plus (adds safety and technology elements), expansion and economic opportunity, and modernization projects. The bill authorizes the Secretary to determine the projects to be selected, using KDOT selection methods and criteria, and requires selection of modernization and expansion projects for development every two years. The bill requires the Secretary to let to construction contract at

least one phase of each remaining 2010 Transportation Works for Kansas Program (T-WORKS) project (with one exception in Harvey County) before any modernization or expansion project under the Program is let to construction.

The bill requires and authorizes expenditures for the Program to provide for assistance to counties and cities for transportation and for railroad, aviation, public transit, transportation technology, and multimodal (including pedestrian) programs. It increases annual city connecting link payments from \$3,000 per lane per mile to \$5,000 per lane per mile.

The bill authorizes the Secretary to make grants to plan, assess, and field new capabilities and innovative technologies (\$2 million per year) and to expand and improve broadband services (\$5 million per year, then \$10 million beginning in 2023), using moneys transferred from the SHF. The bill also establishes two initiatives subject to appropriations: the Short Line Rail Improvement Fund with \$5 million per year for three years to provide matching funds for qualified railroad track maintenance expenditures constructed by eligible entities, and the Driver's Education Scholarship Grant Program through fiscal year (FY) 2023, with tuition reimbursements of not more than \$200 per student.

The bill adds requirements for information to be included in the annual transportation report to the Legislature and Governor.

The bill also requires at least \$8 million to be spent in each county through FY 2030, states 16.154 percent of sales tax (as directed to the SHF since 2015) shall be levied for the SHF, provides for limited alternative delivery projects, and makes additional changes to law.



UTILITIES & TELECOMMUNICATIONS

Micro Wireless Deployment

Senate Sub. for HB 2018 amends the Video Competition Act to prohibit municipalities from imposing additional requirements for the deployment of micro wireless facilities in the public right-of-way. The bill prohibits cities from imposing or requiring any fee, tax, rent, charge, or license related to the deployment and operation of a micro wireless facility, other than any applicable federal and state taxes or the Video Service Provider Fee. The bill allows municipalities to require the holder of a state-issued video service authorization to comply with the National Electrical Safety Code and all industry-recognized engineering safety standards. The bill does not prohibit electric cooperatives or owners of a utility pole from setting rates, fees, terms, and conditions of any pole attachment agreement with an authorized video service provider.

Utility Rates—Income Tax Exemption, Contract Rates, and Discount Rates

Senate Sub. for HB 2585 exempts cooperatives, utilities owned by one or more cooperatives, and electric and natural gas public utilities subject to rate regulation by the Kansas Corporation Commission (KCC) from paying Kansas income tax.

The bill also requires a utility that includes expenses related to income taxes as a component of its retail rates to track and defer into a regulatory asset or liability, as appropriate, any overcollection or undercollection of income tax expenses that is a result of any change to a utility's income tax rate by state or federal law. The bill allows utilities, other than municipal electric or natural

gas utilities and cooperatives, to apply for adjusted retail rates due to this change in income tax expenses.

The bill allows the KCC to approve, for a term of up to ten years, contract rates not based on the cost of service to a facility or on the incremental cost to a facility, if certain conditions are met.

The bill authorizes the KCC to approve, for a period of up to five years, discounts from standard rates for electric service for new or expanded facilities of industrial or commercial customers that are not in the business of selling or providing goods or services directly to the general public, if certain requirements are met.

For both contract rates and discounted rates, the bill requires the KCC to approve a mechanism to track the utility's reductions in revenue as a result of the contract rate or discounted rate from the date the rate becomes effective, and requires such reductions in revenue be deferred to a regulatory asset. The balance of the regulatory asset is included in the rate base and revenue requirement of the utility in each of its general rate proceedings, through an amortization of the balance over a reasonable period, until fully collected from the utility's non-contract rates and discount rate customers.

The bill requires the KCC to provide a status report to the Legislature biennially, starting in January 2023, regarding utilities' use of contract rates and discounted rates, including information on a number of specified items.

2020 Legislative Session At-A-Glance

Bill Information

Senate bills carried over from the 2019 Session.....	208
Senate bills introduced in the 2020 Session.....	261
Total Senate Bills	469
House bills carried over from the 2019 Session	355
House bills introduced in the 2020 Session	328
Total House Bills.....	683
Bills considered in 2020 Session that became law:	
House Bills.....	7
Senate Bills	6
Percentage of Bills that became law:	1.1%
Days in Session.....	63

Special Session

House bills introduced	22
Senate bills introduced.....	9

Fiscal Information for FY 2020 (Dollars in Millions)

Estimated State General Fund Revenue	
Income Taxes	\$ 3,690.0
Excise Taxes	3,003.3
All Other	131.9
Total	\$ 6,825.2
Estimated State Budget	
State General Fund	\$ 7,831.1
All Other	10,861.2
Total	\$ 18,692.3
2019 Population Estimate	2,913,314

What's Inside this edition of *Legislative Highlights*

- Legislative Response to COVID-19 (includes House Sub. for SB 27, SB 66, House Sub. for SB 102, House Sub. for 142, Special Session HB 2016, and HCR 5025)
- Eisenhower Legacy Transportation Program
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