

PRELIMINARY SUMMARY OF LEGISLATION 2019 KANSAS LEGISLATURE

KL RD

*Providing objective research and fiscal
analysis for the Kansas Legislature*

This publication contains summaries of selected bills passed by the Legislature as of the end of the legislative day on March 27, 2019. Bills that have not yet been signed by the Governor are included.

A supplement containing summaries of major bills that were passed after that date will be distributed during the week of April 8, 2019. An additional supplement will be mailed after the wrap-up session in May.

Highlights, a summary of major legislation, will be prepared after the Legislature adjourns and will be mailed to legislators as soon as possible. *The Summary of Legislation*, which accounts for all bills passed by the 2019 Legislature, will be distributed at a later date.

These documents are available on the Kansas Legislative Research Department's website: <http://www.kslegislature.org/klrd> (under "Publications").

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AGRICULTURE AND NATURAL RESOURCES

Kansas Agricultural Remediation Fund, Program Sunsets; HB 2001

HB 2001 extends the sunset on the Kansas Remediation Linked Deposit Loan Program, the Kansas Remediation Reimbursement Program, and the Kansas Agricultural Remediation Fund (Fund) from July 1, 2020, to July 1, 2030.

The bill also lowers the maximum and minimum thresholds of the unobligated principal balances of the Fund from \$5.0 million to \$3.0 million and from \$1.5 million to \$1.0 million, respectively.

In addition, the bill changes the following assessments:

- Increases the amount from \$20 to \$40 for each commercial fertilizer required to be licensed under state law;
- Decreases the amount from \$60 to \$30 for each agricultural chemical required to be licensed under state law;
- Decreases the amount from \$0.00050 to \$0.00025 per bushel of storage capacity for each public warehouse required to be licensed under state law or the federal Warehouse Act; and
- Decreases the amount from \$0.00050 to \$0.00025 per bushel of storage capacity for each public warehouse in the state licensed pursuant to the federal Warehouse Act.

Addressing Water Quality Issues in the Arkansas River Basin; HR 6018

HR 6018 makes several findings concerning contamination of the Arkansas River Basin (Basin) by naturally occurring radiation-emitting radionuclides. Among the findings of this resolution are the following:

- In each of the last two years, approximately ten tons of uranium have been delivered in downstream river flows from Colorado to groundwater in Southwest Kansas. The affected region in Kansas includes Hamilton, Kearny, and Finney counties;
- Affected communities in Colorado and Kansas require assistance to remedy decades of poor water quality, which continues to worsen;
- Federal standards on safe drinking water are intended to protect the health and safety of the public. Accordingly, it is within the interest of the federal government to partner with state and local water providers to develop remedies for the Basin;

- Without additional funding, Kansas' affected communities cannot develop water management practices and necessary infrastructure to address the water quality concerns;
- The U.S. Bureau of Reclamation (Bureau) has an established interest in providing alternative fresh water sources to portions of the affected Basin in Colorado. Currently, efforts are underway to accomplish this goal; and
- The Bureau completed an Upper Arkansas River Basin Public Water Supply Alternatives Viability Analysis of Water Supply Alternatives for Hamilton, Kearny, and Finney counties in Kansas. The analysis addressed water quality and availability in the Basin and identified alternatives, including the regionalization of supply pipeline alternatives. However, such supply pipeline alternatives are largely unaffordable due to participants' inability to cover construction costs.

The resolution requests the Kansas Congressional Delegation work with the U.S. Congress to provide the Bureau with the funding and direction necessary to implement the measures identified in the Bureau studies. These include, but are not limited to:

- Further compiling information on existing, usable sources and project demands;
- Developing Basin tools, including scientifically defensible hydrologic and economic modeling tools;
- Completing system reliability and impact analyses to assess the current and future capability of existing natural and man-made infrastructure and operations to meet demands and useable water supply challenges;
- Identifying adaptation strategies to improve operations and infrastructure and to address current and future water availability and quality challenges in the Basin; and
- Developing recommendations to address the water quality challenges and to provide reliable, clean sources of drinking water in the affected areas of the Basin.

The resolution further requests the Kansas Water Office, the Southwest Kansas Groundwater Management District No. 3, and other state and local partners in Kansas and Colorado work with the BOR to complete these tasks and to address the concerns regarding the contamination of the Basin.

The resolution also directs the Chief Clerk of the Kansas House of Representatives to send enrolled copies of this resolution to the following: Kansas Governor Laura Kelly, each member of Kansas' Congressional Delegation, the Kansas Water Office, Southwest Kansas Groundwater Management District No. 3, the Arkansas River Compact Administration, the Bureau, and the current U.S. Secretary of the Interior.

(A similar resolution, SR 1729, was adopted by the Senate during the 2019 Session.)

BOARDS, COMMISSIONS, AND COMMITTEES

State Use Law Committee Continued; HB 2174

HB 2174 extends the sunset date for the State Use Law Committee, which is organized within the Department of Administration, from July 1, 2019, to July 1, 2024. The Committee encourages state and local units of government to purchase goods and services from qualified vendors that employ minimum numbers of disabled persons.

Kansas State Fair Board, Nonprofit Corporation; HB 2215

HB 2215 authorizes the Kansas State Fair Board (Fair Board) to establish a 501(c)(3) nonprofit corporation. The purpose of the nonprofit corporation is to receive gifts, donations, grants, and other moneys and engage in fundraising projects that benefit the Kansas State Fair. The board of directors of the nonprofit corporation will consist of the members of the executive committee of the Fair Board, the General Manager of the Kansas State Fair, and other directors designated by the Fair Board.

CHILDREN AND YOUTH

Children and Minors—Actions Required when Reports of Sexual Behavior Problems; SB 77

SB 77 creates law in the Revised Kansas Code for Care of Children (CINC Code), defines a “child with sexual behavior problems” to mean a person under 18 years of age who has allegedly committed sexual abuse against another person under 18 years of age, and requires the Department for Children and Families (DCF) to take certain actions when reports of child abuse or neglect are received, the subject of such report is a child with sexual behavior problems, and DCF determines a joint investigation with law enforcement is required in accordance with the CINC Code. Under such circumstances, DCF must immediately provide a referral to a child advocacy center or other mental health provider and, as needed, offer additional services to the child and the child’s family. Such services shall be voluntary, unless DCF determines there will be a high risk of future sexual behavior problems by the child if the child or family refuses services.

The bill also requires DCF to document attempts to provide voluntary services, reasons the services are important to reduce the risk of future sexual behavior problems by the child, whether services are accepted and provided, and the outcome for the child and family.

The bill specifies none of its provisions shall prohibit any action or investigation by DCF otherwise authorized by law.

CRIMES AND CRIMINAL MATTERS

Cost of Civil Imprisonment in County Jails; HB 2097

HB 2097 amends law related to the cost of keeping civil prisoners in county jail. The bill changes the amount taxed as costs in an action for keeping a civil defendant imprisoned in county jail from \$1.50 per day to an amount equal to that provided by the county for the maintenance of other prisoners. The bill also requires the same provision be made for civil prisoners as is made for other county prisoners.

EDUCATION

Postsecondary Technical Education Authority; SB 71

SB 71 reauthorizes the Postsecondary Technical Education Authority (Authority) by repealing the statute specifying a sunset date of June 30, 2019. The bill also requires the Authority to make an annual report to the Legislature on the performance of its functions and duties.

School Safety Drills; SB 128

SB 128 amends law related to the minimum number of safety drills required to be conducted in schools each school year.

The bill requires the State Fire Marshal to adopt rules and regulations requiring administrators of public and private schools and educational institutions, except community colleges, colleges, and universities, to conduct at least four fire drills, two tornado drills (one in September and one in March), and three crisis drills each school year.

The bill requires the three crisis drills to be conducted at some time during school hours, aside from the regular dismissal at the close of the day's session. [*Note:* Continuing law requires fire and tornado drills to be conducted at some time during school hours, aside from the regular dismissal at the close of the day's session.] The bill states the manner in which such crisis drills are conducted may be subject to approval by the Safe and Secure Schools Unit of the Kansas Department of Education.

The bill authorizes the State Fire Marshal to grant an exemption pursuant to KSA 31-136 authorizing a variance for the number or manner of fire drills, tornado drills, and crisis drills for students receiving special education or related services.

AO-K to Work Program; SB 199

SB 199 establishes the AO-K to Work Program (Program). The provisions of the Program apply to all adult education programs in Kansas.

Definitions

The bill establishes definitions for the following terms:

- “AO-K” or “Accelerating Opportunity: Kansas” to mean a career pathways program model that assists students in obtaining a high school equivalency, becoming ready for transferable college-level courses, and earning an industry credential;
- “Career readiness assessment” to mean an assessment approved by the State Board of Regents (KBOR) to measure foundational skills required for success in the workplace and workplace skills that affect job performance;

- “Career readiness certificate” to mean a certificate that uses a career readiness assessment approved by KBOR to document an individual’s skills in applied math, graphic literacy, and workplace documents;
- “Industry recognized credential” to mean a credential recognized by multiple employers across an industry as determined by KBOR;
- “Kansas adult education program” to mean any educational institution or approved agency that receives adult education funding through KBOR; provides adult education or English language acquisition programs; serves Kansas adults age 16 and over who are in need of basic skills for the workforce, community participation, and family life; and prepares adults for achieving industry recognized credentials and college certificates and degrees; and
- “Qualified student” to mean an individual who has attained the age of 21, has not been awarded a high school diploma, has been accepted into a Kansas adult education program, has demonstrated high school equivalency by meeting the criteria established by KBOR pursuant to the bill, and has declared an AO-K career pathway interest.

The bill also specifies the definitions of “community college” and “technical college” have the same meaning as under continuing law (KSA 71-701 for community colleges and KSA 71-1802 for technical colleges).

Awarding of a Credential to a Qualified Student

The bill requires KBOR to award a Kansas high school equivalency credential to any qualified student who is recommended and approved to participate in an AO-K career pathway approved by KBOR for college credit, successfully completes an approved AO-K career pathway and receives the industry-recognized credential appropriate to the completed pathway, takes a career readiness assessment and earns a career readiness certificate at a level approved by KBOR, and satisfies any other requirement deemed necessary by KBOR.

Access to Resources

The bill requires any qualified students participating in the Program to be provided reasonable access to all available student resources of the adult education program, the participating technical or community college, and the appropriate community partners, including, but not limited to, appropriate academic support, barrier mitigation, and employment or career assistance.

Fee and Fund

The bill requires each application to KBOR for issuance or duplication of a Kansas high school equivalency credential to be accompanied by a fee, established by KBOR, in an amount of not more than \$25.

The bill requires KBOR, on or before June 1 of each year, to determine the amount of revenue required to properly administer the provisions of the bill during the next ensuing fiscal year and establish the Kansas High School Equivalency Credentials Processing Fee (Fee) for such year in the amount deemed necessary for such purposes. The Fee will become effective on the succeeding July 1 of each year.

KBOR must remit all moneys received from the Fee to the State Treasurer in accordance with KSA 75-4215 (remittance of state moneys; fee agency accounts; reports; post audit). Upon receipt of such remittance, the bill requires the State Treasurer to deposit the entire amount in the State Treasury to the credit of the Kansas High School Equivalency Credential Processing Fees Fund (Fund) and establishes the Fund in the State Treasury. The Fund will be used only for the payment of expenses connected with the processing, issuance, or duplication of Kansas high school equivalency credentials, and for the keeping of records by KBOR. The bill requires all expenditures from the Fund to be made in accordance with appropriations acts upon warrants of the Director of Accounts and Reports issued pursuant to vouchers approved by KBOR or by a person or persons designated by KBOR.

Rules and Regulations

The bill authorizes KBOR to adopt rules and regulations to implement and administer provisions of the bill.

Kansas National Guard Assistance Act Eligibility; HB 2123

HB 2123 removes the requirement that an eligible Kansas National Guard member have at least one year remaining on such member's enlistment contract at the beginning of any semester for which the member receives assistance under the Kansas National Guard Educational Assistance Program to participate in the Program.

ELECTIONS AND ETHICS

Constitutional Amendment to Remove Requirement to Adjust Certain U.S. Census Data; SCR 1605

SCR 1605 submits to the qualified electors of the state an amendment to Article 10, Section 1 of the *Kansas Constitution*, which concerns reapportionment of senatorial and representative districts, to remove the census adjustment for military personnel and students.

The amendment also removes outdated language.

The amendment will be submitted to the electors at the general election in November 2019.

FEDERAL AND STATE AFFAIRS

Reproductive Health Act of New York; SCR 1606

SCR 1606 makes findings concerning abortion policy in Kansas and enactment of the Reproductive Health Act by the State of New York.

The resolution states the State of Kansas condemns enactment of the Reproductive Health Act of New York and encourages legislators and executive officials in all 50 states to reject similar legislation.

The resolution requires the Secretary of State to send enrolled copies of the resolution to the Governor of New York and to each member of the New York State Senate and New York State Assembly.

Cereal Malt Beverage Act Violations, Liquor Enforcement Tax; HB 2035

HB 2035 specifies notice and procedural requirements for violations of the Cereal Malt Beverage (CMB) Act and places violations of the Act under the authority of the Division of Alcoholic Beverage Control (ABC), Department of Revenue. The bill makes notice and procedural requirements for violations of the Act the same as for violations of the Liquor Control Act and the Club and Drinking Establishment Act.

Law enacted during the 2017-2018 biennium that became effective on April 1, 2019 (2017 House Sub. for SB 13 and 2018 HB 2502), allows CMB retailers to sell beer containing no more than 6.0 percent alcohol by volume, and provides ABC with enforcement authority for violations involving the sale of such beer by those retailers. The bill makes this authority uniform across state liquor laws.

The bill also makes changes to clarify all retail sales of liquor, CMB, and non-alcoholic malt beverage are subject to the liquor enforcement tax described in KSA 79-4101. The bill specifies for provisions related to the liquor enforcement tax, “retailer” has the same meaning as in continuing law.

FINANCIAL INSTITUTIONS

Amendments to the State Banking Code; SB 82

SB 82 amends provisions of the State Banking Code (Code) relating to certificate of existence, voting rights for conversion to a state charter, and the method of delivery for certain notices.

Certificate of Existence

The bill specifies no party may infer a financial institution relying on a certificate of existence has knowledge of the terms of an entity's documentation (such as a resolution, certificate of good standing, request for taxpayer identification number, entity agreements, or other documents) solely because the financial institution holds a copy of all or part of the entity's documentation. [*Note*: "Financial institution" is defined in continuing law as any federal- or state-chartered commercial bank, savings and loan association, or savings bank. "Entity" is defined as any government or governmental subdivision or agency, any domestic or foreign corporation, limited liability company, general partnership, limited liability partnership, joint venture, cooperative, association, or other legal entity, whether operated for profit or not-for-profit.]

Conversion to a State Charter—Voting Rights

The bill authorizes any national bank, federal savings association, or federal savings bank to become a state bank upon the affirmative vote of not less than two-thirds of the institution's voting interests of members. [*Note*: Continuing law permits an affirmative vote of two-thirds of the institution's outstanding voting stock.] The bill also requires the submission of a transcript of minutes from the meeting if two-thirds of the voting interests of members approve of the proposed conversion to a state bank.

Method of Delivery for Certain Notices

The bill authorizes notice by certified mail or electronically pursuant to the Uniform Electronic Transactions Act (KSA 16-1601 *et seq.*) to all stakeholders at least five days in advance of a meeting to vote on the issuance of preferred stock.

The bill also authorizes a safe deposit lessor to provide notice by certified mail or electronically pursuant to the Act to the lessee when a safe deposit box lease is being terminated.

State Credit Union Code Designation; HB 2101

HB 2101 makes several amendments and technical updates to the laws governing credit unions and related credit union procedures and designates Article 22 of Chapter 17, *Kansas Statutes Annotated*, as the State Credit Union Code (Code).

Definitions and Changes in Terminology

Definitions

The bill modifies, moves to another section in the Code, and creates definitions:

- “Branch” (previously defined in KSA 2018 Supp. 17-2221a) to mean any office, agency, or other place of business located within the state, other than the place of business specified in the credit union’s certificate of organization, at which deposits are received, checks paid, or money lent;
- “Corporate credit union” to mean a credit union that is cooperatively organized and owned by its members that offers liquidity, investment, back office processing, deposit and lending facilities, and other products and services tailored to the unique needs of its members;
- “Credit union services organization” to mean an organization established to provide operational and financial services to credit unions (this term is also defined in KSA 17-2204a);
- “Electronic notice” to mean notice provided in writing and delivered by electronic means to the electronic mail address specified by the member for that purpose. A member who provides an electronic mail address to the credit union for such purposes shall be deemed to have consented to receive notices and correspondence by electronic means; and
- “Federal intermediate credit bank” to mean a bank sponsored by the federal government to provide funds to financial institutions for the making of agricultural loans.

Terminology Updates

The bill generally replaces references to “nonprofit” with “not-for-profit.” The bill also replaces references to “shareholder” with “member” in the statute relating to written contracts for payment of members’ accounts to beneficiaries upon a member’s death (KSA 2018 Supp. 17-2263). The bill also removes references to federally chartered credit unions (continuing law would only apply to state-chartered credit unions) in the statute addressing the personal liability of officers and directors of credit unions (KSA 17-2268).

Credit Unions—General Procedures and Organization

The bill amends and makes several updates relating to the general procedures and organization of credit unions, including:

- Removing a requirement that two-thirds of a credit union’s board of directors (board) must approve amendments to the credit union’s bylaws or charter (KSA 2018 Supp. 17-2202);

- Subjecting entities not organized under the Code and misrepresenting themselves as a credit union or credit union organization in a website URL to be guilty of a class A misdemeanor (KSA 17-2203);
- Removing specific annual and special board meeting requirements, instead requiring such meetings to be held in accordance with the credit union's bylaws (KSA 17-2207);
- Removing the requirement that persons who are denied loans may appeal the denial if the bylaws provide for such an appeal (KSA 2018 Supp. 17-2210);
- Extending the amount of time a credit union must hold a board meeting after the supervisory committee suspends an officer or member of the credit committee or board from within 7 to 21 days after the suspension to within 60 days after the suspension (KSA 2018 Supp. 17-2211);
- Removing the authority of the supervisory committee to call a meeting of shareholders by a majority vote to consider any violation of the Code or bylaws or any other practice deemed unsafe and unauthorized (KSA 2018 Supp. 17-2211);
- Removing the requirement that the supervisory committee must certify the accounts of its members at least once every two years using a controlled certification, or at least once a year using a controlled random statistical sampling of accounts (KSA 2018 Supp. 17-2211);
- Establishing 10.0 percent of the credit union's assets as the maximum loan amount (the limit under current law is \$500 or 10.0 percent of the assets, whichever is greater) (KSA 2018 Supp. 17-2216);
- Increasing the limitation on the aggregate of outstanding loans from \$50,000 to \$100,000 in a provision governing loans to directors, credit committee members, and supervisory committee members or other members for which the director or committee acts as a guarantor or endorser and removing the requirement these loans must be reported annually to the Credit Union Administrator (KSA 2018 Supp. 17-2216a);
- Clarifying corporate credit unions' compliance provisions to require compliance with the reserve requirements of the National Credit Union Administration rules and regulations (KSA 17-2217);
- Eliminating the requirement that written notice of the credit union's expulsion policy be mailed to each member of the credit union (KSA 2018 Supp. 17-2219); and
- Removing the requirement that without the written approval of the Administrator, expenditures to purchase, lease, hold, or rent real estate, as well as make capital improvements, cannot exceed 5.0 percent of of the total shareholdings, reserves, and undivided earnings of the credit union (KSA 17-2226).

Credit Unions—Powers

The bill amends provisions generally governing the powers of credit unions, including investment and the making of loans. Among the amendments, the bill:

- Clarifies a credit union may invest in all types of shares and accounts of a corporate credit union that is federally insured;
- Removes a requirement that the funds of a credit union must first be used for loans to members, with preference given to small loans, if not all loans can be approved; and
- Removes the requirement that investments in corporate credit unions must not exceed 25.0 percent of the credit union's shares, undivided earnings, and reserves (KSA 2018 Supp. 17-2204).

Credit Unions—Management and Oversight

The bill also amends statutes pertaining to the management in and oversight of state-chartered credit unions. Among those changes, the bill:

- Allows vacancies on the credit committee and supervisory committee to be filled in accordance with the credit union's bylaws. In addition, the board will be allowed to remove members of these committees for failure to perform their duties (KSA 2018 Supp. 17-2208);
- Removes and clarifies general management provisions assigned to the board and replaces them with provisions requiring the board to:
 - Set the par value of shares of the credit union and the minimum of shares required for membership;
 - Designate those persons or positions authorized to execute or certify documents or records on behalf of the credit union;
 - Authorize the purchase of insurance coverage and authorize the employment and compensation of the chief executive officer;
 - Approve an annual operating budget for the credit union;
 - Review and approve an annual audit;
 - Appoint any necessary committees;
 - Establish conditions under which a member may be removed for cause;
 - Perform such other duties or authorize any action not inconsistent with the Code;
 - Unless delegated, establish policies under which the credit union may borrow, lend, and invest money;
 - Unless delegated, act upon applications for membership;

- Unless delegated, establish loan policies and determine loan amounts, terms, and conditions for members;
- Unless delegated, declare dividends on shares and set interest rates on deposits; and
- Unless delegated, approve the charge-off of credit union losses (KSA 17-2209);
- Removes the requirement that the board must approve all employee salaries (KSA 17-2209);
- Provides that certificates of merger no longer need to be made in triplicate (KSA 2018 Supp. 17-2228);
- Creates a minimum threshold by requiring a credit union selling assets valued at greater than 10.0 percent of either the purchasing credit union's or the selling credit union's total amount of shares, undivided earnings, and reserves to file a copy of the agreement with the Administrator within one month of signing the agreement (KSA 17-2229);
- Removes requirements on the Administrator to establish an annual salary schedule for financial examiners, financial examiner administrators, case managers, a business manager, and administrative assistant based on an equitable salary schedule approved by the Governor (KSA 2018 Supp. 17-2234); and
- Removes the requirement on the salary schedule to not exceed the average compensation of corresponding state regulatory positions in similar areas (KSA 2018 Supp. 17-2234). [*Note:* The salary schedule provisions were authorized by 2012 House Sub. for SB 287.]

The bill also makes several technical and conforming updates.

HEALTH

Updating Statutory References; HB 2201

HB 2201 transfers the powers, duties, and functions of the Tuberculosis Control Program from the Kansas Department for Aging and Disability Services to the Kansas Department of Health and Environment by updating statutory references necessitated by 2012 Executive Reorganization Order No. 41.

JUDICIARY

Driving Under the Influence—Advisories; Preliminary Screening; Test Refusal; HB 2104

HB 2104 amends the statute governing tests related to driving under the influence (DUI), effective July 1, 2019, to amend the oral and written notice a law enforcement officer must provide when requesting a person take such a test. Specifically, the bill clarifies in such notice that refusal to submit to and complete the test or tests will result in suspension of the person's driving privileges for a period of one year, and test failure will result in suspension of the person's driving privileges for a period of either 30 days or one year.

The bill also amends the statute governing preliminary screening tests related to DUI to remove provisions stating a person operating or attempting to operate a vehicle in Kansas is deemed to have given consent to such tests, setting forth the required notice when a person is requested to take such test, and stating refusal to take and complete such test is a traffic infraction. This statute also is amended to replace the word "saliva" with "oral fluid" and add a provision requiring any preliminary screening of a person's oral fluid be conducted in accordance with any rules and regulations approved pursuant to the authority granted to the Director of the Kansas Bureau of Investigation in a separate statute, which also is amended to reflect the "oral fluid" phrasing and to ensure consistency in other statutory phrasing.

The bill repeals the statute (and removes the associated fine from the uniform fine schedule) governing the offense of refusing to submit to a test to determine the presence of alcohol or drugs. [*Note:* This statute was repealed by 2018 House Sub. for SB 374, but due to another enactment, was not fully repealed.]

The bill takes effect upon publication in the *Kansas Register*.

Search Warrants—Electronically Stored Information; Devices and Media Storing Such Information; HB 2191

HB 2191 amends law concerning the execution of search warrants. Specifically, the bill states warrants issued after July 1, 2019, for electronically stored information, electronic devices, or media capable of storing electronically stored information located in Kansas will authorize the transfer of such information, devices, or media for examination and review anywhere within the state or outside the state at any time after the seizure, unless otherwise specified by the warrant.

Driver's License Reinstatement Fee—Waiver; HB 2211

HB 2211 amends law concerning driver's license reinstatement fees to allow a person who is assessed a driver's license reinstatement fee and surcharge as provided by continuing law to petition the court to waive payment of such fee and surcharge. The court may waive, in whole or in part, or modify the method of payment of such fee and surcharge if it finds payment of the assessed amount would impose manifest hardship on that person or that person's immediate family.

LOCAL GOVERNMENT

Eudora Library District; SB 59

SB 59 allows the city of Eudora to continue being a part of a library district previously established by the City of Eudora and the Eudora Township. The bill is known as the Eudora Community Library District Act.

The bill defines the following terms:

- “Eudora community library district” to mean all territory located within the boundaries of the city of Eudora and the Eudora township; and
- “Board” to mean the board of the Eudora Community Library District (District) appointed pursuant to the provisions of this act.

Under the bill, the District is created *via* the adoption of a joint resolution by the governing body of the City of Eudora and the Eudora Township board. The bill requires the joint resolution include the following provisions:

- The District board is appointed as provided in the joint resolution;
- The District board replaces the Eudora Township Library Board; and
- The District maintains the Eudora Township public library at the discretion of the District board.

The bill requires all contracts previously entered into by the Eudora Township Library District be continued by the District and all outstanding bonds, debts, and other obligations of the Eudora Township Library District become the responsibility of the District.

The bill requires the District to be governed by a library district board (Board). The Board will consist of five directors, who must be qualified electors of the District. The terms of office for the directors are to be established in the joint resolution. The board members appointed by the Eudora Township Library Board will continue to serve in their offices as directors of the Board until their respective terms expire and their successors are appointed by the City of Eudora and the Eudora Township, as provided in the joint resolution. Directors will not receive compensation, but they will be reimbursed for actual and necessary expenses required for attending meetings and in carrying out their duties.

The bill requires the directors of the Board to organize an election of a chairperson, secretary, treasurer, and other such officers as the Board may deem necessary by a majority vote. The Board is required to establish the date and place for regular meetings. Special meetings could be called by the chairperson or a majority vote of the Board. The bill requires written notice of the timing, place, and purpose of any special meeting to be given to each director at least two days prior to the meeting, and no business other than what is stated in the notice could occur. The bill allows the Board to adopt bylaws as the Board deems appropriate. The bill requires the treasurer of the district to provide a bond, in an amount determined by the Board, and to file such bond with the Douglas County Clerk. The Douglas County Treasurer is

required to pay over all funds collected for the maintenance of the library or libraries in the District to the treasurer.

Under the bill, the District has the power to:

- Enter into contracts;
- Sue and be sued;
- Acquire, hold, and convey real and personal property;
- Make and adopt rules and regulations for the administration of the District;
- Lease a site or sites and lease a building or buildings for the library purposes;
- Acquire material and equipment deemed necessary by the Board for the maintenance and extension of modern library service;
- Employ librarians and such other employees as the Board deems necessary;
- Establish and maintain a library and traveling library service within the District or within any other municipality with which service contract arrangements have been made;
- Contract with other libraries or the governing body of a municipality for the furnishing of library services to the residents of the municipality and contract with any school board to furnish library service to any school library or to use the library facilities of the public school to supplement the facilities of the public library;
- Receive, accept, and administer any moneys appropriated or granted to the District by the state or federal government;
- Receive and accept any gift or donation to the District and administer the same; and
- Make annual reports to the State Librarian, on or before January 31 each year, concerning receipts and disbursements from all funds and statistical information related to library materials acquired or on hand, number of library users, library services available, and other information the governing body requires.

The bill requires library facilities to be free to use by District residents, subject to reasonable rules and regulations as the Board may adopt. The bill authorizes the Board to bar any individual who willfully violates the rules. The Board is allowed to establish a fee for nonresidents to use library facilities. The Board could also exchange books with any other library by such terms as the Board prescribes.

The bill authorizes the Board to issue general obligation bonds for the purpose of paying the cost of constructing, reconstructing, repairing, remodeling, furnishing, and equipping any library building or additions. General obligation bonds are the responsibility of the District and not of the City of Eudora or the Eudora Township. The bill requires the question of issuing general obligation bonds be submitted to qualified electors of the District.

The Board is required to prepare and publish an annual budget.

The Board is authorized to levy a tax, not to exceed five mills on all tangible property in the District, to fund the District budget. The tax levy will not be considered a tax levy of the City of Eudora or the Eudora Township. The Board has the authority to increase the mill levy for the acquisition, maintenance, and support of a free public library by adoption of a resolution. The bill requires this resolution to be published once a week for two weeks in a county newspaper. The bill requires an election to approve the increase of the mill levy if, within 30 days after the last publication of the resolution, a petition signed by at least 5.0 percent of qualified electors in the District is filed in the office of the county election officer requesting an election on the mill levy increase.

The bill takes effect upon publication in the *Kansas Register*.

Start Dates for Terms of Certain Local Offices; SB 105

SB 105 authorizes a city to determine the start date of a regular term of office for a city officer by resolution of the city. In law regarding city elections, the bill requires the start date be on or after December 1 following certification of the election and no later than the second Monday in January following certification of the election. If the city does not establish an alternative date, the bill specifies such term will begin on the second Monday in January.

In law regarding terms of office, the bill adds a municipal officer to all state, district, county, and township officers as those whose regular terms of office shall begin on the second Monday in January except as otherwise provided by law.

Transfer of Responsibility for the White Clay Watershed District; Property Tax Lid Exemption; HB 2188

HB 2188 makes the City of Atchison (City) responsible for the maintenance and repair of all watershed lakes, dams, and other projects of the White Clay Watershed District No. 26 (District), on and after January 1, 2020. Additionally, the bill dissolves the District on January 1, 2020, and makes the City the District's successor.

Successorship

Upon the dissolution of the District, the bill transfers to the City all property of the district subject to any valid leases or agreements. The bill makes the City responsible for payment or retirement of any District debts or obligations, and vests all District property, funds, and assets with the City.

The bill makes the City the successor in every way to the powers, duties, and functions of the dissolved District.

When the term “watershed district” or words of like effect are referred to by a document in regard to any of the powers, duties, and functions transferred to the City, the reference or designation applies to the City as the context requires. Additionally, the City will have legal custody of all records, memoranda, writings, entries, prints, representations, electronic data, or combination of any act, transaction, occurrence, or event of the dissolved District.

The bill states no suit, action, or other proceeding that has commenced, or could have commenced, by or against the District or any of its officers in such officer’s official capacity before dissolution of the District will abate by reason of the governmental reorganization under the bill. The bill authorizes the court to allow such suit, action, or other proceeding to be maintained by or against the City or any officer affected.

Property Tax Lid Exemption

The bill makes a tax levy increase resulting from the dissolution of one taxing entity and a transfer of its responsibilities to another city or the county exempt from the provisions of the property tax lid, requiring approval from a majority of a city’s or the county’s qualified electors for certain increases in the appropriation or budget from property tax revenues, provided any such levy increase does not exceed the prior levy of the dissolved entity.

REAL ESTATE

Real Estate Licensure; SB 60

SB 60 amends statutes related to licensing of real estate brokers and the Kansas Real Estate Commission (Commission).

For real estate broker's licenses, changes include:

- Reducing the time from five years to three years preceding the date of application for the license for which an applicant for a broker's license may satisfy the requirement of two years experience as a resident salesperson or a licensee in another state;
- Increasing the pre-license education course from 24 hours to 30 hours, and no more than 45 hours, and renaming the course the "Kansas Real Estate Fundamentals Course";
- Creating a new course titled "Kansas Real Estate Management Course," which is 30 hours to 45 hours in length and is required for original broker's license applicants beginning January 1, 2020;
- Eliminating alternative licensing criteria for any applicant living in a county with a population of less than 20,000 people;
- Eliminating the \$50 late fee for licenses renewed after the renewal date, but before the license expiration date;
- Increasing the late fee from \$50 to \$100 for a license renewed after the expiration date, but before the six-month grace period ends; and
- Eliminating outdated references to temporary licenses and certain fees that are no longer assessed by the Commission.

For the Commission, changes include:

- Clarifying statutory requirements for deactivated real estate licenses that have not been suspended or revoked for which reinstatement is being sought;
- Removing a requirement the Commission maintain all files, records, and property at its Topeka office;
- Updating and eliminating certain outdated terms;
- Consolidating provisions from various statutes and regulations; and
- Adding technical clarifying language related to fees, name changes, office locations, approved real estate courses of instruction, and Commission leadership elections.

RETIREMENT

State General Fund Transfer to the Kansas Public Employees Retirement System Trust Fund; SB 9

SB 9 transfers \$115.0 million from the State General Fund to the Kansas Public Employees Retirement System (KPERS) Trust Fund. The transfer is for repayment of reduced KPERS-School group employer contributions from participating employers in prior fiscal years.

The bill took effect upon its publication in the *Kansas Register* on March 14, 2019.

TAXATION

Income and Sales Tax Provisions; SB 22

SB 22 makes several changes to Kansas income tax provisions in response to federal income tax changes enacted in late 2017, reduces the state sales tax rate by 1.0 percent on certain purchases of food, and enacts a number of provisions in response to a U.S. Supreme Court decision authorizing states and local units to collect sales and compensating use taxes on certain transactions made through out-of-state retailers and marketplace facilitators that have an economic presence (nexus) in Kansas.

Individual Income Tax

The bill removes a restriction preventing Kansas individual income taxpayers from itemizing deductions for state income tax purposes unless they also itemize deductions for federal income tax purposes. Beginning with tax year 2018, the bill provides an option to take Kansas itemized deductions regardless of whether itemized deductions or the standard deduction are claimed for federal tax purposes. The bill authorizes the filing of amended returns through December 31, 2019, for purposes of this provision's retroactive applicability to tax year 2018.

Business Income Tax

The bill stipulates, for tax year 2017 and thereafter, Kansas would not be taxing deferred foreign income, defined to include income under section 965(a) of the federal Internal Revenue Code (Code) (certain repatriation income). The bill requires certain deductions used in determining federal adjusted gross income for the repatriated income to be added back for Kansas income tax purposes prior to the determination of Kansas adjusted gross income.

For tax year 2018 and thereafter, global intangible low taxed income (GILTI) under section 951A of the federal Code is not be subject to the Kansas income tax. The bill requires certain related deductions claimed prior to the determination of federal adjusted gross income to be added back prior to the determination of Kansas adjusted gross income.

Kansas similarly will exempt, for tax year 2018 and thereafter, certain disallowed business interest under section 163(j) of the federal Code in effect on January 1, 2018, while deductions attributable to a carry-forward of such disallowed business income under the federal Code in effect on that date are required to be added back for all years beginning with tax year 2018.

The bill further provides, for tax year 2018 and thereafter, certain capital contributions, as determined under federal Code section 118, are excluded from the Kansas income tax.

Additionally, for tax year 2018 and thereafter, amounts attributable to the disallowance of Federal Deposit Insurance Corporation (FDIC) premiums paid by certain large financial institutions are excluded from Kansas income taxation.

The bill clarifies the retroactive application of several of these sections, which effectively authorizes the filing of amended returns to claim refunds during the three-year statute of limitations available under continuing law.

Sales Tax on Food

The bill reduces the sales tax rate on certain food and food ingredients from 6.5 percent to 5.5 percent beginning October 1, 2019. The reduction extends to substances sold for ingestion or chewing by humans and consumed for their taste or nutritional value and applies to items eligible to be purchased with food stamps issued by the U.S. Department of Agriculture.

Internet Sales and Use Tax

The bill enacts the Kansas Main Street Parity Act (KMSPA), designed to clarify the applicability of Kansas sales and use tax provisions to certain out-of-state retailers and marketplace facilitators. Generally, such entities are required, beginning October 1, 2019, to collect tax if they have more than \$100,000 in total gross sales sourced to Kansas.

Specifically excluded from the definition of “marketplace facilitators” are platforms and forums providing certain Internet advertising services and those entities selling or charging for rooms, lodging, or accommodations for occupancy provided by hotels, motels, or inns.

Related to the KMSPA provisions, the bill repeals a requirement (KSA 2018 Supp. 79-3221o) that Kansas individual income tax forms contain a line allowing taxpayers to voluntarily remit unpaid use taxes as part of their income tax reconciliation.

The bill is expected to have the following impact on receipts.

	(Dollars in Millions)		
	FY 2020	FY 2021	FY 2022
Individual Income Tax Provisions			
Itemized Deduction Option	\$ (50.1)	\$ (60.3)	\$ (60.9)
Business Income Tax Provisions			
Repatriation	\$ (10.5)	\$ (0.4)	\$ (0.2)
GILTI	(70.9)	(24.7)	(24.2)
Limitation on Interest Deductions	(53.1)	(25.5)	(30.6)
FDIC Premium Deductions	(2.7)	(1.3)	(\$1.3)
Capital Contributions	negligible	negligible	negligible
<i>Subtotal-Business Income Tax</i>	\$ (137.2)	\$ (51.9)	\$ (56.3)
Sales Tax Rate Decrease on Food (all funds)			
State General Fund Share	\$ (36.5)	\$ (55.4)	\$ (56.3)
State Highway Fund Share	(7.0)	(10.7)	(10.8)
<i>Subtotal-Food Sales Tax Decrease</i>	\$ (43.5)	\$ (66.1)	\$ (67.1)
Internet Sales Tax Provisions (all funds)			
State General Fund Share	\$ 18.2	\$ 27.7	\$ 28.2
State Highway Fund Share	3.5	5.4	5.5
<i>Subtotal-Internet Sales Tax</i>	\$ 21.7	\$ 33.1	\$ 33.7
TOTAL	\$ (209.1)	\$ (145.2)	\$ (150.6)
<i>Total State General Fund Share</i>	\$ (205.6)	\$ (139.9)	\$ (145.3)
<i>Total State Highway Fund Share</i>	(3.5)	(5.3)	(5.3)

Center for Entrepreneurship Tax Credit; SB 90

SB 90 allows financial institutions to claim the Center for Entrepreneurship tax credit beginning in tax year 2019, which may be applied to the privilege tax owed. The maximum amount of tax credits that any taxpayer could claim increases from \$50,000 to \$100,000. The total amount of tax credits that may be claimed for all taxpayers remains capped at \$2.0 million per fiscal year.

Tax Credit for Purchases from Businesses that Employ Individuals with Disabilities; HB 2044

HB 2044 authorizes a new income tax credit for tax years 2019 through 2023 equivalent to 15.0 percent of expenditures on goods and services purchased from “qualified vendors” or nonprofit “certified businesses,” as those terms are defined by the bill, that provide a certain level of health insurance benefits and have at least 30.0 percent of their employees be resident Kansans with disabilities. The amount of the credit is capped at \$500,000 per each qualified

vendor each tax year. The cumulative amount of credits allowed is capped at \$5.0 million. The tax credits are nonrefundable, and unused credits may carry forward for up to four years and apply against the liability of future tax years.

The Secretary of Commerce must annually certify the qualified expenditures eligible for the tax credit and provide the amount to the Secretary of Revenue. The Secretary of Revenue must make an annual report to the standing taxation committees on the implementation and effectiveness of the tax credit program.

TRANSPORTATION AND MOTOR VEHICLES

Class M License Required for Motorcycle Operation; SB 17

SB 17 removes an exception for a motorcycle operated with a temporary registration permit (also known as a “temporary tag”) from a requirement for each operator of a motor vehicle in Kansas to hold a license classified for the operation of the motor vehicle being operated. Under prior law, a holder of any class of driver’s license could operate a motorcycle with a temporary registration permit.

Manufacturer Compensation to Vehicle Dealers for Warranty Services; SB 39

SB 39 amends the Vehicle Dealers and Manufacturers Licensing Act (Act) regarding compensation of new vehicle dealers for warranty services.

The bill requires a first or second stage manufacturer (manufacturer) or distributor to specify, in writing to each of the manufacturer’s or distributor’s dealers, the dealer’s obligations for preparation, delivery, and warranty services related to the manufacturer’s or distributor’s products. It requires the manufacturer or distributor to compensate the dealer for the warranty services the manufacturer or distributor requires the dealer to provide, including warranty and recall obligations related to repairing and servicing vehicles of the manufacturer or distributor and all parts and components authorized by the manufacturer for installation in the vehicles. [Note: Continuing law requires a manufacturer or distributor to pay reasonable compensation to an authorized new vehicle dealer who performs work to rectify warranty defects on the manufacturer’s or distributor’s product.]

The bill requires the manufacturer or distributor to provide to the dealer a schedule of compensation for warranty services, including for parts, labor, and diagnostics. The bill specifies how components of the schedule of compensation may be calculated for parts (including dealer cost and using dealer average markup) and labor (using the dealer’s retail labor rate).

The bill specifies how the dealer may establish its average percentage markup for parts or its labor rate by submitting to the manufacturer or distributor copies of 100 sequential retail service orders paid by the dealer’s customers, or all of the dealer’s retail service orders paid by the dealer’s customers in a 90-day period, whichever is less, for services provided within the previous 180-day period. The bill prohibits the manufacturer or distributor from considering retail services orders attributable to routine vehicle maintenance. The bill authorizes the manufacturer or distributor to choose to audit the submitted orders, within 30 days of receiving the dealer’s submission. The manufacturer or distributor will then approve or deny the establishment of the dealer’s average percentage markup or labor rate.

If the manufacturer or distributor approves the average percentage markup or labor rate, the bill requires the percentage markup or rate go into effect 45 days after the manufacturer’s or distributor’s approval.

If the manufacturer or distributor denies the establishment of the dealer’s average percentage markup or labor rate, the bill authorizes the dealer to file a complaint with the Director of Vehicles (Director) and require a hearing be held following procedures in continuing law for hearings on violations of any provision of the Act. The bill requires the burden of proof to be on the manufacturer or distributor to establish the denial of the dealer’s average percentage markup or labor rate was reasonable. If the Director finds the denial was not reasonable, the bill

requires the Director to determine the dealer's average percentage markup or labor rate for purposes of calculating a reasonable schedule of compensation.

The bill prohibits a manufacturer or distributor from requiring a dealer to establish an average percentage markup or labor rate by a methodology, or by requiring submission of information, that is unduly burdensome or time-consuming to the dealer, including, but not limited to, requiring part-by-part or transaction-by-transaction calculations.

The bill prohibits a dealer from requesting a change in the dealer's average percentage markup or labor rate more than once in any one-year period.

The bill prohibits the compensation to the dealer for warranty parts and labor from being less than rates charged by the dealer for like parts and services to retail customers, provided the rates are reasonable.

[*Note:* In continuing law, "new vehicle dealer" is defined as a vehicle dealer who is a party to an agreement with a first or second stage manufacturer or distributor to sell vehicles or parts sold by that manufacturer or distributor and obligates the vehicle dealer to fulfill warranty commitments of the manufacturer or distributor; "first stage manufacturer" is defined as a person who manufactures, assembles, and sells new vehicles to a dealer for resale; "second stage manufacturer" is defined as a person who assembles, installs, or permanently affixes a body, cab, or special equipment to a chassis supplied by a first stage manufacturer and sells the vehicle to new vehicle dealers for resale; and "distributor" is defined as a person who sells or distributes for resale new vehicles to new vehicle dealers or who maintains distributor representatives in Kansas.]

Clarifying Warning Period for Violation Related to Approaching an Emergency Vehicle; SB 40

SB 40 removes language requiring a law enforcement officer to issue a warning citation from and after the effective date of the act and prior to July 1, 2001, from provisions requiring a driver to move into a nonadjacent lane or, if changing lanes is not possible or is unsafe, proceed with due caution upon approaching an authorized emergency vehicle or police vehicle using flashing or hazard warning lights.

Clarifying a Seat Belt Violation Is a Traffic Infraction; SB 41

SB 41 amends the Uniform Act Regulating Traffic on Highways to specify violation of law requiring seat belt use by occupants ages 14 and older in passenger cars or motorcycles is a traffic infraction.

Driver Training; SB 94

SB 94 requires a motor vehicle accident avoidance course (course) associated with a required reduction in motor vehicle insurance premium charges to be at least four hours in duration. The bill requires the course utilize a nationally recognized driver training curriculum or a curriculum approved by a state or federal agency, replacing approval of a course by the National Safety Council or a “governmental agency such as the State Board of Education.” The bill also updates terms, including replacing “discount” with “premium reduction,” and specifies the insured participant is the principal operator of the covered vehicle.

Registration of Certain Rental Vehicle Fleets; SB 97

SB 97 authorizes registration of certain rental vehicles in fleets and issuance of permanent license plates to reflect that registration. To qualify for this type of registration, the person must register more than 250 motor vehicles subject to an excise tax on the gross receipts received from rental or lease for a period of time not exceeding 28 days (rental vehicle excise tax).

The bill requires such registration to be submitted electronically. The bill requires the Division of Vehicles (Division), Department of Revenue, to register and issue a license plate for any qualifying vehicle upon payment of all applicable registration fees. The bill requires the Division to issue permanent license plates designed to remain with a motor vehicle as long as the vehicle remains part of the qualifying fleet. The bill requires the license plate to be distinct from other license plates and no year or date be listed on the license plate. The bill requires the Division to issue a registration receipt for the vehicle, valid while the rental vehicle excise tax applies to the vehicle.

The bill authorizes transfer of a license plate and any unused registration fees to any other motor vehicle subject to the rental vehicle excise tax and owned by the same person.

The bill authorizes the Division to impose a fee not exceeding \$1.00 for each such registration. Those fees will be remitted to the State Treasurer for credit to the Fleet Rental Vehicle Administration Fund created by the bill, for purposes of funding the administrative costs for registering and tagging fleet rental vehicles.

The bill also removes outdated language.

The bill takes effect on January 1, 2020.

Deliver Driver’s License to Officer; HB 2125

HB 2125 requires the holder of a driver’s license who is operating a motor vehicle to promptly deliver, rather than display, the driver’s license upon demand of any officer of a court of competent jurisdiction, any peace officer, or any examiner or officer of the Division of Vehicles, Department of Revenue. The requirement applies when the driver’s license is in the licensee’s immediate possession at the time of the demand.

Commercial Vehicle Markings; HB 2127

HB 2127 removes statutory requirements for lettering to be painted or otherwise durably marked on the sides of a truck or truck tractor with a registered weight of more than 12,000 pounds to identify the owner or lessee. It also removes requirements for findings by the Division of Vehicles, Department of Revenue, regarding insignia or trademarks on such a vehicle and associated permits.

Federal regulations require any commercial motor vehicle used in interstate commerce to be marked with identification including the legal name or single trade name of the motor carrier and the identification number issued by the Federal Motor Carrier Safety Administration; a state rule and regulation includes nearly identical requirements for intrastate motor carrier vehicles weighing at least 26,000 pounds. Lettering required by state and federal regulations must be readily legible, during daylight hours, from a distance of 50 feet while the vehicle is stationary; the marking may be painted on the vehicle or be on a removable device.

UTILITIES

Wireless Siting Franchise Fees, Prohibitions; SB 68

SB 68 amends law relating to valid contract franchise ordinances and their application to wireless service providers and wireless infrastructure providers.

Franchises for Wireless Services and Infrastructure Providers

The bill prohibits a city from requiring a wireless services provider or wireless infrastructure provider to enter into a franchise, franchise agreement, franchise ordinance, contract franchise, or contract franchise ordinance for the provision of wireless services.

The bill also clarifies nothing in the bill is to be construed as prohibiting a city from requiring a telecommunications local exchange service provider to enter into a valid contract franchise ordinance as provided by KSA 2018 Supp. 12-2001.

Right-of-Way

The bill allows a city to govern wireless services providers' or wireless infrastructure providers' use of the public right-of-way by requiring a small cell facility deployment agreement or a master license agreement, or through permitting requirements, municipal ordinances or codes, or any combination of such mechanisms in a manner consistent with federal and state law.

Fees

The bill allows a city to assess a wireless services provider or a wireless infrastructure provider a fixed right-of-way access fee for each small cell facility a provider deploys that requires the use of the city's right-of-way. The fee cannot be based on such a provider's gross receipts derived from services provided within a city's corporate limits.

Exceptions

The bill specifies the above provisions apply only to a wireless infrastructure provider in its deployment of small cell facilities in a city's right-of-way, used for the provision of wireless services. The bill further clarifies nothing is construed to apply to such a provider's other operations and services as a utility or have any effect on any franchise related to other operations and services.

Definitions

The terms "authority," "public right of way," "small cell facility," "utility pole," "wireless infrastructure provider," "wireless services," and "wireless services provider" have the same definitions as provided in the Wireless Siting Act.

The bill also defines "small cell facility deployment agreement" as an agreement between a wireless services provider or wireless infrastructure provider and an authority for the

deployment of small cell facilities on or adjacent to existing, modified, replacement, or new utility poles within the public right-of-way pursuant to state and federal law. A small cell facility deployment agreement is not considered a franchise, franchise agreement, franchise ordinance, contract franchise, or contract franchise ordinance.

Electric Rate Study; Sub. for SB 69

Sub. for SB 69 directs the Legislative Coordinating Council (LCC) to authorize a study of retail rates of Kansas electric public utilities.

Purpose and Scope

The bill specifies the purpose of the study is to provide information that may assist future legislative and regulatory efforts in developing electric policy that includes regionally competitive rates and reliable electric service. The utilities subject to the study include electric public utilities, as defined in Chapter 66 of the *Kansas Statutes Annotated*; electric cooperative public utilities exempt from Kansas Corporation Commission (KCC) jurisdiction; and the three largest municipally owned or operated electric utilities by customer count.

Selection, Rights, and Duties of Study Organizations

The bill requires the LCC to select, by an affirmative vote of at least five members (including at least one vote from a minority party member), one or more independent organizations that have experience evaluating electric utilities. The study also requires input from residential, commercial, and industrial customers, electric utilities, and other stakeholders.

Any organization selected by the LCC to conduct the study is authorized to request data for any electric utility as defined above; the utility has at least 14 days to respond. To ensure nondisclosure of confidential business information, the organization is required to enter into a confidentiality agreement with the utility prior to making a request for information.

Duties of the KCC

The bill requires the KCC to assist any organization selected to conduct the study by sharing any subject matter knowledge regarding electric utilities in Kansas or by facilitating the procurement of any necessary information requested by the organization for the study. Such information is subject to the Kansas Open Records Act, the Judicial Review Act, the Kansas Administrative Procedures Act, and any other applicable law or regulations applicable to the KCC.

Disputes regarding the provision of information is decided by the KCC. The KCC also is responsible for establishing reasonable protections for the treatment of confidential information.

The KCC is responsible for paying the costs of the study through assessments upon utilities that are subject to the study.

Issues to Be Studied

The bill requires the study to be completed in two parts. The first portion of the study, which is required to be completed by January 8, 2020, and submitted to the House and Senate utilities committees by January 14, 2020, will examine the following issues:

- The effectiveness of current Kansas ratemaking practices, including whether:
 - Current ratemaking adequately attracts needed utility capital investments and adequately discourages unnecessary capital investments in Kansas;
 - Current ratemaking appropriately balances utility profits with the public interest objectives of achieving competitive rates over time while providing the best practicable combination of price, quality, and service;
 - Kansas electric public utilities are currently recovering from Kansas retail electric ratepayers the full or partial cost, including a return on investment, of any investments no longer fully used or required to be used in service to the public within Kansas, including, but not limited to, generation capacity investments;
 - The investments Kansas electric public utilities have made in electric transmission and renewable generation resources have contributed, and to what extent, to the obsolescence of all the other generation facility investments of such utilities;
 - Allowing Kansas investor-owned electric public utilities to recover costs through surcharges and riders, without a comprehensive ratemaking process, has unnecessarily contributed to rising wholesale and retail electricity prices;
 - Current ratemaking processes for Kansas electric cooperatives and municipal utilities are in the public interest; and
 - Electricity providers in surrounding states are subject to similar state laws, regulations, and oversight to such requirements in Kansas; and
- Options available to the KCC and the Kansas Legislature to affect Kansas retail electricity prices to become regionally competitive while providing the best practicable combination of price, quality, and service, including whether:
 - Capital expenditures and operating expenses of Kansas electric public utilities can be managed to achieve and sustain competitive retail rates while maintaining adequate and reliable service;
 - Any performance-based regulation, economic development initiatives, price-cap regulation or other non-traditional ratemaking methods should be considered to reduce retail electric rates or the level of increase of any rates;
 - Competitive markets for retail electricity could benefit all Kansas consumers;
 - Further investments in energy efficiency and renewable energy, including revenue decoupling and renewable energy incentives, could benefit all Kansas consumers;

- Securitized ratepayer-backed bonds could benefit utilities and ratepayers by reducing investment risk, facilitating the recovery of certain stranded costs from under-utilized or otherwise obsolete generating and other facilities and lowering retail electric rates, and assisting in the transition to new technologies, including a review of whether securitized bonds could be effectively utilized by Kansas utilities;
- Kansas sales tax, property taxes, assessment rates, and other fees and taxes on utilities are comparable to other states in the region and how such taxes and fees impact the competitiveness of utility rates;
- Kansas electric utilities and the KCC may reduce the cost impacts of decisions of the Southwest Power Pool (SPP) by advocating for certain positions through the SPP's stakeholder and regional state committee processes, including an identification of current and future issues most likely to impact Kansas retail electric rates;
- Any other regulatory actions are available to the KCC to manage or reduce retail electric rates; and
- Legislative enactments could address retail electric rate escalation in Kansas.

The second part of the study, which is required to be completed by July 1, 2020, and submitted to the House and Senate utilities committees by January 12, 2021, will examine other consequential energy issues materially affecting Kansas electric rates, including:

- Whether any costs incurred by Kansas electric public utilities to build and operate electric vehicle charging stations, including any necessary upgrades to distribution infrastructure, are recovered from ratepayers not using electric vehicle charging services;
- How rates for electric vehicle charging services should be designed to ensure such rates are just and reasonable and not subsidized by other utility customers;
- The potential effects of deregulating electric vehicle charging services in Kansas, including whether deregulation would ensure electric vehicle charging services are not subsidized by public utility ratepayers not using electric vehicle charging services;
- Whether Kansas consumers could benefit from improved access to advanced energy solutions, including micro grids, electric vehicles, charging stations, customer generation, battery storage, and transactive energy;
- The extent to which transmission investments by Kansas electric public utilities have impacted retail rates, including any incremental regional transmission costs incurred by Kansas ratepayers for transmission investments in other states, and whether such costs have been fully offset by financial benefits such as improved access to low cost renewable energy and wholesale energy markets;
- The costs and benefits incurred by Kansas ratepayers for transmission investments in Kansas used to export energy out of Kansas;

- How rate increases or the associated rising costs of Kansas investor-owned electric public utilities impact the retail electric rates of Kansas electric cooperatives and municipal utilities;
- Whether retail electric rates in Kansas are a material barrier to economic development in Kansas;
- The impact of contract rates with commercial and industrial customers and economic development rates on other customer classes, including whether expanded utilization of such approaches could benefit all customers over time;
- Whether Kansas electric public utilities recover their costs of serving customers from each customer class on the basis of cost causation;
- How cyber and physical security and grid stabilization efforts have affected, or are projected to affect, electric public utility rates;
- The value of a utility integrated resource planning process that requires state regulatory approval; and
- Economic analysis of the price fluctuations of generation fuels on the cost of electricity.

The bill requires the first and second parts of the study to be made available on the KCC's website by January 8, 2020, and July 1, 2020, respectively.

The bill takes effect upon publication in the *Kansas Register*.

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