

KANSAS OFFICE of  
**REVISOR of STATUTES**

LEGISLATURE of THE STATE of KANSAS  
*Legislative Attorneys transforming ideas into legislation.*

300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

**MEMORANDUM**

To: House Committee on Energy, Utilities and Telecommunications  
From: Office of Revisor of Statutes  
Date: March 10, 2020  
Subject: Substitute for Senate Bill 126

Substitute for Senate Bill 126 would amend K.S.A. 79-32,113 to exempt electric and natural gas public utilities that are subject to the regulatory jurisdiction of the Kansas Corporation Commission and cooperative utilities from the Kansas corporate income tax pursuant to K.S.A. 79-32,110. Such utilities would also be prohibited from collecting state income tax expenses as a component of retail rates or from being included in a consolidated or unitary combined return.

Section 1 of SB 126 would require utilities to track, and defer into a regulatory asset or liability, any overcollection or undercollection of income tax expenses in retail rates due to any income tax law adjustments at the state or federal level. If a state or federal adjustment causes an increase or decrease of the utility's income tax expenses that is 0.25% or more of such utility's base revenue level, such utility would be required to file an application for new retail rates with the KCC reflecting the adjustment to income tax rates. Such filing would be required within 60 days of the enactment of the state or federal income tax change. Any such retail rate filing would only require the utility to update the income tax expense component and would not require an update of any other component of retail rates.

The KCC would be required to issue an order addressing the filing within 120 days. If requested by a utility, the KCC's order would be required to give due consideration to the common interests of the utility and its customers including, but not be limited to, use of a two-year implementation of rate changes to maintain the credit quality of the utility. If implemented over a period of time, the utility would be required to: (A) track and defer any overcollection or undercollection of income tax expenses as a regulatory asset or liability that will accrue interest

at the utility's weighted average cost of capital; and (B) refund or collect the balance of such amount in the next full general rate proceeding.

If a utility has provided notice of an intent to file or has a full general rate proceeding pending before the KCC, upon a showing by the utility that public interest would be promoted, the KCC may issue an order to not adjust the income tax expense component of the retail rates of the utility until the utility's new retail rates become effective following such utility's full general rate proceeding.

SB 126 would require a utility's excess accumulated deferred income tax balances resulting from income tax law adjustments at the state or federal level to remain unamortized on the public utility's books until the utility's next full general rate proceeding. At that time, such balances would then be amortized and reflected in retail rates. If requested by a utility, any such balances that occur due to the changes in state income tax law effective January 2021 shall be amortized over a period of not less than 30 years in retail rates for the utility. For any other subsequent changes in state or federal tax law, excess accumulated deferred income tax balances shall be amortized in retail rates by order of the KCC in a manner that will not impair the utility's credit rating.

The provisions of section 1 do not apply to any municipal electric or natural gas utility or any cooperative utility.

Section 1 defines "overcollection or undercollection of income tax expense" to mean the portion of utility revenue representing the difference between the cost of service as approved by the KCC in the utility's most recent base rate proceeding and the cost of service that would have resulted had the provision for state or federal income taxes been based upon the adjusted corporate income tax rate. "Overcollection or undercollection of income tax expense" does not include the effects of accumulated deferred income taxes or excess accumulated deferred income taxes.