

## Substitute for SENATE BILL No. 126

By Committee on Utilities

2-24

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1 AN ACT concerning income taxation; relating to certain public utilities;  
2 exemption from income taxation; income tax expenses, exclusion from  
3 retail rates; amending K.S.A. 79-32,113 and repealing the existing  
4 section.

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6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) If a public utility as defined in K.S.A. 66-104, and  
8 amendments thereto, includes expenses related to income taxes as a  
9 component of its retail rates, the utility shall track any overcollection or  
10 undercollection of income tax expense if the income taxes assessed on  
11 such utility are adjusted as a result of any changes in state or federal law.

12 (b) When any change in state or federal law either increases or  
13 decreases the amount of incomes taxes assessed on a utility and results in  
14 an overcollection or undercollection of income tax expenses that is equal  
15 to or exceeds 0.25% of such utility's base revenue level approved by the  
16 state corporation commission in the utility's most recent general rate  
17 proceeding, such utility shall file an application for new retail rates  
18 reflecting the adjusted income taxation rates with the commission within  
19 30 days of such change in state or federal law. The utility shall either  
20 refund the tracked overcollected amounts to, or recover the tracked  
21 undercollected amounts from, such utility's retail customers in a manner  
22 approved by the commission.

23 (c) A filing required pursuant to subsection (b) shall not:

24 (1) Require the utility to file a full general rate proceeding;

25 (2) require the utility to update any component of such utility's retail  
26 rates other than the income tax expense component; or

27 (3) constitute a violation of any existing rate moratorium agreement if  
28 such filing only updates the income tax expense component of a utility's  
29 rates.

30 (d) The state corporation commission shall issue a order addressing  
31 the application filed under subsection (b):

32 (1) That gives due consideration to the common interests of the  
33 public utility and its customers, including, but not limited to, use of a two-  
34 year implementation of current period rate changes to maintain the credit  
35 quality of the utility by ensuring that any such change in retail rates will  
36 not cause the utility's credit metrics that are traditionally considered by the

1 credit rating agencies to deteriorate to a level that could impair the utility's  
2 current credit rating. To the extent a retail rate change to address adjusted  
3 income taxes is implemented over a period of time, as provided in this  
4 paragraph, the utility shall: (A) Track and defer any overcollection or  
5 undercollection of income tax expenses as a regulatory liability or asset, as  
6 appropriate, that will accrue interest at the utility's cost of short-term debt;  
7 and (B) refund or collect the balance of such amounts in its next full  
8 general rate proceeding; and

9 (2) within 120 days of the date of such filing.

10 (e) Excess accumulated deferred income tax balances resulting from  
11 income taxes adjusted due to changes in state or federal law shall be  
12 maintained on the public utility's books of account until new retail rates  
13 from such utility's next full general rate proceeding after the altered  
14 income tax rates take effect. Such balances shall be reflected in retail rates  
15 at such time. Excess accumulated deferred income tax balances resulting  
16 from changes in state law effective January 2021, shall be authorized by  
17 the state corporation commission to be amortized over 30 years in retail  
18 rates for such utility. Excess accumulated deferred income tax balances  
19 resulting from any other changes in state or federal law shall be authorized  
20 by the commission to be amortized in retail rates for such utility in a  
21 manner consistent with requirements of state and federal tax law and  
22 implementing regulations and in a manner that will not impair the utility's  
23 credit rating.

24 (f) The provisions of this section shall not apply to any:

25 (1) Municipal electric utility or natural gas utility; or

26 (2) utility that is a cooperative as defined in K.S.A. 66-104d, and  
27 amendments thereto, or owned by one or more such cooperatives.

28 (g) For the purposes of this section, "overcollection or  
29 undercollection of income tax expense" means the portion of utility  
30 revenue representing the difference between the cost of service as  
31 approved by the state corporation commission in the utility's most recent  
32 base rate proceeding and the cost of service that would have resulted had  
33 the provision for state or federal income taxes been based upon the  
34 adjusted corporate income tax rate.

35 Sec. 2. K.S.A. 79-32,113 is hereby amended to read as follows: 79-  
36 32,113. (a) A person or organization exempt from federal income taxation  
37 under the provisions of the federal internal revenue code shall also be  
38 exempt from the tax imposed by this act in each year in which such person  
39 or organization satisfies the requirements of the federal internal revenue  
40 code for exemption from federal income taxation. If the exemption  
41 applicable to any person or organization under the provisions of the federal  
42 internal revenue code is limited or qualified in any manner, the exemption  
43 from taxes imposed by this article shall be limited or qualified in a similar

1 manner.

2 (b) Notwithstanding the provisions of subsection (a) ~~of this section~~,  
3 the unrelated business taxable income, as computed under the provisions  
4 of the federal internal revenue code, of any person or organization  
5 otherwise exempt from the tax imposed by this act and subject to the tax  
6 imposed on unrelated business income by the federal internal revenue code  
7 shall be subject to the tax which would have been imposed by this act but  
8 for the provisions of subsection (a) ~~of this section~~.

9 (c) In addition to the persons or organizations exempt from federal  
10 income taxation under the provision of the federal internal revenue code,  
11 there shall also be exempt from the tax imposed by this act, insurance  
12 companies, banks, trust companies, savings and loan associations, credit  
13 unions and any other organizations, entities or persons specifically exempt  
14 from Kansas income taxation under the laws of the state of Kansas.

15 *(d) Every electric and natural gas public utility as defined in K.S.A.*  
16 *66-104, and amendments thereto, not including any such utility that is a*  
17 *cooperative as defined in K.S.A. 66-104d, and amendments thereto, or*  
18 *owned by one or more such cooperatives, that is subject to rate regulation*  
19 *by the state corporation commission shall: (1) Be exempt from the tax*  
20 *imposed by the Kansas income tax act pursuant to K.S.A. 79-32,110, and*  
21 *amendments thereto; and (2) not collect, as a component of such utility's*  
22 *retail rates, Kansas income tax expenses.*

23 Sec. 3. K.S.A. 79-32,113 is hereby repealed.

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