



Neutral conferee requesting technical amendment.

SB 126 – Exempting utilities from state income tax.

**House Committee on Energy, Utilities and Telecommunications
March 10, 2020**

**Presented by Leslie Kaufman, V.P. of Government Relations & Legal Counsel
Kansas Electric Cooperatives, Inc.**

Chairman Seiwert, Vice Chairman Schreiber, Ranking Member Kuether and members of the House Committee on Energy, Utilities and Telecommunications, thank you for the opportunity to appear today on behalf of Kansas Electric Cooperatives, Inc. (KEC) and our members to comment on SB 126. I am Leslie Kaufman and I serve as the V.P. of Government Relations & Legal Counsel for KEC.

KEC is the Kansas statewide service organization for 27 electric distribution cooperatives and three generation and transmission cooperatives. Formed on August 18, 1941, and headquartered in Topeka, KEC represents the interests of and provides needed services and programs to the electric co-ops that serve Kansans. Our major programming areas include advocacy, education, communications and safety/loss control.

As you know, SB 126 would exempt certain utilities from state income tax and provide a mechanism for adjusting rates where an amount to cover state income tax was included in the rate. On the Senate side, Sunflower Electric Power Corporation, on behalf of the electric cooperative community, raised several concerns with SB 126. One of our key concerns was if the bill had been implemented in its original form, taxable electric cooperatives and an electric utility solely owned by a co-op would not be exempt from the income tax.

We identified that issue heading into session and the bill's sponsor, Kansas Industrial Consumers Group (KIC) worked with us, and is continuing to work with us, to ensure our members are not disadvantaged by any unintended consequences. We appreciate their cooperation and their patience, and that of the Revisor's staff, as well. We believe KEC and KIC agree on the intent, but the bill as it appears before you today, needs a technical amendment to fully carry-out that intent.

KEC seeks to protect our members' ability under the current statutory framework to self-regulate rates (K.S.A. 66-104d). We will work with KIC and have a proposed solution for the committee to consider at the appropriate time.

Cooperatives are governed by the member-owners they serve. All our cooperative members have elected to remove themselves from rate jurisdiction under the Kansas Corporation Commission (KCC) pursuant to K.S.A. 66-104d in favor of self-regulation. This rate self-regulation is conducted under the auspices of the cooperative's member-elected board of trustees with the opportunity for input from members.

Over the years, cooperatives have collectively saved members hundreds of thousands of dollars by managing rate making processes locally as opposed to the costly procedure of bringing rate cases before the KCC. The cost savings, opportunities for member input, and return of excess margin to members are factors that make the cooperative model for ratemaking very member centric. It is in the best interests of the co-op and the member-owners to keep the cost of providing reliable, dependable electric service as low as possible.

The KCC is still a backstop if members are aggrieved by a rate change. A petition process, outlined in K.S.A. 66-104d, is available to request KCC review of a cooperative's rates within one year of such change. The KCC will review the rates to determine if they were "unjust, unreasonable, unjustly discriminatory or unduly preferential" and order an adjustment in the rates if they are found to be unjust or unreasonable. K.S.A. 66-104d(g)(1). Since the self-regulation statute was enacted over 25 years ago, only one petition has been properly filed and ruled on by the KCC and the rates were determined to be just and reasonable. We believe this is a testament to the success of our cooperative business model.

Cooperatives and our members value the ability to manage the ratemaking process locally. The recent Sub. SB 69 Phase 1 Electric Rate Study performed by London Economics International (LEI) evaluated the cooperative process and validated what co-op members and leaders have known for years – the model works for members and is in the public interest.

To ensure there are no unintended consequences that might hinder our ratemaking abilities, we suggested clarifying language which KIC included in a Senate committee balloon and we appreciate that. A subsequent Senate floor amendment modified other language around ours, inadvertently raising a concern for us and precipitating the need for the technical amendment we seek.

In closing, we appreciate the opportunity to share our thoughts on SB 126. I will gladly stand for questions at the appropriate time.

Thank you.