

**OPPONENT TESTIMONY FOR THE
SENATE UTILITIES COMMITTEE
REGARDING SENATE BILL 57
RELATING TO ORDERS FOR UTILITIES LOCATED ON HIGHWAY RIGHT OF WAY
TO MOVE AND COMPENSATION THEREFORE**

February 5, 2025

Mr. Chairman and Committee Members:

Thank you for the opportunity to provide opposition testimony on SB 57. KDOT respectfully requests the committee not pass this bill and keep the law as currently written.

A utility makes a business decision when it needs to place a line, pipe, or fiber in an area. The utility decides if it will use the highway right of way or private easement. The highway right of way is free of charge to the utility. The utility does not pay for an easement when using highway right of way, nor pays KDOT a permit fee or any other type of compensation. If the utility decides to install on highway right of way and KDOT requires the utility to relocate to another part of the highway right of way as part of a highway project, the utility bears the cost of the relocation. Utilities must enter into signed permit agreements with KDOT to be on the highway right of way. The utility would bear a cost in purchasing private easements if the utility were to locate on a private easement. In this case, if KDOT requires the utility to relocate KDOT bears the cost of the relocation, including the cost of easements for the utility to relocate.

SB 57 as introduced contains contradictory provisions. K.S.A. 68-415 currently provides, and the bill does not amend, that utilities located on highway right of way must pay for their own modification or relocation if KDOT requires the modification or relocation. (See SB 57, Page 3, lines 25-41.) The bill would amend K.S.A. 68-415 to add language that would require KDOT to reimburse utilities for the costs incurred by such utility to modify or relocate the utility on KDOT's order. (See SB 57, Page 4, lines 25-39.) As provided in the amendment, "Notwithstanding any provision of law, or any rule, permit, agreement, franchise or other authorization, to the contrary, the provisions of this section shall apply to all highway projects, including any highway projects currently in progress, whether funded by state or federal moneys." The bill appears to shift utility relocation costs by having agencies, cities, and counties reimburse utilities and the amendment of

current statute appears to require KDOT to pay the costs of utilities located on highway right of way to modify or relocate if required by a KDOT project.

As noted above, the bill would require that KDOT pay for utility moves on “any highway projects currently in progress.” This phrase is not defined in the bill and could lead to confusion on which projects “are currently in progress” and for which KDOT would pay for the cost of utility relocation.

In the state fiscal year 2024, KDOT projects have required 108 utilities to move. 63 were located on highway right of way and the utility company paid for the relocation. 45 were located on private easement and KDOT paid approximately \$25.9M for the move. Assuming that the right of way moves and private easement moves were relatively the same, KDOT would have spent approximately \$36M more paying for utility companies to relocate their utilities, even though they use highway right of way free of charge. It is expected that additional costs would also be incurred by the agency from federal Buy America requirements.

Having KDOT pay for the cost of relocating a utility that is on highway right of way free of charge would pass the cost of relocation to persons who do not use the service provided by the utility. When KDOT pays for the cost of relocation, the cost is born by persons who purchase motor fuels, pay sales tax and register vehicles. When a utility pays for the cost of relocation, one would assume the cost is borne by the utility’s customers who use the service provided by the utility. If, as it appears, the intent of this bill is to shift the cost of utility relocations on highway right of ways to KDOT, the agency respectfully asks the committee to not move this legislation forward. If the intent of the SB 57 is to address another issue, KDOT stands ready to work with stakeholders towards a solution that will not impact current agency practice around the reimbursement of utility relocation on highway right of ways.

I thank the committee for the opportunity to provide opponent testimony on Senate Bill 57 and will stand for questions at the appropriate time.