

SESSION OF 2021

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 24**

As Amended by House Committee on Energy,  
Utilities and Telecommunications

**Brief\***

SB 24, as amended, would create the Kansas Energy Choice Act.

The bill would define the terms “municipality” and “utility service” for the purpose of prohibiting a municipality from imposing any ordinance, resolution, code, rule, provision, standard, permit, plan, or any other binding action that prohibits, discriminates against, restricts, limits, impairs, or has a similar effect on an end-use customer’s use of a utility service, defined as the retail provision of natural gas or propane.

In addition, the bill would not be construed in its interpretation to restrict the ability of a municipality, as defined in the bill, to limit an end use customer’s use of a utility service, if that end use customer is the municipality.

The bill would be in effect upon publication in the *Kansas Register*.

**Background**

The bill was introduced by the Senate Committee on Utilities at the request of a representative of Atmos Energy, Black Hills Energy, and Kansas Gas Service.

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

### **Senate Committee on Utilities**

In the Senate Committee hearing, representatives of AARP Kansas, Americans For Prosperity Kansas (AFP), Atmos Energy, Black Hills Energy, Kansas Gas Service, Kansas Restaurant and Hospitality Association (KRHA), National Federation of Independent Business Kansas (NFIB), and the Wichita Regional Chamber of Commerce provided **proponent** testimony.

The proponents provided background information, stating in 2019, the city of Berkeley, California, was the first city in the United States to ban the use of natural gas in new residential and commercial constructions. Since then, other cities have passed or introduced similar laws to eliminate natural gas as a choice. They reported similar activity is occurring in cities on the coasts, but there has been recent activity in Norman, Oklahoma, and Lawrence, Kansas. The proponents stated these types of bans on certain types of energy sources are a shortsighted attempt toward clean energy and, ultimately, will hinder a city's ability to reduce emissions while removing a reliable, low-cost energy option.

Written-only proponent testimony was provided by representatives of the Eastern Kansas Oil and Gas Association (EKOGA), the Kansas Association of Realtors (KAR), the Kansas Building Industry Association (KBIA), the Kansas Chamber of commerce, the Kansas Independent Oil and Gas Association (KIOGA), the Propane Marketers Association of Kansas (PMAK), the Chamber of Lawrence, Kansas, and the Greater Topeka Chamber of Commerce.

Representatives of the Climate + Energy Project (CEP), the League of Kansas Municipalities (LKM), Sierra Club, and Sustainability Action Network and four private citizens provided **opponent** testimony.

The opponents stated the bill is an encroachment on home rule and the powers prescribed to cities in the *Kansas Constitution*. They stated discrimination of energy types

would be unfair if energy types were equivalent, but some energy types do have disproportionate costs. They added cities should be able to determine what energy sources work best for their community, especially when it could realize cost-savings for their residents.

Written-only opponent testimony was provided by representatives of the City of Lawrence, Douglas County, Kansas Inter Faith Action, City of Merriam, Metropolitan Energy Center (MEC), City of Mission, City of Overland Park, City of Prairie Village, Sisters of Charity of Leavenworth, Sunrise Movement Kansas City, City of Westwood Hills, and Willdan Performance Engineering (Lawrence), and by 30 private citizens.

Neutral testimony was provided by the Director of the Utilities Division, Kansas Corporation Commission (KCC). Written-only neutral testimony was provided by the Consumer Counsel of the Citizens' Utility Ratepayer Board (CURB).

The Senate Committee amended the bill by:

- Removing a definition for “public utility”;
- Adding a definition for “utility service”;
- Removing language regarding source of energy;
- Adding language regarding the municipality as an end use customer; and
- Changing the effective date of the bill from upon publication in the statute book to upon publication in the *Kansas Register*.

***House Committee on Energy, Utilities and Telecommunications***

In the House Committee hearing, **proponent** testimony was provided by representatives of AFP; Atmos Energy;

Black Hills Energy; Kansas Gas Service; KRHA; NFIB; and the Wichita Regional Chamber of Commerce.

Written-only proponent testimony was provided by representatives of AARP Kansas, EKOGA, the Greater Topeka Chamber of Commerce, KAR, KBIA the Kansas Chamber of Commerce, KIOGA, the Lawrence Chamber of Commerce, and PMAK.

Proponents noted the bill would ensure that consumers can choose the fuel for use in their homes and prohibit bans on energy sources, which contribute to rising energy bills and harm lower- and middle-income households.

**Opponent** testimony was provided by representatives of Kansas Interfaith Action, LKM, the Natural Resources Defense Council, and the Sierra Club Kansas Chapter and by a resident of Big Springs.

Written-only opponent testimony was provided by representatives of the City of Overland Park; CEP; MEC; the northeast Johnson County cities of Merriam, Mission, Prairie Village, and Westwood Hills; and Sisters of Charity of Leavenworth and by two residents of the City of Wichita.

Opponents stated the bill would infringe on the right of local governments to determine their own policies and restrict the ability of communities to respond to climate concerns.

Neutral testimony was provided by a representative of the KCC. Written-only neutral testimony was provided by representatives of the American Heart Association and CURB.

The House Committee amended the bill to specify that “propane” would be part of the definition of “utility service,” as defined by the bill.

## **Fiscal Information**

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, enactment of the bill would have no fiscal effect on the KCC. The Kansas Association of Counties (KAC) indicates enactment of the bill could have an effect on municipalities without a public utility if certain sources of energy are more damaging to public infrastructure or have a negative effect on the municipality of municipal property in some way. The KAC does not indicate what this effect might be. The League of Kansas Municipalities does not expect enactment of the bill to have a fiscal effect on cities.

Kansas Energy Choice Act; municipalities; utility service; natural gas; propane