

SESSION OF 2020

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SENATE BILL NO. 285**

As Recommended by House Committee on
Agriculture

Brief*

House Sub. for SB 285 would extend the sunset dates for certain funds, a board, and operators' ability to apply for funds relating to underground storage tanks (UST). The bill also would increase deductible amounts and liability and replacement limits for certain funds within the Kansas Storage Tank Act (Act) that are managed by the Kansas Department of Health and Environment (KDHE). The bill would also make technical changes.

Sunset Date Extensions

The bill would extend the following sunset dates:

- Underground Petroleum Storage Tank Release Trust Fund (Underground Fund) from July 1, 2024, to July 1, 2034;
- Aboveground Petroleum Storage Tank Release Trust Fund (Aboveground Fund) from July 1, 2024, to July 1, 2034;
- UST Redevelopment Fund Compensation Advisory Board from July 1, 2024, to July 1, 2032;
- UST Redevelopment Fund (UST Fund) from July 1, 2024, to July 1, 2032;

*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>

- The ability for certain petroleum storage tank owners and operators to apply for reimbursement for corrective action if contamination is discovered and reported during the replacement of single-wall underground storage tanks, from June 30, 2020, to June 30, 2030; and
- The ability for owners and operators to apply for reimbursement for the replacement of underground single-wall storage tank systems with a secondary containment system, from June 30, 2020, to June 30, 2030.

Increase of Fund Limitations

The bill would increase from \$1.0 million to \$2.0 million, less the deductible amount, the limit on the liability of the State from the Underground Fund or the Aboveground Fund for any release from a petroleum storage tank. In continuing law, the owner or operator of a petroleum storage tank must agree to such limitation of state liability.

The bill would also increase from \$1.0 million to \$2.0 million the total limitation on the liability of the Underground Fund and the Aboveground Fund for corrective action, less any applicable deductible amounts of the owner or operator for costs incurred in response to any one release from an underground or aboveground petroleum storage tank.

Finally, the bill would increase the reimbursement limit for the replacement of single-wall underground storage tanks and single-wall underground storage tank systems with a secondary containment system to an amount of no more than \$100,000 per facility for replacement work completed on and after July 1, 2020, and before July 1, 2030. The bill would also clarify the \$50,000 reimbursement limit in current law would apply to replacement work completed on and after August 8, 2005, and before July 1, 2020.

Background

The House Committee on Agriculture (House Committee) inserted the contents of SB 286 and SB 287, both as recommended by the Senate Committee on Agriculture and Natural Resources (Senate Committee), into SB 285, as recommended by the Senate Committee, and recommended the contents as placed into a substitute bill.

SB 285 (Extend Sunset Date for UST Redevelopment)

The bill was introduced in the Senate Committee on behalf of the Petroleum Marketers and Convenience Store Association of Kansas (PMCA of Kansas) on January 22, 2020.

In the Senate Committee hearing on February 7, 2020, a representative of the PMCA of Kansas testified as a proponent. The representative testified approximately 270 underground storage tanks need to be removed from the ground and extending the sunset will allow the KDHE to continue removing such tanks. Representatives of the Kansas Cooperative Council, KDHE, Kansas Agribusiness Retailers Association, Kansas Grain and Feed Association, and Renew Kansas Biofuels Association also testified as proponents. Representatives of Dillons Stores and Casey's General Stores, Inc., provided written-only proponent testimony. No neutral or opponent testimony was provided.

The Senate Committee recommended the bill be placed on the Consent Calendar.

In the House Committee hearing on March 12, 2020, representatives of the Kansas Cooperative Council, KDHE, and PMCA of Kansas provided proponent testimony on the bill. Written-only testimony was provided by representatives of Dillons Stores, Kansas Agribusiness Retailers Association, Kansas Grain and Feed Association, and Renew Kansas

Biofuels Association. No neutral or opponent testimony was provided.

The House Committee inserted the provisions of SB 286 and SB 287 into SB 285 and recommended a substitute bill.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the KDHE indicates enactment of the bill would have no fiscal effect. The KDHE estimates ongoing expenditures will remain consistent with those of prior years, but actual expenditures will depend on industry demand for redevelopment.

SB 286 (Increase Liability Limits; Extend Fund Sunset Dates)

The bill was introduced by the Senate Committee on behalf of the PMCA of Kansas on January 22, 2020.

In the Senate Committee hearing on February 7, 2020, a representative of the PMCA of Kansas testified as a proponent. The representative stated the KDHE has the best program in the country for remediation of petroleum storage tank contamination and spoke to the value of the Underground Fund and Aboveground Fund. A representative of the Kansas Agribusiness Retailers Association, the Kansas Grain and Feed Association, and the Renew Kansas Biofuels Association and a representative of KDHE also testified as proponents. Representatives of Casey's General Stores, Inc., Dillons Stores, and the Kansas Cooperative Council provided written-only proponent testimony. No neutral or opponent testimony was provided.

In the House Committee hearing on March 12, 2020, representatives of the KDHE and PMCA of Kansas provided proponent testimony on the bill. Written-only testimony was provided by representatives of Dillons Stores, Kansas Agribusiness Retailers Association, Kansas Cooperative Council, Kansas Grain and Feed Association, and Renew

Kansas Biofuels Association. No neutral or opponent testimony was provided.

The House Committee inserted the contents of SB 286 into SB 285.

According to the fiscal note prepared by the Division of the Budget on SB 286, KDHE indicates enactment of the bill would not require additional operating expenditures for the agency to administer the Act. KDHE indicates average expenditures from both the Underground Fund and Aboveground Fund over the past five years was approximately \$13.0 million per fiscal year and the agency estimates ongoing expenditures will remain consistent with prior years, but actual expenditures will depend on industry demand for site cleanups. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2021 Governor's Budget Report*.

SB 287 (Extend Reimbursement Sunset Dates)

The bill was introduced by the Senate Committee at the request of the PMCA of Kansas.

In the Senate Committee hearing, a representative of the PMCA of Kansas testified as a proponent. The representative stated the extension of the sunset in the bill would allow the State to continue to reimburse storage tank owners for making mandated updates that can cost certain owners up to \$400,000. A representative of the Kansas Grain and Feed Association, the Kansas Agribusiness Retailers Association, and the Renew Kansas Biofuels Association and a representative of the KDHE also testified as proponents. Representatives of Casey's General Stores, Inc., Dillons Stores, and the Kansas Cooperative Council provided written-only proponent testimony. No neutral or opponent testimony was provided.

In the House Committee hearing on March 12, 2020, representatives of the KDHE and PMCA of Kansas provided proponent testimony on the bill. Written-only testimony was provided by representatives of Dillons Stores, Kansas Agribusiness Retailers Association, Kansas Cooperative Council, Kansas Grain and Feed Association, and Renew Kansas Biofuels Association. No neutral or opponent testimony was provided.

The House Committee inserted the contents of SB 287 into SB 285.

According to the fiscal note prepared by the Division of the Budget on SB 287, KDHE estimates the increase in reimbursement to owners would increase expenditures from the UST Fund by \$250,000 in FY 2021. Such expenditures would be offset by an identical amount of revenue deposited into the UST Fund from a \$0.01 fee on each gallon of petroleum product manufactured in or imported into Kansas. KDHE estimates ongoing reimbursements to owners could increase by \$400,000 annually. KDHE indicates the bill would not change the \$3.0 million per fiscal year annual UST expenditures limit, subject to moneys available in the UST Fund. KDHE indicates it would not require additional operating expenditures to administer the Act. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2021 Governor's Budget Report*.