

**IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
CIVIL COURT DEPARTMENT**

BOARD OF COUNTY COMMISSIONERS)	
OF JOHNSON COUNTY, KANSAS,)	
)	
Plaintiff)	Case No.
)	
v.)	Division
)	
KRIS W. KOBACH, ATTORNEY)	Pursuant to K.S.A. Chapter 60
GENERAL OF THE STATE OF KANSAS,)	
)	
Defendant.)	

PETITION FOR DECLARATORY JUDGMENT

Plaintiff, Board of County Commissioners of Johnson County, Kansas, in support of their cause of action brought pursuant to Chapter 60, Article 17 of the Kansas Code of Civil Procedure, against Defendant Koris W. Kobach, Attorney General of the State of Kanas, states and alleges as follows:

PARTIES, JURISDICTION AND VENUE

1. The Board of County Commissioners (“BOCC”) is the governing body for Johnson County, Kansas and Plaintiff in this case.
2. Defendant Kris W. Kobach is the duly elected and currently serving Attorney General (“AG”) of the State of Kansas.
3. The Defendant may be served at the Office of the Kansas Attorney General, Kris W. Kobach, 120 SW 10th Avenue, 2nd Floor, Topeka, Kansas 66612.
4. This Court has jurisdiction under Chapter 60 Article 17 of Kansas Statutes pertaining to Declaratory Judgments.

5. Venue is proper because, among other reasons, this is a local county action under K.S.A. 60-602.

FACTS COMMON TO ALL COUNTS

6. The BOCC adopted Resolution No. 052-25 at a regular meeting held on May 8, 2025. Resolution No. 052-25 is attached hereto as Exhibit A.

7. Resolution No. 052-25 proposed to submit to the electors “the renewal of the existing one-fourth (1/4) of one cent countywide retailers’ sales tax,” in Johnson County, “for the purpose of financing the construction, renovation, maintenance, operation costs and personnel expenses of public safety projects,” and set the election for November 4, 2025. Exhibit A, Resolution No. 052-25, p. 1.

8. In a letter to the AG dated June 4, 2025, Kansas State Senator Mike Thompson sought an AG opinion, pursuant to K.S.A. 75-704, on four (4) questions pertaining to Resolution No. 052-25 concluding with a request to determine whether the resolution was “null and void.” Senator Thompson’s letter (the “Thompson letter”) is attached hereto as Exhibit B.

9. Although the resolution specifically recited an intended use of funds for “construction,” Senator Thompson’s letter recites the purported existence of “other evidence that the County’s intent may be to use the revenue solely to support operational programs without the construction of any qualifying capital projects.” Exhibit B, Thompson letter, p. 2.

10. Senator Thompson’s letter, furthermore, seeks to draw a distinction between Resolution No. 052-25 and the existing sales tax passed in 2016 which Senator Thompson characterizes as “clear” in its intent to address both construction and operation of public safety projects. Exhibit B, Thompson letter, p. 2.

11. Although Resolution No. 052-25 references public safety no less than a dozen times, including in the ballot language and the title of the resolution itself, Senator Thompson's letter voices his "concern" that the 2025 ballot question would be "illegal" without a legitimate "public safety capital project." Exhibit B, Thompson letter, p. 2.

12. Senator Thompson questions whether the "emergency/ambulance/911 services" and "mental health intervention" projects fall within the definition "public safety projects" under K.S.A. 12-187(b)(21). Exhibit B, Thompson letter, p. 2.

13. Senator Thompson also questions whether the ballot measure may properly be referenced as a "renewal" of the existing tax. Exhibit B, Thompson letter, p. 2.

14. In a letter to Johnson County Chief Counsel Peggy L. Trent, Assistant Solicitor General Adam T. Steinhilber invited Johnson County to provide input on the issues raised by Senator Thompson. That letter (the "Steinhilber letter") is attached hereto as Exhibit C.

15. Chief Counsel Peggy L. Trent responded in a letter dated July 2, 2025. That letter (the "Trent letter") is attached hereto as Exhibit D.

16. In her letter, Chief Counsel Trent recites the reasons that "the ballot question complies with K.S.A. 12-187(b)(21)."

17. In Attorney General Opinion No. 2025-13, signed by Kris W. Kobach and Adam T. Steinhilber, the AG concludes, "Because the Board has exceeded its authority, we believe a court would find the Resolution to be null and void." That AG opinion is attached hereto as Exhibit E.

18. Opinion No. 2025-13 essentially agrees with the premise of every reservation, question and concern expressed by Senator Thompson in his letter.

19. In a press release dated July 22, 2025, Defendant Kobach reported the issuance of the AG opinion, stating that “the Johnson County Board of County Commissioners exceeded their authority” in adopting the resolution seeking to bring the tax question to a vote. The Press Release is attached hereto as Exhibit F.

20. In the press release, Defendant Kobach said “Johnson County is breaking the law by imposing this new tax...”. Exhibit F, Press Release, p. 1.

21. In the press release, Senator Thompson is quoted as saying, “This is another example of a county board that’s out of control.” The quote from Senator Thompson continues, “Hopefully, this opinion will encourage the board to reconsider...”. Exhibit F, Press Release, p. 1.

22. After full analysis of AG Opinion No. 2025-13 and further legal research and consultation, the BOCC believes: (a) that Resolution No. 052-25 was not null and void; (b) that Resolution No. 052-25 was within the scope of Board authority granted by K.S.A. 12-187 specifically and Kansas Law generally; (c) that the ballot language adopted in Resolution No. 052-25 was valid under Kansas Law; and, (d) that identical ballot language adopted in Resolution 095-25 is likewise valid under Kansas Law.

23. Because the AG opinion has created confusion, misunderstanding and uncertainty regarding the ballot question, however, the BOCC has chosen to delay the election and seek further guidance from this court regarding the ballot controversy created by Opinion No. 2025-13.

24. Because it was and is the view of the BOCC that the passage of the tax originally proposed in Resolution No. 052-25 is in the best interest of Johnson County residents, and because the BOCC seeks to avoid conducting an election under the cloud of uncertainty created by the AG opinion, the BOCC passed Resolution No. 095-25 which withdrew the call for an election on the

public safety tax renewal for November 4, 2025 and set the date for a special election on March 3, 2026. Resolution No. 095-25 is attached hereto as Exhibit G.

25. Resolution No. 095-25 also authorizes the filing of a declaratory action seeking to resolve the controversy with the Kansas Attorney General. Exhibit G, Resolution No. 095-25, p. 2.

26. Pursuant to Kansas law including K.S.A. 60-1704 and as set forth in more detail below, there exists a case and controversy between the BOCC and the Kansas Attorney General, pertaining to the right of the BOCC to adopt the resolutions and Johnson County voters to vote on and implement the public safety tax contemplated by K.S.A. 12-187(b)(21).

27. As set forth in more detail hereinafter, the BOCC and citizens of Johnson County, Kansas are in urgent need of court resolution of the case and controversy articulated in AG Opinion 2025-13 and in this Petition.

28. The Johnson County Manager needs a vote on the proposed public safety tax on March 3, 2026 in order to meet the statutory deadlines for the 2027 budgeting process. The budgeting process is set forth in more detail in the Affidavit of Penny Postoak attached hereto as Exhibit H.

29. To accommodate a March 3, 2026 election, the Johnson County Election Commissioner needs final ballot language by December 9, 2025. The statutory and practical timeline of necessary steps for a March 3, 2026 election are more fully set forth in the Affidavit of Johnson County Election Commissioner Fred Sherman, attached hereto as Exhibit I.

30. The issuance of AG Opinion No. 2025-13 created an improper cloud of uncertainty over (a) the BOCC's authority to adopt Resolution Nos. 052-25 and 95-25; (b) the ballot language

adopted by the BOCC; and, (c) authorized uses of tax proceeds which would be collected if the ballot measure were to be passed.

31. It is in the public interest, including the interest of the parties to this case and the voters of Johnson County, Kansas, for the Court to remove the cloud of uncertainty by resolving the actual controversy created by the issuance of AG Opinion 2025-13.

COUNT I – BOARD AUTHORITY

32. Plaintiff BOCC hereby incorporates the allegations of paragraphs 1-31 above as though fully set forth herein.

33. Defendant Kris W. Kobach, in AG Opinion No. 2025-13 and in other public statements, has erroneously declared that the BOCC acted without authority and in an illegal fashion in adopting a resolution to place the public safety tax on the ballot for Johnson County voters.

34. Defendant Kris W. Kobach, in AG Opinion No. 2025-13, has expressed the erroneous opinion that the actions of the BOCC, in adopting Resolution No. 052-25, were “null and void” because of what the Attorney General describes as a lack of authority.

35. The BOCC acted within the authority granted by statute and in compliance with Kansas Law generally in placing the public safety tax on the ballot and the BOCC’s actions in doing so are neither null nor void.

36. There is, as set forth hereinabove, an actual controversy between the Kansas Attorney General Kris W. Kobach and the Johnson County, Kansas Board of County Commissioners such that a declaratory judgment is appropriate pursuant to Chapter 60, Article 17 of the Kansas Code of Civil Procedure.

WHEREFORE, Plaintiff prays that this Court, pursuant to Chapter 60, Article 17 of the Kansas Code of Civil Procedure, grant declaratory judgment as follows:

- (a) that the BOCC acted within its legal authority in adopting Resolution No. 052-25;
- (b) that the BOCC acted within its legal authority in adopting Resolution No. 095-25;
- (c) that Resolution No. 052-25 is neither null nor void;
- (d) that Resolution No. 095-25 is neither null nor void; and,
- (e) for the costs of this action and for such other and further relief as this Court may deem just and equitable under the circumstances.

COUNT II – BALLOT LANGUAGE

37. Plaintiff BOCC hereby incorporates the allegations of paragraphs 1-36 above as though fully set forth herein.

38. In Resolution Nos. 052-25 and 095-25, the BOCC adopted the following ballot language:

Shall the Board of County Commissioners of Johnson County, Kansas, adopt, extend, renew, and impose for a period of ten (10) years a one-fourth (1/4) of one-cent countywide retailers' sales tax in Johnson County, Kansas, commencing April 1, 2027, with proceeds from the tax to be distributed as required by law to the County and the cities in Johnson County, with the county share to be used for the purpose of financing the costs of construction, renovation, repair, maintenance, operation and personnel expenses of public safety projects, facilities, and programs, including but not limited to emergency/ambulance/911 services, Sheriff's Office, mental health crisis intervention, emergency preparedness/disaster response, and criminal justice system?

39. In AG Opinion No. 2025-13, Defendant Kris W. Kobach expresses the erroneous opinion that the BOCC may not use the term "renewal" to describe the continued imposition of the one-fourth (1/4) cent retailers' tax which is currently being collected in Johnson County and which is set to expire unless further voter authorization is given.

40. Neither K.S.A. 12-187(b)(21) nor Kansas Law generally prohibits the use of the term “renewal” to describe the public safety tax which would be imposed by passage of the ballot question adopted pursuant to Resolution Nos. 052-25 and 095-25.

41. In AG Opinion No. 2025-13, Defendant Kris W. Kobach expresses the erroneous opinion that the ballot measure may not seek approval of a public safety tax to be spent, in part, for the purposes of “mental health crisis intervention,” “emergency/ambulance/911 services,” or “emergency preparedness/disaster response.”

42. Neither K.S.A. 12-187(b)(21) nor Kansas Law generally prohibit a ballot measure seeking approval of a public safety tax to be spent, in part, for the purposes of “mental health crisis intervention,” “emergency/ambulance/911 services,” or “emergency preparedness/disaster response.”

43. In AG Opinion No. 2025-13, Defendant Kris Kobach erroneously opines that the ballot language fails to express an intent to spend tax proceeds on both “construction and operation” of public safety projects.

44. In fact, the ballot language recited in Resolution Nos. 052-25 and 095-25 calls for “proceeds from the tax *to be distributed as required by law* to the county and the cities in Johnson County, with the county share to be used for the purposes of financing the costs of **construction, renovation, repair, maintenance, operation and personal expenses** of public safety projects...”. (Emphasis added).

45. Further, even if the ballot language had not explicitly expressed intent to use proceeds for both construction and operations, there is no case law previously interpreting K.S.A.

12-187(b)(21) or any other existing legal authority which would nullify the ballot language for failure to adequately express the intent to use proceeds for both construction and operations.

46. There is, as set forth hereinabove, an actual controversy between the Kansas Attorney General Kris W. Kobach and the Johnson County, Kansas Board of County Commissioners such that a declaratory judgment is appropriate pursuant to Chapter 60, Article 17 of the Kansas Code of Civil Procedure.

WHEREFORE, Plaintiff prays that this Court, pursuant to Chapter 60, Article 17 of the Kansas Code of Civil Procedure, grant declaratory judgment as follows:

(a) that there is no legal defect in the ballot language adopted by the BOCC in Resolution No. 052-25 or Resolution No. 095-25;

(b) that there is no legal impediment in proceeding to set and hold an election for citizens of Johnson County, Kansas to vote on the ballot language adopted by the BOCC in Resolution No. 052-25 and Resolution No. 095-25 and such election may proceed in the manner and on the date set forth in Resolution 095-25;

(c) that there is no legal prohibition, either in K.S.A. 12-187 specifically or Kansas law generally, on describing the imposition of the tax as a “renewal” in the ballot question;

(d) that neither K.S.A. 12-187(b)(21) nor Kansas Law generally prohibit a ballot measure seeking approval of a public safety tax to be spent, in part, for the purposes of “mental health crisis intervention,” “emergency/ambulance/911 services,” or “emergency preparedness/disaster response;”

(e) that the ballot language recited in Resolution Nos. 052-25 and 095-25 complies with K.S.A. 12-187(b) specifically and Kansas Law generally in that it call for calls for

“proceeds from the tax to be distributed as required by law to the county and the cities in Johnson County, with the county share to be used for the purposes of financing the costs of construction, renovation, repair, maintenance, operation and personal expenses of public safety projects...”; and,

(f) for the costs of this action and for such other and further relief as this Court may deem just and equitable under the circumstances.

COUNT III – USE OF TAX PROCEEDS

47. Plaintiff BOCC hereby incorporates the allegations of paragraphs 1-46 above as though fully set forth herein.

48. In AG Opinion No. 2025-13, Defendant expresses the erroneous opinion that, even if the ballot measure should pass, the tax proceeds contemplated by the tax question could only be spent in the manner set forth in AG Opinion No. 2025-13 in that: (a) the revenue could be used only for construction of new facilities “with the tax providing necessary funding for the operation of these facilities and related programs;” and, (b) tax revenue could not be spent for the purposes of “mental health crisis intervention,” “emergency/ambulance/911 services,” or “emergency preparedness/disaster response.”

49. The limitations on permissible tax revenue expenditures articulated by the Defendant in AG Opinion No. 2025-13 are neither clear, practical nor supported by Kansas Law including K.S.A. 12-187.

50. There is, as set forth hereinabove, an actual controversy between the Kansas Attorney General Kris W. Kobach and the Johnson County, Kansas Board of County

Commissioners such that a declaratory judgment is appropriate pursuant to Chapter 60, Article 17 of the Kansas Code of Civil Procedure.

WHEREFORE, Plaintiff prays that this Court, pursuant to Chapter 60, Article 17 of the Kansas Code of Civil Procedure, grant declaratory judgment to the effect that the future expenditure of tax revenue pursuant to Resolution No. 095-25 is not limited in the manner suggested by AG Opinion No. 2025-13 and that, as to the expenditure of future tax revenue, AG Opinion No. 2025-13 is not binding on the BOCC, any other governing body or any other citizen of Kansas and is an incorrect statement of Kansas Law. Plaintiff further prays that this Court enter judgment against Defendant for the costs of this action and for such further relief as this court may deem just and equitable under the circumstances.

Pursuant to Local Rule 3.7, the undersigned hereby certifies that no portion of the Petition for Declaratory Judgment was drafted/prepared using Generative A.I.

Dated: August 8, 2025

Respectfully Submitted,

/s/ Curtis L. Tideman
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LATHROP GPM LLP
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Telephone: (816) 292-2000
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and

/s/ Cynthia Dunham
Cynthia Dunham – KS Bar #13851
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111 S. Cherry Street, Suite 3200
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cynthia.dunham@jocogov.org

ATTORNEYS FOR PLAINTIFF BOARD OF COUNTY
COMMISSIONERS OF JOHNSON COUNTY, KANSAS

EXHIBIT

A

*BOARD OF COUNTY COMMISSIONERS OF JOHNSON
COUNTY, KANSAS V. KRIS W. KOBACH, ATTORNEY
GENERAL OF THE STATE OF KANSAS
CASE NO. _____*

RESOLUTION NO. 052-25

A RESOLUTION PROPOSING THE ADOPTION OF A RENEWAL OF THE EXISTING ONE-FOURTH (1/4) OF ONE CENT COUNTYWIDE RETAILERS' SALES TAX FOR PUBLIC SAFETY PURPOSES PURSUANT TO K.S.A. 12-187(b)(21), PROVIDING NOTICE OF INTENT TO SUBMIT THE PROPOSITION TO THE VOTERS, CERTIFYING A BALLOT QUESTION FOR AN ELECTION, AND SETTING THE DATE OF THE ELECTION FOR THE NEXT GENERAL ELECTION, SCHEDULED FOR NOVEMBER 4, 2025

At a regular meeting of the Board of County Commissioners of Johnson County, Kansas (Board) held on May 8, 2025, there came before the Board for consideration on the matter of adopting Resolution No. 052-25 submitting to the electors the renewal of the existing one-fourth (1/4) of one cent countywide retailers' sales tax in Johnson County, for a period of ten (10) years for the purpose of financing the construction, renovation, maintenance, operation costs and personnel expenses of public safety projects and providing notice of intent to submit the proposition to the voters, certifying a ballot question for an election, and setting the date of the election for the next general election scheduled for November 4, 2025.

The Board, after discussion and consideration, upon a motion duly made, seconded and carried, adopted the following Resolution No. 052-25, to wit:

WHEREAS, Johnson County, Kansas, has experienced significant population growth over the past 15 years, including a rapid increase in residents aged 65 and older;

WHEREAS, this growth has led to increasing demand for essential public safety services, including emergency medical and ambulance services, mental health responsive services, and emergency preparedness;

WHEREAS, the demand for these services is projected to grow substantially in the coming years as the population continues to age and as the region faces new public safety and health challenges;

WHEREAS, Johnson County remains concerned about declining or uncertain state and federal funding for essential services, which places greater responsibility on local governments to ensure community safety and service continuity;

WHEREAS, the current Public Safety Sales Tax III (PSST III), approved by Johnson County voters in November 2016, is set to expire on March 31, 2027;

WHEREAS, the Board is the Governing Body of Johnson County, Kansas is charged with the authority and responsibility for conducting the business of the County Government and performing the requirements of State and Federal law;

WHEREAS, the citizens of Johnson County have always and do now consider public safety and the administration of justice as a major priority of the County;

WHEREAS, the provisions of K.S.A. 12-187(b)(21) authorizes the Board to impose a renewal of the existing one-fourth (1/4) of one cent (or one-quarter (0.25%) of a cent) countywide retailers' sales tax, PSST III, for a period of ten (10) years, if approved by voters, for the purpose of financing the construction and operation costs of public safety projects.

WHEREAS, renewal of the existing PSST III at the current 0.25% rate will enable continued funding for both the construction and operational costs of public safety projects without increasing the overall tax burden on residents;

WHEREAS, such renewal allows the County to protect its AAA bond rating, manage rising costs due to inflation and growth, and sustain high-quality public safety services;

WHEREAS, the continuation of this dedicated sales tax will provide stable, voter-approved funding for essential public safety projects including initiatives and/or operational needs;

WHEREAS, renewing this tax at the existing rate will not increase the current sales tax burden but will extend a vital revenue source that has historically funded projects essential to the safety and well-being of all Johnson County residents and visitors;

WHEREAS, a public safety project under K.S.A. 12-187(21) encompasses a broad range of initiatives aimed at enhancing public safety including, but not limited to, programs, services, equipment, and facilities;

WHEREAS, Johnson County's public safety departments and programs, including but not limited to: Emergency Medical/Ambulance Services (MED-ACT), Mental Health Responsive Services, Emergency Preparedness & Disaster Response, Sheriff's Office, Department of Corrections, District Courts and District Attorney's Office provide services to protect the health and safety of our residents and visitors;

WHEREAS, revenue from the tax shall continue to be shared with cities pursuant to state law; and

WHEREAS, the Board of County Commissioners finds it is advisable to propose the adoption, for a period of ten (10) years, of the renewal of the one-fourth (1/4) of one cent retailers' sales tax, PSST III, within Johnson County for public safety purposes, to dedicate the revenue generated from the tax to the capital, operational and financing costs for public safety and administration of justice projects, facilities and programs, and to submit the proposition to the

voters at an election to be held on the date of the next general election, scheduled for November 4, 2025.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF JOHNSON COUNTY, KANSAS, that:

Section 1. That the foregoing recitals are incorporated in and made a part of this resolution by this reference.

Section 2. Call of Election. An election shall be and hereby is called and shall be held and conducted in the manner provided by law at the time of the scheduled general election on Tuesday, November 4, 2025, for the purpose of submitting the proposition in this resolution to the qualified voters of Johnson County, of whether to renew the existing one fourth (1/4) of a cent countywide retailers' sales tax for public safety purposes, known as Public Safety Sales Tax III, for an additional ten-year term commencing April 1, 2027, and the Election Commissioner is hereby requested and authorized to take such actions as are required or advisable to conduct the election.

Section 3. Proposition. The Board of County Commissioners of Johnson County shall and hereby does propose to adopt and levy, for a period of ten (10) years, an additional one-fourth (1/4) of a cent countywide retailers' sales tax within Johnson County with the proceeds from the tax to be distributed as required by the law to the County and the cities in Johnson County, with the County share of the revenue to be dedicated for the purpose of financing the costs of construction, renovation, repair, maintenance, operation and personnel expenses of public safety projects, facilities, and programs, including but not limited to emergency/ambulance/911 services, Sheriff's Office, mental health crisis intervention, emergency preparedness/disaster response, and criminal justice system.

Section 4. Notice of Intent. The Board of County Commissioners does hereby provide Notice of Intent to adopt and impose, for a period of ten (10) years, commencing on April 1, 2027 and

terminating on March 31, 2037, an additional one-fourth (1/4) of a cent countywide retailers' sales tax within Johnson County as provided in this resolution, and states its intent to present that proposition to a vote of the electors of the County.

Section 5. Certification of Ballot Proposition. The proposition to be voted on shall be and hereby is certified and submitted to the Election Commissioner for submission to the voters of Johnson County at an election called for the purpose in the manner provided by law:

“Shall the Board of County Commissioners of Johnson County, Kansas, adopt, renew, and impose for a period of ten (10) years a one-fourth (1/4) of one-cent countywide retailers' sales tax in Johnson County, Kansas, commencing April 1, 2027, with proceeds from the tax to be distributed as required by law to the County and the cities in Johnson County, with the county share to be used for the purpose of financing the costs of construction, renovation, repair, maintenance, operation and personnel expenses of public safety projects, facilities, and programs, including but not limited to emergency/ambulance/911 services, Sheriff's Office, mental health crisis intervention, emergency preparedness/disaster response, and criminal justice system?”

Section 6. Authorization. The County Election Commissioner is hereby requested to give notice of the election and to conduct said election according to law.

Section 7. Effective Date. This resolution shall be effective upon its adoption and publication as required by law.

Section 8. Sunset Date. The tax will automatically be sunset on March 31, 2037, unless reauthorized by voters.

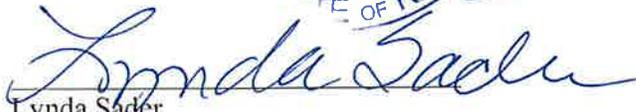
ADOPTED THIS 8th DAY OF MAY 2025.



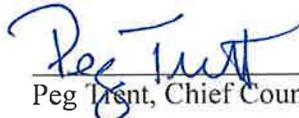
BOARD OF COUNTY COMMISSIONERS
OF JOHNSON COUNTY, KANSAS


Mike Kelly, Chair

ATTEST:


Lynda Sader
Deputy County Clerk

APPROVED AS TO FORM:


Peg Trent, Chief Counsel

Resolution No. 052-25

Approved 6-1(MA)
FILED
MAY 08 2025
DEPUTY COUNTY CLERK
JOHNSON COUNTY KANSAS

EXHIBIT

B

*BOARD OF COUNTY COMMISSIONERS OF JOHNSON
COUNTY, KANSAS V. KRIS W. KOBACH, ATTORNEY
GENERAL OF THE STATE OF KANSAS
CASE NO. _____*

STATE CAPITOL
TOPEKA, KANSAS 66612
(785) 296-7362
mtnoagw@gmail.com



TOPEKA

SENATE CHAMBER

MIKE THOMPSON
STATE SENATOR, 10TH DISTRICT
mike.thompson@senate.ks.gov
CHAIR: FEDERAL & STATE AFFAIRS
COMMITTEE

June 4, 2025

The Honorable Kris W. Kobach
Kansas Attorney General
Office of the Solicitor General
120 SW 10th Avenue, 2nd Floor
Topeka, KS 66612-1597

Dear Attorney General Kobach:

As State Senator for the 10th District and pursuant to K.S.A. 75-704, I respectfully request your opinion upon the following questions of law:

1. Does the countywide retailers' sales tax authority granted under K.S.A. 2024 Supp. 12-187(b)(21) require the board of county commissioners to pledge and use such revenue for both the construction and the operation of public safety projects in order to lawfully rely upon such statutory authority?
2. Do mental health services and emergency medical services constitute "public safety projects" under K.S.A. 2024 Supp. 12-187(b)(21)?
3. Whether the description of the proposition as a "renewal" of an existing countywide retailers' sales tax is proper, and if it is not proper, is the description as a renewal fatal to the proposition?
4. Whether the scope of the ballot proposition in Resolution No. 052-25 adopted by the board of county commissioners of Johnson County on May 8, 2025, is within the statutory grant of authority set forth in K.S.A. 2024 Supp. 12-187(b)(21), and if not, whether the conflict renders the resolution null and void?

As background, on May 8, 2025, the board of county commissioners of Johnson County adopted Resolution No. 052-25 proposing "renewal of the existing one-fourth (1/4) of one cent countywide retailers' sales tax in Johnson County, for a period of ten (10) years for the purpose of financing the construction, renovation, maintenance, operation costs and personnel expenses of public safety projects and providing notice of intent to submit the proposition to the voters, certifying a ballot question for an election, and setting the date of the election for the next general election scheduled for November 4, 2025." The ballot proposition is as follows:

"Shall the Board of County Commissioners of Johnson County, Kansas, adopt, renew, and impose for a period of ten (10) years a one-fourth (1/4) of one-cent countywide retailers' sales tax in Johnson County, Kansas, commencing April 1, 2027, with proceeds from the tax to be distributed as required by law to the County and the cities in Johnson County, with the county share to be used for the purpose of financing the costs of construction, renovation, repair, maintenance, operation and personnel expenses of public safety projects, facilities, and programs, including but not limited to emergency/ambulance/911 services, Sheriff's Office, mental health crisis intervention, emergency preparedness/disaster response, and criminal justice system?"



TOPEKA

SENATE CHAMBER

In Resolution No. 052-25, the County relies upon the statutory authority granted in K.S.A. 2024 Supp. 12-187(b)(21) that provides:

"The board of county commissioners of Johnson county may submit the question of imposing a countywide retailers' sales tax at the rate of 0.25% and pledging the revenue received therefrom for the purpose of financing the construction and operation costs of public safety projects, including, but not limited to, a jail, detention center, sheriff's resource center, crime lab or other county administrative or operational facility dedicated to public safety, to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire after 10 years from the date such tax is first collected. The countywide retailers' sales tax imposed pursuant to this subsection may be extended or reenacted for additional periods not exceeding 10 years upon the board of county commissioners of Johnson county submitting such question to the electors at an election called and held thereon for each additional ten-year period as provided by law."

Although the 2025 ballot question includes a reference to construction, it appears from other evidence that the County's intent may be to use the revenue solely to support operational programs without the construction of any qualifying capital projects. This is distinguishable from the November 2016 retailers' sales tax question in which it was clear that the County's share of the revenues would be dedicated to "the costs of construction and operation of public safety projects, including the construction, equipping, and furnishing of a courthouse building and a coroner facility, together with the costs to demolish the existing courthouse, and for the costs of programs and facilities related to those projects, including the courts, administration of justice, and District Attorney." Resolution No. 042-16.

There is concern that without construction of a public safety capital project any countywide retailers' sales tax imposed under this 2025 ballot question would be illegal. Further, there is concern that the 2025 ballot question is not a renewal of the existing countywide retailers' sales tax because it enlarges the scope to finance programs beyond the 2016 proposition for the new courthouse.

The statutory language of K.S.A. 2024 Supp. 12-187(b)(21) provides a non-exclusive list of public safety projects for which the construction and operation can be financed with the proceeds from the retailers' sales tax under subsection (b)(21): "[P]ublic safety projects, including, but not limited to, a jail, detention center, sheriff's resource center, crime lab or other county administrative or operational facility dedicated to public safety." Notably, the list of "public safety projects" consists of physical, capital facilities dedicated to public safety, not the provision of services or programs alone.

There is also a question of whether the "emergency/ambulance/911 services" and "mental health crisis intervention" enumerated in the ballot proposition fall within the definition of "public safety projects" under K.S.A. 2024 Supp. 12-187(b)(21). In another grant of authority, K.S.A. 2024 Supp. 12-187(b)(5), the legislature specifically defined "health care services" to include mental health services and emergency medical services. The County, however, is not relying upon the authority of subsection (b)(5). The "public safety projects" listed in subsection (b)(21) appear to relate to law enforcement related public safety facilities, not health care services or programs. There is some concern that reclassifying these health care services as public safety projects is in direct conflict of statutory definitions and is therefore unlawful under subsection (b)(21).

For these reasons, I am seeking your opinion. Your prompt response would be greatly appreciated. I believe time is of the essence as the election is scheduled for November 4, 2025.

STATE OF KANSAS

STATE CAPITOL
TOPEKA, KANSAS 66612
(785) 296-7362
mfnoagw@gmail.com



TOPEKA

SENATE CHAMBER

MIKE THOMPSON

STATE SENATOR, 10TH DISTRICT
mike.thompson@senate.ks.gov

CHAIR: FEDERAL & STATE AFFAIRS
COMMITTEE

Sincerely,

Mike Thompson

Senator Mike Thompson
10th District

EXHIBIT

C

*BOARD OF COUNTY COMMISSIONERS OF JOHNSON
COUNTY, KANSAS V. KRIS W. KOBACH, ATTORNEY
GENERAL OF THE STATE OF KANSAS
CASE NO. _____*



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

KRIS W. KOBACH
ATTORNEY GENERAL

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June 18, 2025

Peggy A. Trent
Chief Counsel, Johnson County
Johnson County Administration Building
111 South Cherry Street, Suite 3200
Olathe, Kansas 66061

Via email to peg.trent@jocogov.org
Hard copy will not follow.

Re: Attorney General Opinion Request

Dear Ms. Trent:

Our office has received the enclosed request for an Attorney General opinion from Senator Mike Thompson.

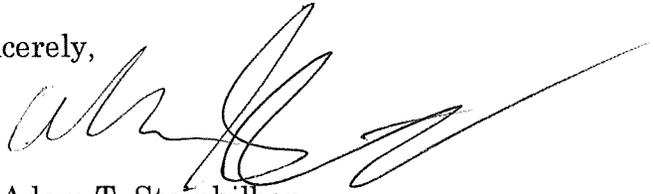
The inquiry and our response might fall within areas in which your organization may have expertise or an interest. In an effort to consider your position in the matter, we invite you to provide us with any information or legal arguments relating to statutes, regulations, court decisions, administrative proceedings, and policy statements that you deem relevant to the issue to be addressed. If you wish to do so, please provide your input within fourteen days of the date of this letter.

Please be advised that any input you provide will be subject to the Kansas Open Records Act, K.S.A. 45-215, et seq.

If you have or acquire knowledge of any legal or administrative proceedings pending or to be filed regarding the issues of the opinion request, please notify us immediately.

Thank you for your assistance in this matter of mutual concern.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam T. Steinhilber', with a long horizontal flourish extending to the right.

Adam T. Steinhilber
Assistant Solicitor General

Enclosure

EXHIBIT

D

*BOARD OF COUNTY COMMISSIONERS OF JOHNSON
COUNTY, KANSAS V. KRIS W. KOBACH, ATTORNEY
GENERAL OF THE STATE OF KANSAS
CASE NO. _____*

PEGGY A. TRENT
Chief Counsel
Direct: (913) 715-1840
peg.trent@jocogov.org

Adam.Steinhilber@ag.ks.gov

July 2, 2025

VIA EMAIL:

Adam T. Steinhilber
Assistant Solicitor General
Office of the Attorney General
120 SW 10th Ave, 2nd Floor
Topeka, KS 66612-1597

Re: Response to the Attorney General's Opinion Request Regarding the Ballot Language for the Proposed Public Safety Tax in Johnson County: The Use Of Sales Tax Revenue, Definition of Public Safety Projects, Description Of The Proposition As A Renewal, And The Scope Of The Ballot Proposition.

Dear Mr. Steinhilber:

Thank you for the opportunity for Johnson County to provide input on Senator Mike Thompson's request for an Attorney General opinion regarding the ballot proposition adopted by the Board of County Commissioners of Johnson County, Kansas, on May 8, 2025. As proposed, the voters of Johnson County will consider at the November 4, 2025 general election whether to adopt a one-fourth (1/4) of one-cent countywide retailers' sales tax for ten (10) years commencing on April 1, 2027. As discussed below, the ballot proposition complies with K.S.A. 12-187(b)(21).

Background

On March 27, 2025, the Board of County Commissioners ("Board") adopted its "Focus Areas" for 2025-26.¹ The Board's Focus Areas include "Health and Safety" and "Fiscal Health." Under the Health and Safety area, the Board identified multiple initiatives, including providing high-quality emergency medical services, identifying and enhancing partnerships with the Sheriff's Office, and evaluating and implementing infrastructure improvements. The Board's focus includes ensuring sufficient long-term revenues for the County's fiscal health.

¹ The Board's Focus Areas are found at [Board of County Commissioners 2025-26 Focus Areas | Johnson County Kansas](#).

Johnson County's demand for public safety services is increasing due to population growth, an aging population, and the growing complexity of emergency responses. Emergency medical services are responding to more high-acuity calls, particularly among older adults, and our public safety system is increasingly addressing mental health crises alongside traditional law enforcement. At the same time, inflation and workforce pressures are driving up the cost of delivering these essential services. There is also uncertainty about state and federal funding for essential services.

After multiple study sessions, reviewing options for long-term fiscal health, and receiving stakeholder feedback, on May 8, 2025, the Board adopted Resolution No. 052-25 certifying and submitting the following proposition ("Ballot Proposition") to Johnson County voters at the November 4, 2025, general election:

"Shall the Board of County Commissioners of Johnson County, Kansas, adopt, renew, and impose for a period of ten (10) years a one-fourth (1/4) of one-cent countywide retailers' sales tax in Johnson County, Kansas, commencing April 1, 2027, with proceeds from the tax to be distributed as required by law to the County and the cities in Johnson County, with the county share to be used for the purpose of financing the costs of construction, renovation, repair, maintenance, operation and personnel expenses of public safety projects, facilities, and programs, including but not limited to emergency/ambulance/911 services, Sheriff's Office, mental health crisis intervention, emergency preparedness/disaster response, and criminal justice system?"

A copy of Resolution No. 052-25 is attached.

The Ballot Proposition is authorized by K.S.A. 12-187(b)(21), which provides:

"The board of county commissioners of Johnson county may submit the question of imposing a countywide retailers' sales tax at the rate of 0.25% and pledging the revenue received therefrom for the purpose of financing the construction and operation costs of public safety projects, including, but not limited to, a jail, detention center, sheriff's resource center, crime lab or other county administrative or operational facility dedicated to public safety, to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire after 10 years from the date such tax is first collected. The countywide retailers' sales tax imposed pursuant to this subsection may be extended or reenacted for additional periods not exceeding 10 years upon the board of county commissioners of Johnson county submitting such question to the electors at an election called and held thereon for each additional ten-year period as provided by law."

In Resolution No. 052-25, the Board recognizes that significant growth and increasing demand for public safety services requires the Ballot Proposition. The Board further clarifies that "a public safety project under K.S.A. 12-187(b)(21) encompasses a broad range of initiatives aimed at enhancing public safety, including, but not limited to, programs, services, equipment, and facilities." Continuing, the Board explains:

“.... Johnson County’s public safety departments and programs, including but not limited to: Emergency Medical/Ambulance Services (MED-ACT), Mental Health Responsive Services, Emergency Preparedness & Disaster Response, Sheriff’s Office, Department of Corrections, District Courts and District Attorney’s Office provide services to protect the health and safety of our residents and visitors; ... Johnson County’s public safety project needs include, but are not limited to, program improvements (e.g., mental health co-responder programs, new emergency dispatch services, re-entry programs for detainees, etc.); public safety staffing enhancements; operational support for expanding services in response to population growth or emergencies; technology upgrades tied to public safety (e.g., body-worn cameras, emergency communications systems such as 9-1-1 enhancements)”²

Based on the growing need for these essential public safety services, the Board adopted the Ballot Proposition for submission to the Johnson County voters at the November 2025 general election.

Senator Thompson’s Request

Senator Thompson has requested an Attorney General’s opinion on four questions. A corresponding response is provided to each question.

1. Does the countywide retailers’ sales tax authority granted under K.S.A. 12-187(b)(21) require the Board of County Commissioners to pledge and use such revenue for both the construction and the operation of public safety projects in order to lawfully rely upon such statutory authority?

K.S.A. 12-187(b)(21) clearly and unequivocally authorizes submission of the Ballot Proposition as adopted by the Board to the voters of Johnson County. Senator Thompson attempts to challenge the Board’s authority to submit the Ballot Proposition through a tortured reading of the statute. This misdirected attempt ignores the plain language of K.S.A. 12-187(b)(21) and twists the straightforward wording found in the statute.

This first question appears to seek a statutory interpretation of K.S.A. 12-187(b)(21). The rules of statutory interpretation are well-known.³ As the Attorney General stated in a recent opinion regarding a different subsection of K.S.A. 12-187(b): “Statutory interpretation begins with the statutory text, giving words their ordinary and everyday meanings. Only when the statutory language is ambiguous do Kansas courts turn to canons of construction or legislative history.”⁴

² Resolution No. 052-25 at page 3.

³ When construing a statute, Kansas law directs courts to “give words in common usage their natural and ordinary meaning.” *Finstad v. Washburn Univ.*, 252 Kan. 465, 845 P.2d 685, 690 (1993) Courts should “examine the language of the provision and apply plain and unambiguous language as written.” *State v. Marks*, 313 Kan. 717, 490 P.3d 1160, 1163 (2021). “In determining legislative intent, we are not limited to consideration of the language used in the statute but may look to the purpose to be accomplished and the effect the statute may have under the various constructions suggested.” *Finstad*, 845 P.2d at 690.

⁴ Attorney General Opinion No. 2025-9 (May 19, 2025) citing *Bruce v. Kelly*, 316 Kan. 218, 224, 514 P.3d 1007 (2002) and *State v. Smith*, 311 Kan. 109, 113, 456 P.3d 1004 (2020).

K.S.A. 12-187(b)(21) expressly authorizes a Johnson County ballot proposition for the purpose of “financing the construction and operation costs of public safety projects” This authorization is then followed by a list of potential public safety projects preceded by the phrase “including, but not limited to.” As recognized in Attorney General Opinion No. 2004-24, when construing the meaning of another statutory list:

“However, since the list is preceded by the words “including but not limited to,” the longstanding statutory construction maxim of *expressio unius est exclusio alterius* (the mention of one thing implies the exclusion of other things not mentioned) is not applicable.”⁵

This non-exhaustive list encompasses various types of projects and concludes with a broad, general description of “other county administrative or operational facility dedicated to public safety.” This expansive language confirms that a sales tax may finance a wide range of public safety projects and operational costs under this statute. The guidance provided by the examples included in the non-exclusive list confirms that construction and operational programs fall within the scope of the statute.

Notably missing from this broad language is any suggestion that a ballot proposition must expressly include and identify **both** the construction of a specific capital project and operational programs. The legislature’s failure to include the word “both” precludes Senator Thompson’s attempted insertion of the word into the plain wording of the statute years after its enactment. Further, the use of the word “and” does not support Senator Thompson’s argument. As the United States Supreme Court recently observed while interpreting the use of “and” in a different statute: “. . . conjunctions are versatile, which can work differently depending on context.”⁶ The Supreme Court emphasized that when reviewing conjunctive words and lists in a statute, the context matters.⁷

Here, the context is clear. K.S.A. 12-187(b)(21) provides for a broad range of public safety projects and programs, without requiring a specific project or program to be included on the ballot. While statutory language clearly allows for the identification of a capital project, it in no way requires such a project. To the contrary, the broad language and use of the phrase “including but not limited to” requires the opposite conclusion. Additionally, if Senator Thompson’s argument were followed, then the County could not pursue a ballot project for a capital project without also including operational costs. For example, under the Senator’s unreasonable interpretation, the County could not ask the voters to approve a sales tax for the construction of a jail expansion without also including operational programs and costs related to public safety. This interpretation is not supported by the ordinary and plain text of K.S.A. 12-187(b)(21). Similarly, Senator Thompson’s citation of the 2016 ballot proposition language does not support his current interpretation of the statute. While the 2016 ballot proposition identified capital projects

⁵ Attorney General Opinion No. 2004-24 (July 30, 2004). *See also*, Attorney General Opinion 2017-6 (February 9, 2017). A list preceded by “included, but not limited to” is non-exhaustive. *Cooper Distrib. Co. v. Amana Refrigeration, Inc.*, 63 F.3d 262, 280 (3d Cir. 1995); *United States v. West*, 671 F.3d 1195, 1198–99 (10th Cir. 2012).

⁶ *Pulsifer v. United States*, 601 U.S. 124, 151, 144 S. Ct. 718, 218 L.Ed.2d 77 (2024).

⁷ “Further, the term “and” does not always create a conjunctive list where every item in the list must be satisfied for the condition to be met.” *Bonney Forge Corporation v. United States*, 2025 WL 1304590 at page 7 (Ct. Intl. Trade May 6, 2025), citing *Pulsifer, Id.*

(construction of a courthouse and coroner facility), the 2016 ballot wording does not alter the plain language of K.S.A. 12-187(b)(21) nor does it preclude a differently worded ballot proposition so long as that proposition complies with the statute. In other words, the 2016 ballot language does not suggest or support an argument that the current Ballot Proposition is not proper under K.S.A. 12-187(b)(21).

The Ballot Proposition, as written, is authorized under K.S.A. 12-187(b)(21). When reviewed in the context of the ordinary and plain language of the statute, the Ballot Proposition provides for public safety projects and operational costs as contemplated and approved by K.S.A. 12-187(b)(21).

2. Do mental health services and emergency medical services constitute “public safety projects” under K.S.A. 12-187(b)(21)?

Under K.S.A. 12-187(b)(21), the Kansas State Legislature has authorized the Board to present a retailers’ sales tax to Johnson County voters to finance “public safety projects.” The statute defines “public safety projects” as including facilities dedicated to public safety, but also specifies the phrase “including but not limited to.” This wording suggests that the list of public safety projects is intended to be illustrative rather than exhaustive, allowing for flexibility in defining what constitutes a public safety project, both in terms of facilities and programs.

In the context of county government, “public safety” encompasses a wide range of responsibilities aimed at protecting the health, welfare, and general safety of the public. This includes emergency services, environmental regulations, public health measures, and law enforcement. These measures are designed to address both immediate threats and ongoing safety concerns within the community. The Supreme Court of Kansas addressed the meaning of “public safety” in the case of *City of Lincoln Center v. Farmway Co-Op Inc.*, 298 Kan. 540, 552-53, 316 P.3d 707, 716 (2013). The Court’s discussion treats “public safety,” “public health,” and “public welfare” as similar concepts, defining “public health” as “[t]he health of the community at large,” “public safety” as “[t]he welfare and protection of the general public, usually expressed as a governmental responsibility,” and “public welfare” as “[a] society’s well-being in matters of health, safety, order, morality, economics, and politics.” This legal terminology commonly encompasses all three concerns, as seen in *Small v. Kemp*, 240 Kan. 113, 116-17, 727 P.2d 904, 909 (1986).

The proposed ballot language specifies the use of the retailers’ sales tax for “emergency/ambulance/911 services” and “mental health crisis intervention.” The issue raised by Senator Thompson seems to conflate “emergency medical services” with the specific services listed in the ballot language. While they are related, “emergency/ambulance/911 services” as outlined in the ballot language focus more directly on public safety by ensuring the protection of citizens during emergencies. Emergency services in Johnson County include divisions such as MED-ACT, Emergency Management, and Emergency Communications, which oversee 911 services and public safety dispatch centers. MED-ACT, along with emergency management and communications, plays a crucial role in the County’s emergency response system, working in tandem with traditional law enforcement and fire services to protect the public during medical emergencies. This phrasing of the ballot language clearly outlines the scope of the tax, focusing on specific public safety functions that align with K.S.A. 12-187(b)(21).

Additionally, the ballot language emphasizes “mental health crisis intervention” instead of general mental health services. This focus underscores the importance of specialized responses to mental health emergencies, which are crucial for maintaining public safety. Johnson County’s comprehensive mental health crisis intervention system coordinates efforts between law enforcement and mental health professionals, effectively reducing unnecessary arrests and hospitalizations while addressing mental health needs. This focus aligns with the public safety objectives outlined in K.S.A. 12-187(b)(21).

Furthermore, the Attorney General has long recognized a strong deference to the decisions of local voters regarding ballot measures for the imposition of sales taxes. For example, in Attorney General Opinion No. 2014-21 evaluating a sales tax intended to be imposed to finance the costs of an area technical college, the Attorney General stated: “... if the electors of a city, by voting to approve a proposed sales tax, determine that providing funds to an area technical college serves a valid public purpose, we believe a court would likely defer to that judgment.”⁸

In conclusion, the ballot language is consistent with K.S.A. 12-187(b)(21), which authorizes the funding of public safety projects, including facilities and programs for “emergency/ambulance/911 services” and “mental health crisis intervention,” dedicated to public safety.

3. Whether the description of the proposition as a “renewal” of an existing countywide retailers’ sales tax is proper, and if it is not proper, is the description as a renewal fatal to the proposition?

K.S.A. 12-187(b)(21) outlines the process for implementing countywide retailers’ sales taxes and allows county commissioners to “extend or reenact” these taxes for additional periods. According to the statute, a tax can be “extended or reenacted” if there was a previously authorized tax that has either expired and is being reinstated or is still in effect and being extended before its expiration.⁹ The statute further requires that any extension or reenactment be submitted to voters during an election, with the ballot language accurately reflecting the legal authority in question.

In 2016, voters in Johnson County approved a one-fourth (1/4) cent countywide retailers’ sales tax, effective from April 1, 2017, through March 31, 2027. This ten-year authorization serves as the basis for “renewal” language. The proposed ballot seeks to continue this type of tax immediately upon the expiration of the current approval, ensuring continuity in funding for public safety services. The proposed tax would begin on April 1, 2027, the day after the current tax expires, to continue financing public safety projects, facilities, and programs.¹⁰

Given Johnson County's 2016 voter approval of a public safety countywide retailers' sales tax that expires in 2027, “renewal” language accurately conveys that voters are being asked to continue this type of taxation. The legal standard is whether reasonable voters would comprehend the true effect of the proposition, rather than whether the language uses precise statutory terminology.¹¹ Johnson County voters are likely to interpret “renewal” as the continuation of the existing public

⁸ See also AG Opinion No. 2001-14, finding that a court would likely uphold applying the proceeds of a voter-authorized sales tax to a school district as a means of fostering economic development.

⁹ Attorney General No. 2000-16.

¹⁰ Resolution No. 052-25.

¹¹ *Willmeth v. Harris*, 195 Kan. 322 (1965).

safety sales tax approved in 2016. The ballot language reflects the practical reality that voters are being asked whether to maintain funding for public safety using the same mechanism they previously authorized. Local governments frequently use “renewal” language when seeking to continue expiring tax authorities, even if there are modifications to specific programs or allocations. The characterization as a renewal helps voters understand that this is not a new or additional tax burden but rather a continuation of existing policy. Voters can make informed decisions based on their experience with the current tax and their satisfaction with the public safety services it funds.

In conclusion, Johnson County’s characterization of this proposition as a “renewal” is both legally appropriate and factually accurate. The 2016 voter authorization of a countywide retailers’ sales tax for public safety purposes, combined with the proposed measure’s continuity in timing and objectives, establishes this as a proper renewal rather than a new tax initiative.

4. Whether the scope of the ballot proposition in Resolution No. 052-25 adopted by the Board of County Commissioners of Johnson County on May 8, 2025, is within the statutory grant of authority set forth in K.S.A. 12-187(b)(21), and if not, whether the conflict renders the resolution null and void?

It is unclear what Senator Thompson means by “scope.” This appears to simply be another way of restating the previous three questions. As already addressed above, the Ballot Proposition clearly falls within the grant of authority set forth in K.S.A. 12-187(b)(21).

A countywide retailers’ sales tax may only be imposed following submission of a proposition to the voters as provided by K.S.A. 12-187. Senator Thompson’s opinion request appears to be a thinly veiled attempt to prevent the voters of Johnson County from considering whether they approve of financing public safety projects and programs through a sales tax, as set forth in the Ballot Proposition. K.S.A. 25-605a requires ballot propositions to be clearly phrased so the voters understand what is being approved by a “yes” vote. When submitting a sales tax to the voters, the County must state its purpose:

“The governing body of the city or county proposing to levy any retailers’ sales tax shall specify the purpose or purposes for which the revenue would be used, and a statement generally describing such purpose or purposes shall be included as a part of the ballot proposition.”¹²

Here, the Ballot Proposition expressly states that the purpose of the proposed sales tax is to finance public safety projects, facilities, and programs, and includes a non-exclusive description of the projects, facilities, and programs to be financed if the tax is approved. The “scope” of the Ballot Proposition reflects the broad, expansive, non-exhaustive language of the K.S.A. 12-187(b)(21). As the Attorney General has previously recognized, public funds, including a voter-approved sales tax, may be used for “anything that promotes the public welfare” or “serves a valid public purpose.”¹³

¹² K.S.A. 12-187(g)(1).

¹³ Attorney General Opinion No. 2001-14 (March 21, 2001) citing *Duckworth v. City of Kansas City*, 243 Kan. 386, 387-88 (1988), and Attorney General Opinion No. 2014-21 (December 18, 2014).

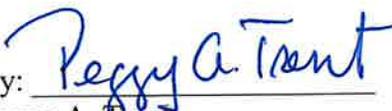
Further, the Ballot Proposition provides transparency to the voters as to how the sales tax funds can be used. The Ballot Proposition could have simply referenced “public safety projects, facilities, and programs.” Instead, specific projects, facilities, and programs are listed, which provides the voters with a clearer understanding of the scope of the proposed tax. As the Attorney General recently recognized, “[b]allot questions must clearly state the substance of a question submitted to the voters.”¹⁴ Here, the ballot question is written in clear language that the voters will understand, and its “scope” is directly authorized by the plain and ordinary language of K.S.A. 12-187(b)(21).

Conclusion

The wording of the Ballot Proposition complies with K.S.A. 12-187(b)(21). The statute authorizes the proposed uses of the sales tax revenue and are clearly set forth in the ballot language. Senator Thompson is attempting to preclude the Johnson County voters from the opportunity to consider and vote upon the proposed tax. The voters should not be preempted from determining this validly written and submitted ballot question in November, and any such preemption would be a drastic break from past precedent that provides for strong deference to the local electorate’s decisions on such matters. The Ballot Proposition legally places before the voters the financing of public safety projects, facilities, and programs for Johnson County and should remain on the November ballot as submitted.

Please let me know if you require any additional information.

Very truly yours,

By: 
Peggy A. Trent
Chief Counsel

- c. Board of County Commissioners of Johnson County, Kansas
Penny Post oak Ferguson, County Manager

¹⁴ Attorney General Opinion No. 2025-9 (May 19, 2025) citing *Heller v. Rounkles*, 171 Kan. 323, 329, 232 P.2d 225 (1951).

EXHIBIT

E

*BOARD OF COUNTY COMMISSIONERS OF JOHNSON
COUNTY, KANSAS V. KRIS W. KOBACH, ATTORNEY
GENERAL OF THE STATE OF KANSAS
CASE NO. _____*



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

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July 21, 2025

ATTORNEY GENERAL OPINION NO. 2025-13

The Honorable Mike Thompson
State Senator, 10th District
State Capitol, Room 136-E
300 SW 10th St.
Topeka, Kansas 66612

Re: Cities and Municipalities—General Provisions—Countywide and City
Retailers' Sales Taxes

Counties and County Officers—General Provisions—Home Rule
Powers; Limitations, Restrictions and Prohibitions; Procedure

Synopsis: The Board of County Commissioners of Johnson County recently enacted a resolution that purports to place the renewal of an existing sales tax under K.S.A. 12-187(b)(21)—which authorizes a tax to fund the construction and operation of public safety projects—on the November 2025 ballot. The resolution seeks to fund, among other things, mental health services and emergency medical services. Because the resolution tries to fund measures that do not qualify as public safety projects and it would fund different projects than that for which the existing tax was enacted, a court would find that the Board has exceeded its authority and that the resolution is null and void. Cited herein: K.S.A. 12-187; K.S.A. 19-101a.

* * *

Dear Senator Thompson:

As State Senator for the 10th District, you ask four questions stemming from the Board of County Commissioners of Johnson County's recent adoption of Resolution No. 052-25.¹ This Resolution proposes to renew a countywide retailers' sales tax of one-fourth of one cent for ten years to finance costs and expenses for certain public safety projects. The Resolution seeks to do so through the following proposition on the November 2025 general election ballot:

Shall the Board of County Commissioners of Johnson County, Kansas, adopt, *renew*, and impose for a period of ten (10) years a one-fourth (1/4) of one-cent countywide retailers' sales tax in Johnson County, Kansas, commencing April 1, 2027, with proceeds from the tax to be distributed as required by law to the County and the cities in Johnson County, with the county share to be used for the purpose of financing *the costs of construction, renovation, repair, maintenance, operation and personnel expenses of public safety projects, facilities, and programs, including but not limited to emergency/ambulance/911 services, Sheriff's Office, mental health crisis intervention, emergency preparedness/disaster response, and criminal justice system?*²

The Board passed this Resolution pursuant to—and seeks to impose the tax under—K.S.A. 12-187(b)(21), which provides:

The board of county commissioners of Johnson county may submit the question of imposing a countywide retailers' sales tax at the rate of 0.25% and pledging the revenue received therefrom for the purpose of financing *the construction and operation costs of public safety projects, including, but not limited to, a jail, detention center, sheriff's resource center, crime lab or other county administrative or operational facility dedicated to public safety*, to the electors at an election called and held thereon. The tax imposed pursuant to this paragraph shall expire after 10 years from the date such tax is first collected. The countywide retailers' sales tax imposed pursuant to this subsection *may be extended or reenacted* for additional periods not exceeding 10 years upon the board of county commissioners of Johnson county submitting *such question* to the electors at an election called and held thereon for each additional ten-year period as provided by law.³

The existing tax that the proposition purports to renew was passed at the November 2016 general election, during which the ballot informed voters that “the

¹ Your questions are rephrased below.

² Johnson County, Kan., Resol. No. 052-25 (May 8, 2025) (emphases added).

³ (emphases added).

County share of the revenue [would] be dedicated to the capital, operational, and financing costs for the public safety projects and administration of justice programs associated with and necessary for the construction of a new Courthouse, demolition of the existing courthouse, and the construction of a coroner facility.”⁴ This existing tax expires on March 31, 2027.

The answers to your questions primarily turn on the text of K.S.A. 12-187(b)(21). As always, statutory interpretation is bound by the statute’s “plain and unambiguous” meaning.⁵ One can neither “speculate” nor “read into the statute language not readily found there.”⁶ And one must strive, “as far as practicable, to reconcile the different [statutory] provisions so as to make them consistent, harmonious, and sensible.”⁷ Because this is a statute that permits taxation, one must “strictly” construe it “in favor of the taxpayer,” *i.e.*, against taxation.⁸

As explained below, my office has concluded the Board has exceeded its authority through the Resolution and ballot proposition.⁹

I. Does K.S.A. 12-187(b)(21) require the Board to pledge and use revenue from the resulting sales tax for both the construction and the operation costs of public safety projects?

Revenue from a tax imposed under K.S.A. 12-187(b)(21) must be pledged and used for both the construction *and* the operation of public safety projects.

K.S.A. 12-187(b)(21) requires that revenue from a tax enacted pursuant to it be “pledg[ed] . . . for the purpose of financing the construction *and* operation costs of public safety projects.”¹⁰ By using “and” the statute employs a conjunctive term, which requires both items be satisfied.¹¹ In other words, the revenue must be both for the construction and for the operation of a qualifying project. For example, when the current sales tax was passed in 2016, the money was to be used for both the

⁴ Johnson County, Kan., Resol. No. 042-16 (May 26, 2016).

⁵ *In re Est. of Strader*, 301 Kan. 50, 55, 339 P.3d 769 (2014) (internal quotation marks omitted).

⁶ *Id.* (internal quotation marks omitted).

⁷ *In re Marriage of Ross*, 245 Kan. 591, 584, 783 P.2d 331 (1989).

⁸ *See In re Genesis Health Clubs*, 42 Kan. App. 2d 239, 242, 210 P.3d 663 (2009)

⁹ To be clear, this opinion is merely advisory. Only a court with competent jurisdiction could grant relief related to the Resolution and ballot proposition.

¹⁰ (emphasis added); *see also* K.S.A. 12-187(g)(1) (requiring the Board “specify the purpose or purposes for which the revenue would be *used*” (emphasis added)). The Board must use any revenue as it has pledged.

¹¹ *In re Dir. of Prop. Valuation*, 284 Kan. 592, 602, 161 P.3d 755 (2007) (noting that “[t]he most logical and realistic interpretation of the statute is to interpret the plain language exactly as it is written” while recognizing the conjunctive effect of “and”); Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 116 (2012) (recognizing that “*and* combines items while *or* creates alternatives”).

construction and the operation of a courthouse and coroner facility, along with necessary related projects (like the demolition of the existing courthouse).

In certain limited circumstances, courts have held that “and” is used as a disjunctive term.¹² But nothing indicates that the Legislature meant to use it in a disjunctive sense in K.S.A. 12-187(b)(21). To the contrary, the statute lists public safety projects—like a jail and a crime lab—that are physical structures to be constructed. Indeed, its catchall example is any “other county administrative or operational *facility* dedicated to public safety.”¹³ This is strong evidence that the Legislature contemplated that the projects for which the revenue would be used would be facilities, with the tax providing necessary funding for the operation of these facilities and related programs.

The Board may only impose a tax under K.S.A. 12-187(b)(21) if the revenue is for both the construction *and* the operation of qualifying projects.

II. Do mental health services and emergency medical services constitute “public safety projects” under K.S.A. 12-187(b)(21)?

Mental health services and emergency medical services,¹⁴ standing alone, do not qualify as “public safety projects” that may be funded through a tax imposed under K.S.A. 12-187(b)(21).

K.S.A. 12-187(b)(21) provides that the County’s share of revenue from a sales tax must be pledged for “public safety projects, including, but not limited to, a jail, detention center, sheriff’s resource center, crime lab or other county administrative or operational facility dedicated to public safety.” The statute does not define “public safety projects,” and this term is not defined elsewhere in the legislative code. The Legislature has used and defined “public safety” in other contexts. For example, in the same Chapter, “public safety agency” is defined as “any municipal fire department, law enforcement office, sheriff’s department, volunteer and nonvolunteer fire protection associations, emergency management department, public works department or other similar public or private agency.”¹⁵ This definition casts a wide net, and non-statutory definitions are similarly broad. For example,

¹² See, e.g., *McMechan v. Everly Roofing, Heating & Air Conditioning, Inc.*, 8 Kan. App. 2d 349, 351, 656 P.2d 797 (1983).

¹³ K.S.A. 12-187(b)(21) (emphasis added).

¹⁴ We assume that in asking about these services, you are referring to “mental health crisis intervention” and “emergency/ambulance/911 services,” respectively, which are referenced in the ballot proposition. And although you do not mention “emergency preparedness/disaster response” (another referenced project), this category would also likely fall outside the scope of permissible public safety projects for substantially the same reasons as mental health services and emergency medical services.

¹⁵ K.S.A. 12-16,117(a)(2); see also K.S.A. 75-5073(e) (similar).

Black's Law Dictionary defines “public safety” as “[t]he welfare and protection of the general public.”¹⁶

Importantly, the statute provides examples of qualifying projects. And under the interpretative canon of *noscitur a sociis*—which recognizes the import of associated words—these examples bear on the meaning of “public safety projects.”¹⁷

The listed examples, as the statute notes, are not exclusive. Indeed, the existing tax was passed for, among other things, constructing and operating a new courthouse and coroner facility, neither of which is listed in the statute. Because “public safety” is a broad term, the list is the best evidence of what qualifies as a “public safety project.”¹⁸ And the examples are different types of physical structures that traditionally relate to the law-enforcement aspect of public safety, like a jail and a crime lab. It follows, then, that public safety projects for which a tax may be imposed under K.S.A. 12-187(b)(21) must be similar, *i.e.*, physical facilities that are directly related to law enforcement.

Mental health services and emergency medical services are not physical structures directly related to law enforcement. To be sure, these services may fairly be considered as advancing public safety in other contexts. And there may be situations where these services could be facilitated through a tax under K.S.A. 12-187(b)(21), such as if the Board wanted to provide necessary mental health services for detainees in jail. But these services alone do not qualify as “public safety projects.”¹⁹

K.S.A. 12-187(b)(21) permits the Board to seek a sales tax that funds certain public safety projects—physical facilities directly related to law enforcement (and necessary related programs). While certainly important to the County, mental health services and emergency medical services, standing alone, do not qualify.

¹⁶ *Public Safety*, *Black's Law Dictionary* 1488 (11th ed. 2019). The Kansas Supreme Court, citing the Ninth Edition of *Black's*, noted this broad definition in *City of Lincoln Center v. Farmway Co-Op, Inc.*, 298 Kan. 540, 552, 316 P.3d 707 (2013). However, because the court there was interpreting the meaning of a materially different term—“public health, safety or welfare”—its analysis is not persuasive here. *See id.* at 550, 552–53 (quotation marks omitted).

¹⁷ *Jarecki v. G. D. Searle & Co.*, 367 U.S. 303, 307 (1961) (“The maxim *noscitur a sociis*, that a word is known by the company it keeps, while not an inescapable rule, is often wisely applied where a word is capable of many meanings in order to avoid the giving of unintended breadth to [statutes].”); Scalia & Garner, *supra*, at 195 (“Associated words bear on one another’s meaning.”).

¹⁸ *See Jarecki*, 367 U.S. at 307.

¹⁹ Our conclusion is bolstered by a separate statute, K.S.A. 12-187(b)(5), which authorizes the Board to seek to impose a sales tax specifically for “health care services,” including “mental health services” and “emergency medical services.” *See In re Marriage of Ross*, 245 Kan. at 584.

III. Is the description of the ballot proposition as a “renewal” of an existing countywide retailers’ sales tax proper, and if it is not, is this description fatal?

It is not appropriate for the Board to characterize the proposition as a renewal of the existing tax. The proposition does not present voters with the required question, and it does not seek to continue the existing tax for the same purpose.

Counties possess only those powers that have been “expressly granted” to them by the Legislature and that are necessary to effectuate the express powers.²⁰ The Legislature has authorized counties to impose sales taxes in certain situations; their authority is subject to statutory “limitations and prohibitions,” including those in K.S.A. 12-187.²¹ And “[a]ny resolution adopted by a county which conflicts with the restrictions . . . is null and void.”²² Thus, the Board must strictly follow K.S.A. 12-187(b)(21).

A tax enacted under K.S.A. 12-187(b)(21) “may be extended or reenacted for additional periods not exceeding 10 years upon the board . . . submitting such question to the electors.” The Board is strictly limited to seeking only to “extend” or “reenact” the existing tax; there is no option to “renew” it. Indeed, the statute itself only permits the tax to be extended if “such question”—*i.e.*, whether to “extend[] or reenact[]” the existing tax—is submitted to the voters. Because the proposition does not ask for an extension or reenactment, the proposition is unlawful and the Board has exceeded its authority.²³

The exact language aside, the proposition is also improper because it would neither extend nor reenact the existing tax, which are the only two actions that can be taken. The statute does not define the relevant terms, but *Black’s* defines “reenactment” as “passing a statute again for some purpose (such as codification) in substantially the same form as it has previously been given effect”²⁴ and “extension” as “[t]he continuation of the same contract for a specified period.”²⁵ In other words, the statute allows the Board to ask voters to continue the same tax for the same

²⁰ *Cap. Elec. Line Builders, Inc. v. Lennen*, 232 Kan. 379, 382, 654 P.2d 464 (1982), *modified on denial of reh’g*, 232 Kan. 652, 658 P.2d 365 (1983).

²¹ K.S.A. 19-101a(a)(7).

²² K.S.A. 19-101a(c).

²³ Although statutory text is always paramount, its importance is magnified here because the Legislature has expressly limited the Board’s ability to impose and continue sales taxes.

²⁴ *Reenactment, supra*, at 1532.

²⁵ *Extension, supra*, at 728. Although the definition speaks of a contract, it ultimately requires a continuation of the same governing arrangement, such as a lawfully enacted sales tax.

purpose so that nothing changes if the tax continues.²⁶ But in reality, the proposition, if passed, would not do that.

To be sure, if the ballot proposition were to be passed, the tax burden would remain the same; but the tax would not be funding the same projects because the new courthouse and coroner facility—the purposes for which the tax was originally passed—will have been “fully paid for by the time the tax expires.”²⁷ Indeed, the Resolution and proposition describe a new slate of materially different projects (primarily programs) for which the tax would be used. Because the Resolution does not seek to effectuate either an extension or a reenactment of an existing tax, it exceeds the Board’s authority.²⁸

This is admittedly a fine line. But as this office noted in Opinion 2007-04, without an appropriate statutory mechanism, “neither the electorate [n]or a . . . county governing body can modify the purpose of a local retailers’ sales tax that was previously adopted by the electorate.” The Resolution seeks to change the purpose for which the tax was originally passed in violation of stringent statutory requirements, which only allow the existing tax to continue. Because the proposition seeks to institute a new tax under the guise of continuing the current tax, the proposition exceeds the Board’s authority, which means that it is null and void.

IV. Is the scope of the ballot proposition within the Board’s statutory authority under K.S.A. 12-187(b)(21), and if not, does the conflict render the Resolution null and void?

The ballot proposition is not within the scope of the Board’s authority. Again, the Board is strictly limited in its ability to seek to impose and continue a sales tax under K.S.A. 12-187(b)(21), and any measures that exceed the Board’s authority are “null and void.”²⁹ As detailed above, the Resolution and its ballot proposition

²⁶ By contrast, “renewal” means “[t]he act of restoring or reestablishing” or “[t]he recreation of a legal relationship or the replacement of an old contract, as opposed to the mere extension of a previous relationship or contract.” *Renewal, supra*, at 1550–51.

²⁷ Johnson County, Kan., *Public Safety Sales Tax Renewal*, <https://www.jocogov.org/departments/board-county-commissioners/public-safety-sales-tax-renewal> (last visited July 9, 2025).

²⁸ The ballot proposition promulgated by the Resolution may also be misleading. Some voters could believe that a “yes” vote is a vote in favor of continuing the existing tax to fund the same projects for which it was originally (and actually) enacted, *i.e.*, a new courthouse and coroner facility. Similarly, other voters could believe that all of the projects named in the proposition are already being funded by the existing tax, so a “yes” vote supports their continued funding. And when a ballot proposition is misleading, the “election is void.” Att’y Gen. Op. No. 2025-9; *see also Wycoff v. Bd. of Cnty. Comm’rs of Logan Cnty.*, 189 Kan. 557, 560, 370 P.2d 138 (1962) (recognizing that “the recitals on the ballot shall clearly state the substance of the question the electors are to vote upon[,] and where that proposition is so obscurely stated that the electors may be misled thereby, the election is vitiated”).

²⁹ K.S.A. 19-101a(a)(7), (c).

impermissibly seek to impose a tax to fund programs that do not constitute public safety projects within the meaning of the statute, and they improperly characterize the proposed tax as the continuance of an existing tax. Although the proposition references “construction” and “facilities,” it appears to do so in only a cursory manner. Indeed, the proposition expands “public safety projects”—again, the only permissible matters that may be funded through a tax under K.S.A. 12-187(b)(21)—to “public safety projects, facilities, and programs.”³⁰ The proposition, the rest of the Resolution, and the Board’s public statements establish that the projects that would actually be funded if the proposition were passed are outside the scope of the purposes for which the tax was originally enacted and K.S.A. 12-187(b)(21).³¹

Because the Board has exceeded its authority, we believe a court would find the Resolution to be null and void.³²

Sincerely,

/s/ Kris W. Kobach

Kris W. Kobach
Attorney General

/s/ Adam T. Steinhilber

Adam T. Steinhilber
Assistant Solicitor General

³⁰ Resol. No. 052-25.

³¹ See generally *id.*; see also, e.g., Johnson County, Kan., *Johnson County Voters to Consider Public Safety Sales Tax Renewal on November 2025 Ballot* (May 8, 2025), <https://www.jocogov.org/newsroom/johnson-county-voters-consider-public-safety-sales-tax-renewal-november-2025-ballot> (last visited July 18, 2025) (“If renewed, public safety sales tax funds would go towards Johnson County’s public safety departments and programs. Examples of how the funds could be used include program improvements (e.g., mental health co-responder programs, new emergency dispatch services, re-entry programs for detainees); technology upgrades tied to public safety (e.g., body-worn cameras) and emergency communications/9-1-1 system enhancements.”).

³² Although not part of your inquiry, it should be noted that avenues likely exist for the Board to fund its desired projects. The Board could seek to impose a new tax under K.S.A. 12-187(b)(21) for *qualifying* public safety projects. The Board could also seek revenue under K.S.A. 12-187(b)(1), the general sales tax provision, or K.S.A. 12-187(b)(5), the specific health-care-services tax provision.

EXHIBIT

F

*BOARD OF COUNTY COMMISSIONERS OF JOHNSON
COUNTY, KANSAS V. KRIS W. KOBACH, ATTORNEY
GENERAL OF THE STATE OF KANSAS
CASE NO. _____*

AG opinion warns JoCo Commission its sales tax renewal

ballot question exceeds commission authority

TOPEKA – (July 22, 2025) - Kansas Attorney General Kris Kobach today issued an [opinion](#) warning that the Johnson County Board of Commissioners exceeded its authority with a resolution to renew a public safety sales tax to fund mental health and emergency medical services.

“The ballot proposition is not within the scope of the Board’s authority...and any measures that exceed the Board’s authority are null and void,” the Attorney General’s opinion reads.

The opinion warns that a court would find the resolution null and void.

“Imposing new taxes on the people of Kansas is something that can be done only under tightly limited situations and as specifically allowed by Kansas law,” Kobach said. “Johnson County is breaking the law by imposing this new tax for this purpose.”

The sales tax ballot question characterizes the proposal as a “renewal” of an existing sales tax that was passed in 2016 for the purpose of financing the construction and operation of public safety projects. Specifically, the tax, which sunsets in 2026, was used to build a Johnson County Detention Center and a crime lab.

According to the opinion, a tax renewal must be pledged and used for the construction and operation of public safety projects, but under statute, mental health services and emergency services do not qualify as public safety projects.

Sen. Mike Thompson, a Shawnee Republican, requested an attorney general’s opinion before the sales tax question is placed on the November 2025 ballot.

“An additional sales tax places a burden on everyone in the county, not just consumers. The more prices go up, the less people buy. It dampens economic activity,” Thompson said. “This is just another example of a county board that’s out of control. It doesn’t seek to limit spending and protect the taxpayers. Hopefully, this opinion will encourage the board to reconsider, particularly at

this time when every other tax keeps going up. “

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EXHIBIT

G

*BOARD OF COUNTY COMMISSIONERS OF JOHNSON
COUNTY, KANSAS V. KRIS W. KOBACH, ATTORNEY
GENERAL OF THE STATE OF KANSAS
CASE NO. _____*

RESOLUTION NO. 095-25

A RESOLUTION MODIFYING RESOLUTION NO. 052-25 BY WITHDRAWING THE CALL OF ELECTION FOR NOVEMBER 4, 2025, AND PROPOSING THE RENEWAL OF A ONE-FOURTH (1/4) OF ONE CENT COUNTYWIDE RETAILERS' SALES TAX FOR PUBLIC SAFETY PURPOSES PURSUANT TO K.S.A. 12-187(b)(21), PROVIDING NOTICE OF INTENT TO SUBMIT THE PROPOSITION TO THE VOTERS, CERTIFYING A BALLOT QUESTION FOR A MAIL BALLOT ELECTION, AND SETTING THE DATE OF THE ELECTION FOR A SPECIAL ELECTION SCHEDULED FOR MARCH 3, 2026

At a regular meeting of the Board of County Commissioners of Johnson County, Kansas (Board) held on July 31, 2025, there came before the Board for consideration on the matter of adopting Resolution No. 095-25 modifying Resolution No. 052-25 by withdrawing the call of Election for November 4, 2025, and submitting to the electors the renewal of the existing one-fourth (1/4) of one cent countywide retailers' sales tax in Johnson County, for a period of ten (10) years for the purpose of financing the construction, renovation, maintenance, operation costs and personnel expenses of public safety projects as set forth in this Resolution and providing notice of intent to submit the proposition to the voters, certifying a ballot question for a mail ballot election, and setting the date of the election for a special election scheduled for March 3, 2026.

The Board, after discussion and consideration, upon a motion duly made, seconded and carried, adopted the following Resolution No. 095-25, to wit:

WHEREAS, on May 8, 2025, the Board approved Resolution No. 052-25, proposing the adoption, for a period of ten (10) years, of the renewal of the one-fourth (1/4) of one cent retailers' sales tax, for public safety purposes pursuant to K.S.A. 12-187(b)(21) (PSST III), providing notice of intent to submit the proposition to the voters, certifying a ballot question for an election and setting the date of the election for the next general election, scheduled for November 4, 2025;

WHEREAS, on June 4, 2025, pursuant to K.S.A. 75-704, Mike Thompson, a member of the Kansas Senate representing the 10th Senate District in Johnson County, Kansas, requested an opinion from Attorney General Kris Kobach regarding the use of countywide retailers' sales tax funds under K.S.A. 12-187(b)(21) and the proposed ballot proposition in Resolution No. 052-25;

WHEREAS, on July 2, 2025, the Board, through Chief Counsel, provided feedback to Attorney General Kobach in response to Senator Thompson's request, arguing that K.S.A. 12-187(b)(21) authorizes the proposed uses of the sales tax revenue and is properly set forth in the ballot proposition, which presents to the voters the financing of public safety projects, facilities, and programs for Johnson County;

WHEREAS, Attorney General Kobach issued Attorney General Opinion No. 2025-13 (AG Op. 2025-13), dated July 21, 2025, concluding that because Resolution No. 052-25 "tries to fund measures that do not qualify as public safety projects and it would fund different projects than that for which the existing tax was enacted, a court would find that the Board has exceeded its authority and that the resolution is null and void."

WHEREAS, upon careful review and consideration of AG Op. 2025-13, the Board disagrees with the conclusions reached in the opinion and reaffirms the positions stated in Chief Counsel's July 2, 2025, letter and that the ballot proposition set forth in Resolution No. 052-25 complies with K.S.A. 12-187(b)(21);

WHEREAS, the Board further reaffirms the findings and recitals set forth in Resolution No. 052-25, describing the concerns, demands, and needs of Johnson County for essential public safety services;

WHEREAS, because public safety and the administration of justice is a high priority in Johnson County and the Board remains committed to providing sustainable public safety funding to meet the critical needs of our growing and aging population, at its July 24, 2025, meeting, the Board approved a motion extending the election for the ballot proposition in Resolution No. 052-25 from November 4, 2025 to a special March 2026 election and authorized the Chief Counsel to file a declaratory action on behalf of the County;

WHEREAS, consistent with and in furtherance of its July 24, 2025 motion, the Board finds it is advisable to propose the adoption, consistent with the ballot proposition in Resolution No. 052-25, for a period of ten (10) years, of the renewal of a one-fourth (1/4) of one cent retailers' sales tax, PSST III, within Johnson County for public safety purposes, to dedicate the revenue generated from the tax to the capital, operational, and financing costs for public safety and administration of justice projects, facilities and programs;

WHEREAS, acknowledging that AG Op. 2025-13 states that "this opinion is merely advisory," the Board authorizes and directs Chief Counsel to file a declaratory judgment action on behalf of the County asking the court to clarify the meaning and application of K.S.A. 12-187(b) (21), to review the legality of the ballot proposition set forth in this Resolution and to declare it valid and effective, and to consider and determine such other related issues and questions as Chief Counsel deems necessary or appropriate;

WHEREAS, to provide sufficient time for the filing and adjudication of the declaratory judgment action, the Board deems it advisable to submit to the voters the ballot proposition set forth in this Resolution at a mail ballot special election to be held on March 3, 2026, and to

withdraw the call of election and submittal of a ballot proposition at the November 4, 2025 general election as set forth in Resolution No. 052-25;

WHEREAS, residents and cities will continue benefiting from the existing sales tax while judicial clarification is pursued, with cities continuing to receive 36% of the proceeds from this sales tax through March 31, 2027, which they use to fund a variety of public safety and other projects; and

WHEREAS, due to Kansas statutory budget deadlines, including the requirement that the governing bodies of the County and cities shall provide notice of their proposed intent to exceed the revenue neutral rate no later than July 20th of each year, it is necessary to submit the ballot proposition set forth in this Resolution to the voters at a special election on March 3, 2026, to allow the County and cities sufficient time to prepare and consider their respective FY2027 budgets prior to the July 20, 2026 statutory deadline.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF JOHNSON COUNTY, KANSAS, THAT:

Section 1. Recitals. That the foregoing recitals and the recitals set forth in Resolution No. 052-25 are incorporated in and made a part of this resolution by this reference.

Section 2. Call of Election. An election shall be and hereby is called and shall be held and conducted as a mail ballot special election in the manner provided by law on Tuesday, March 3, 2026, for the purpose of submitting the proposition in this resolution to the qualified voters of Johnson County, of whether to renew the existing one fourth (1/4) of a cent countywide retailers' sales tax for public safety purposes, known as Public Safety Sales Tax III, for a ten-year term

commencing April 1, 2027, and the Election Commissioner is hereby requested and authorized to take such actions as are required or advisable to conduct the election.

Section 3. Proposition. The Board of County Commissioners of Johnson County shall and hereby does propose to adopt and levy, for a period of ten (10) years, a one-fourth (1/4) of a cent countywide retailers' sales tax within Johnson County with the proceeds from the tax to be distributed as required by the law to the County and the cities in Johnson County, with the County share of the revenue to be dedicated for the purpose of financing the costs of construction, renovation, repair, maintenance, operation and personnel expenses of public safety projects, facilities, and programs, including but not limited to emergency/ambulance/911 services, Sheriff's Office, mental health crisis intervention, emergency preparedness/disaster response, and criminal justice system.

Section 4. Notice of Intent. The Board of County Commissioners does hereby provide Notice of Intent to adopt and impose, for a period of ten (10) years, commencing on April 1, 2027 and terminating on March 31, 2037, a one-fourth (1/4) of a cent countywide retailers' sales tax within Johnson County as provided in this resolution, and states its intent to present that proposition to a vote of the electors of the County.

Section 5. Certification of Ballot Proposition. The proposition to be voted on shall be and hereby is certified and submitted to the Election Commissioner for submission to the voters of Johnson County at an election called for the purpose in the manner provided by law:

“Shall the Board of County Commissioners of Johnson County, Kansas, adopt, extend, renew, and impose for a period of ten (10) years a one-fourth (1/4) of one-cent countywide retailers' sales tax in Johnson County, Kansas, commencing April 1, 2027, with proceeds from the tax to be distributed as required by law to the County and the

cities in Johnson County, with the county share to be used for the purpose of financing the costs of construction, renovation, repair, maintenance, operation and personnel expenses of public safety projects, facilities, and programs, including but not limited to emergency/ambulance/911 services, Sheriff's Office, mental health crisis intervention, emergency preparedness/disaster response, and criminal justice system?

Section 6. Authorization. The County Election Commissioner is hereby requested to give notice of the election and to conduct said election according to law.

Section 7. Effective Date. This resolution shall be effective upon its adoption and publication as required by law.

Section 8. Sunset Date. The tax will automatically be sunset on March 31, 2037, unless reauthorized by voters.

Section 9. The call of election and submittal of the ballot proposition at the November 4, 2025 general election as set forth in Resolution 052-25 shall be and hereby is withdrawn. Resolution No. 052-25 shall be and hereby is modified as provided herein.

ADOPTED THIS 31st DAY OF JULY 2025.

BOARD OF COUNTY COMMISSIONERS
OF JOHNSON COUNTY, KANSAS

Mike Kelly, Chair

ATTEST:

Megan Johnson, Deputy County Clerk

APPROVED AS TO FORM:

Peg Trent, Chief Counsel
Resolution No. 095-25

To: Board of County Commissioners
Penny Postoak Ferguson, County Manager

From: Adam Norris, Assistant County Manager

Date: July 31, 2025

Re: Resolution No. 095-25: Withdrawing the Call of Election for November 4, 2025, and Proposing a Ballot Proposition for Renewal of a One-Fourth Cent (0.25%) Public Safety III Countywide Retailers' Sales Tax

Issue: Resolution No. 095-25. Consider approving Resolution No. 095-25 modifying Resolution No. 052-25 by withdrawing the call of election for November 4, 2025, and proposing the renewal of the one-fourth (1/4) of one cent (0.25%) Public Safety III countywide retailers' sales tax in Johnson County for a term of ten (10) years, to be submitted for a mail ballot special election on March 3, 2026.

Suggested Motion: I move the Board approve Resolution No. 095-25 modifying Resolution No. 052-25 by withdrawing the call of election for November 4, 2025, and proposing the renewal of the one-fourth (1/4) of one cent (0.25%) Public Safety III countywide retailers' sales tax in Johnson County for a term of ten (10) years starting April 1, 2027; providing notice of the County's intent to submit the proposition to an election, certifying the ballot language for a mail ballot election, and setting the date of the election for a special election scheduled for March 3, 2026.

Background: In January 2025, the Board of County Commissioners established Fiscal Health as one of its Focus Areas for 2025-2026 as the County's current fiscal plan is not supported with sufficient long-term revenues. Fiscal Health for 2027 and beyond was discussed at the Budget Retreat on March 27, 2025, and at Study Sessions conducted on April 4, 2025, and April 24, 2025. During a Committee of the Whole on May 1, 2025, the Board directed staff to bring back a business item on the May 8, 2025, agenda, to add a Public Safety Sales Tax renewal to the November 2025 general election ballot. On May 8, 2025, pursuant to K.S.A. 12-187(b)(21), the Board approved Resolution No. 052-25, proposing the adoption, for a period of ten (10) years, of the renewal of the one-fourth (1/4) of one cent retailers' sales tax, Public Safety Sales Tax III (PSST III), within Johnson County for public safety purposes, to dedicate the revenue generated from the tax to the capital, operational and financing costs for public safety and administration of justice projects, facilities and programs as outlined in Resolution No. 052-25, and to submit the proposition to the voters at an election to be held on the date of the next general election, scheduled for November 4, 2025.

On June 4, 2025, pursuant to K.S.A. 75-704, State Senator Mike Thompson requested Kansas Attorney General Kris Kobach's opinion regarding the use of countywide retailers' sales tax funds under K.S.A. 12-187(b)(21) and the proposed ballot proposition in Resolution No. 052-25.

By letter dated July 2, 2025, Chief Counsel Peg Trent, on behalf of the Board, responded to Senator Thompson's request arguing that K.S.A. 12-187(b)(21) authorizes the proposed uses of the sales tax revenue and is properly set forth in the ballot proposition, which presents to the voters the financing of public safety projects, facilities, operations, and programs for Johnson County.

Attorney General Kobach issued Attorney General Opinion No. 2025-13 (AG Op. 2025-13), dated July 21, 2025, concluding that because Resolution No. 052-25 "tries to fund measures

that do not qualify as public safety projects and it would fund different projects than that for which the existing tax was enacted, a court would find that the Board has exceeded its authority and that the resolution is null and void.”

At its July 24, 2025 meeting, the Board approved a motion extending the election for the ballot proposition in Resolution No. 052-25 from November 4, 2025 to a special March 2026 election and authorized the Chief Counsel to file a declaratory action on behalf of the County.

Analysis: As directed by the Board, proposed Resolution No. 095-25 modifies Resolution No. 052-25 by withdrawing the call of election for November 4, 2025, and submitting to the voters the renewal of the existing one-fourth (1/4) of one cent countywide retailers’ sales tax in Johnson County, for a period of ten (10) years for the purpose of financing the construction, renovation, maintenance, operational costs and personnel expenses of public safety projects at a mail ballot special election on March 3, 2026. Moving the election to March 2026 is necessary to provide sufficient time for the Chief Counsel to file a declaratory judgment action and for the court to rule. Additionally, moving the election provides the County and cities with sufficient time to prepare and consider their respective FY2027 budgets within the statutory budget deadlines.

The purpose of the proposed PSST III and use of funds generated by the tax have not changed. The tax ensures continued support for public safety services without increasing the overall sales tax rate or increasing residential property taxes and supports a longstanding priority for community safety.

Funding Overview: The proposed sales tax would generate approximately \$54 million annually based on current collections, which is split between the County and the cities within Johnson County pursuant to Kansas Statute. The County would retain approximately 64% (\$35M annually) and the cities in Johnson County collectively receive approximately 36% (\$19.7M annually).

Alternatives: The Board has evaluated various fiscal health tools, including real estate property taxes, sales taxes and service program review.

Recommendation: Approve Resolution No. 095-25 to submit a Public Safety sales tax on a mail ballot special election to be held on March 3, 2026.

Purchasing Review: Item does not require Purchasing approval.

Budget Review: Budget and Financial Planning has reviewed and approved the resolution.

Legal Review: Chief Counsel has reviewed and approved the briefing sheet and resolution.

EXHIBIT

H

*BOARD OF COUNTY COMMISSIONERS OF JOHNSON
COUNTY, KANSAS V. KRIS W. KOBACH, ATTORNEY
GENERAL OF THE STATE OF KANSAS
CASE NO. _____*

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
CIVIL COURT DEPARTMENT

BOARD OF COUNTY COMMISSIONERS)	
OF JOHNSON COUNTY, KANSAS,)	
)	
Plaintiff,)	
)	Case No. _____
vs.)	Court No. _____
)	Chapter 60
KRIS W. KOBACH, KANSAS ATTORNEY)	
GENERAL)	
)	
Defendant.)	

AFFIDAVIT OF PENNY POSTOAK FERGUSON
JOHNSON COUNTY MANAGER

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

BEFORE ME, the undersigned authority, Penny Postoak Ferguson personally appeared, who, being duly sworn, deposes and states as follows:

1. Affiant Information: My name is Penny Postoak Ferguson. I am over 18 years old and competent to make this affidavit. I serve as the County Manager, having been appointed by the Board of County Commissioners of Johnson County, Kansas (“Board”). The Board's address is 111 South Cherry, Suite 3300, Olathe, KS 66061.
2. As the County Manager, I serve as the Chief Administrative Officer for Johnson County Government, a role established under the Johnson County Home Rule Charter that voters adopted on November 7, 2000.
3. As County Manager, I annually prepare and submit a proposed budget, including all revenue sources, to the Board for final approval, after appropriate consultation with them, and manage the budget following its effective date.

4. I am responsible for annually preparing and submitting recommendations for a capital improvement and financing program for the County to the Board before May 1.

5. The County and its cities have a fiscal year that starts on January 1 and ends on December 31 of the same calendar year.

6. The development of the fiscal budget for 2027 will begin in January 2026. The budget process requires careful analysis of revenue sources, including property tax revenues and retailers' sales tax revenues, to ensure adequate funding for essential services.

7. Kansas law, under K.S.A. 79-2988, requires that counties and cities publicly disclose whether they plan to exceed the property tax revenue neutral rate. This rate is defined as budgeting the same amount of property tax revenue, in dollars, for the upcoming budget year as was budgeted for the current year. The statutory deadline for this disclosure for the 2027 fiscal budget is July 20, 2026. Therefore, the outcome of the public safety retailers' sales tax election is crucial before July 20, 2026, for accurate budget preparation and legal compliance with state laws for the fiscal year 2027.

8. The election date of March 3, 2026, ensures timely results and meets the July 20 statutory budget disclosure deadline, allowing sufficient time for budget adjustments and legal compliance.

FURTHER AFFIANT SAYETH NOT.

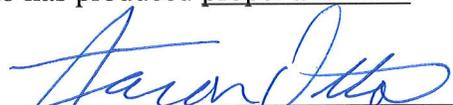
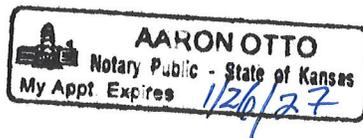
Date: 8/8/25



Penny Postoak Ferguson, County Manager
Johnson County Government

SWORN TO AND SUBSCRIBED BEFORE ME this 8th day of August 2025, by Penny Postoak Ferguson, who is personally known to me or who has produced proper and valid identification.

[SEAL]


Notary Public

My Commission Expires:

1/26/27

EXHIBIT

I

*BOARD OF COUNTY COMMISSIONERS OF JOHNSON
COUNTY, KANSAS V. KRIS W. KOBACH, ATTORNEY
GENERAL OF THE STATE OF KANSAS
CASE NO. _____*

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
CIVIL COURT DEPARTMENT

BOARD OF COUNTY COMMISSIONERS)	
OF JOHNSON COUNTY, KANSAS,)	
)	
Plaintiff,)	
)	Case No. _____
vs.)	Court No. _____
)	Chapter 60
KRIS W. KOBACH, KANSAS ATTORNEY)	
GENERAL)	
)	
Defendant.)	

AFFIDAVIT OF FREDERICK L. SHERMAN
JOHNSON COUNTY ELECTION COMMISSIONER

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

BEFORE ME, the undersigned authority, Frederick L. Sherman, personally appeared, who, being duly sworn, deposes and states as follows:

1. Affiant Information: My name is Frederick L. Sherman. I am over 18 years old and competent to make this affidavit. I serve as the Johnson County Election Commissioner, having been appointed by Kansas Secretary of State Scott Schwab. The Election Commissioner's address is 2101 East Kansas City Road, Olathe, Kansas 66061.

2. As the County Election Commissioner, I serve as the county election officer in accordance with K.S.A. 25-2504. My responsibilities are outlined in K.S.A. 19-3419 and subsequent statutes. These duties include overseeing the conduct of elections. I operate under the supervision of the Secretary of State and comply with Kansas statutes, rules, and regulations pertaining to voter registration and election processes.

3. Kansas House Bill No. 2022, which took effect on July 1, 2025, mandates that any special election held by a county must occur either on the first Tuesday after the first Monday in March or on the same day as a general or primary election.

4. I acknowledge the receipt of Resolution No. 095-25, which was adopted by the Board of County Commissioners of Johnson County, Kansas, on July 31, 2025. Johnson County has withdrawn the call for an election and the submission of a ballot proposition regarding a Johnson County public safety retailer's sales tax that was scheduled for November 4, 2025, as outlined in Resolution No. 052-25. Instead, a special election will take place on March 3, 2026, in accordance with the newly enacted Kansas House Bill No. 2022.

5. According to K.S.A. 25-1215 and the federal Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), overseas voting is permitted for active-duty military members, their families, and individuals living abroad. For the special election on March 3, 2026, the deadline to issue UOCAVA ballots is January 16, 2026. To meet this state and federal timeline, I need to have the ballot language submitted to me by December 9, 2025, and the ballot proposition language needs to be sent to the printers by January 2, 2026.

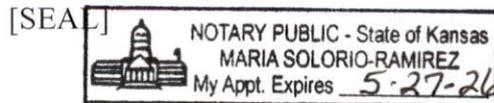
FURTHER AFFIANT SAYETH NOT.

Date: Aug 8, 2025



Frederick L. Sherman,
Johnson County Election Commissioner

SWORN TO AND SUBSCRIBED BEFORE ME this 8th day of August 2025, by Frederick L. Sherman, who is personally known to me or who has produced proper and valid identification.





Notary Public

My Commission Expires: 05/27/2026