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**Neutral Testimony Regarding House Bill 2418
An Act Relating to Energy Conservation Measures**

**Presented to the House Committee on Commerce, Labor and Economic Development
By Assistant Attorney General Cheryl Whelan**

May 11, 2015

Chairman Hutton and Members of the Committee:

Thank you for the opportunity to offer this neutral testimony on HB 2418 on behalf of Kansas Attorney General Derek Schmidt.

We have generally been made aware by Representative Hutton and others of some issues with the utilization of energy conservation measure contracts or lease-purchase agreements for projects outside the scope of the energy conservation measure statute. While we have not scrutinized these issues in detail, to the extent that we have looked at these issues, some problems have been identified.

The Office of Attorney General understands the intention behind this legislation to add an additional level of preapproval to a contract or lease-purchase agreement for energy conservation measures pursuant to K.S.A. 2014 Supp. 75-37,125.

Whether the Legislature would like prior scrutiny of these contracts and lease-purchase agreements is entirely a policy choice. If the Legislature makes that choice, then the Office of Attorney General will conduct a legal review similar to the legal review conducted on interlocal agreements pursuant to the Interlocal Cooperation Act, K.S.A. 12-2901 *et seq.* HB 2418 is consistent with the Interlocal Cooperation Act because this review is limited to determining whether an agreement is in the proper form and compatible with the laws of this state. Those determinations are within the scope of our expertise and ability.

We do have some concerns about certain provisions of HB 2418 regarding the Office of Attorney General. First, the 30-day time frame to review draft contracts or lease-purchase agreements requires a quick turnaround. We suggest extending this time frame to 60 or 90 days. This concern leads to the second concern which is the capacity of this office to complete the work within a 30-day time frame and with current resources. We simply do not know the volume of new work this requirement would generate. Finally, we have concerns about the "look back" provision in New Section 1 which allows Office of Attorney General review of agreements made prior to the effective date of this act. We suggest including language limiting the time frame of this "look back" provision in some manner, and would point out for the committee's awareness that a "look back" provision, if enacted, will subject to scrutiny some number of existing projects that may already be underway.

Thank you for your consideration.

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