

MINUTES OF THE HOUSE ENERGY AND UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9:00 A.M. on February 2, 2007 in Room 241-N of the Capitol.

All members were present.

Committee staff present:

Mary Galligan, Kansas Legislative Research  
Dennis Hodgins, Kansas Legislative Research  
Mary Torrence, Revisor's Office  
Jason Long, Revisor's Office  
Renaë Hansen, Committee Assistant

Conferees appearing before the committee:

Others attending:

Thirty including the attached list.

**HB 2127: Electric generation facilities, parallel generation contracts.**

Representative Sloan (Attachment 1) moved to amend HB 2127 with the balloon offered and the word "net" added on page 3 section 2 f. preceding the word energy and following (1). Seconded by Representative Annie Kuether.

Discussion ensued by Representatives: Don Myers, Tom Sloan, Carl Holmes, Vern Swanson, Peggy Mast, Josh Svaty, and Forrest Knox.

Representative Tom Sloan closed.

Motion passed

Representative Josh Svaty moved to amend HB 2127 conceptually removing the portions dealing with 1.5 MW generation leaving the cap in at 200KV and on page one line 43 add school after the word less. Second by Representative Vern Swanson.

Discussion by Representatives: Tom Sloan, Josh Svaty, Don Myer, Tom Moxley.

Representative Josh Svaty closed on the motion.

Motion Failed.

Representative Don Myers moved to amend HB 2127 page one line 33 remove small (i) through (ii) line 35. Seconded by Representative Peggy Mast

Discussion by Representatives: Annie Kuether, and Peggy Mast.

Representative Don Myer closed.

Motion passes 10-9.

CONTINUATION SHEET

MINUTES OF THE House Energy and Utilities Committee at 9:00 A.M. on February 2, 2007 in Room 241-N of the Capitol.

Questions were asked by Representative Carl Holmes.

Representative Tom Sloan moved to pass **HB 2127** as amended favorably, Seconded by Representative Vern Swanson.

Comments were made by Representatives : Tom Moxley, and Tom Sloan.

Representative Sloan closed, noting the Governors initiative on renewable energy 10% by 2010, and 20% by 2020.

Motion passed 13- 6.

Representative Tom Sloan will carry the bill on the House floor.

**HB 2219: Moratorium on construction of coal fired electric generation.**

Representative Tom Hawk moved substitute bill for **HB 2219** related to testing for mercury (Attachment 2). Seconded by Representative Josh Svaty.

Discussion ensued on the amendment to **HB 2219** by Representatives: Tom Hawk, Tom Sloan, Forrest Knox, Vaughn Flora, Don Myers, and Josh Svaty.

Representative Tom Hawk closed on the motion.

Motion failed 8-10.

Representative Tom Hawk offered a second substitute for **HB 2219** (attachment 3). Seconded by Representative Annie Kuether.

Discussion by Representatives Tom Sloan, and Tom Hawk.

Motion failed.

Representative Annie Kuether moved to table **HB 2219**. Seconded by Representative Margaret Long. Motion to table passed.

**HB 2220: Electric utility recovery of transmission-related costs.**

Representative Peggy Mast moved to pass **HB 2220** and place it on the consent calender. Representative Richard Proehl seconded the motion. Motion passed.

Representative Peggy Mast will carry the bill on the house floor if it is pulled off of the consent calender.

CONTINUATION SHEET

MINUTES OF THE House Energy and Utilities Committee at 9:00 A.M. on February 2, 2007 in Room 241-N of the Capitol.

It was noted that Representative Josh Svaty did not vote on the bill

**HB 2169: K DFA issuance of bonds for energy conservation measures.**

Representative Tom Sloan (Attachment 4) moved to amend and adopt the balloon for HB 2169 he presented. Seconded by Representative Tom Hawk. Motion carried.

Representative Tom Sloan moved to pass as amended HB 2169. Seconded by Representative Tom Hawk.

Comments were made by Representative Peggy Mast.

Motion carried.

Terry McLachlan will carry **HB 2169** on the house floor.

**HB 2033: Certain public utility construction work in progress required to be included in rate base.**

Representative Forrest Knox (Attachment 5) moved to adopt the amendment on HB 2033 that came out of the sub-committee. Seconded by Representative Bill Light. Motion carried.

Representative Forrest Knox moved to make a second amendment to HB 2033 (Attachment 6) striking reasonably or prudently incurred, and replacing it with "efficient and prudent". Seconded by Representative Bill Light.

Questions asked to staff by Representative Josh Svaty and answered by Mary Torrence.

Motion Carried.

Representative Cindy Neighbor moved to recommend HB 2033 as amended favorably for passage. Seconded by Representative Terry McLachlan.

Discussion ensued by Representatives: Tom Moxley, and Forrest Knox.

Representative Cindy Neighbor closed on the bill.

Motion passed.

Representative Forrest Knox will carry **HB 2033** on the House floor.

**HB 2240: Sales taxation; sales tax exemptions; service for rebuilding of public utility facilities.**

CONTINUATION SHEET

MINUTES OF THE House Energy and Utilities Committee at 9:00 A.M. on February 2, 2007 in Room 241-N of the Capitol.

Representative Tom Sloan moved to amend **HB 2240** (**Attachment 7**). Representative Cindy Neighbor seconded the motion.

Discussion ensued by Representatives: Peggy Mast, and Tom Sloan.

Revisor Jason Long, described the differences in what was handed out and what the intent was.

Questions and comments by Representatives: Carl Holmes, Richard Proehl, Don Myers, and Tom Sloan.

Motion Carried.

Questions were asked and comments made by Representatives: Vaughn Flora, Tom Sloan, Josh Svaty, and Carl Holmes.

Representative Peggy Mast moved to pass out of committee **HB 2240** as amended Representative Rob Olson seconded the motion. Motion carried.

Representative Peggy Mast will carry the bill on the House floor

**HB 2157: KCC survey on deployment of broadband technologies.**

Representative Sloan moved to amend, **HB 2157**. There was no second.

Representative Tom Sloan cited Dr. Mark Bannister's letter, and noted that he had conversed with former Representative Jim Yonally who does survey costs for a living and those costs would be estimated at \$60,000 for a survey of this magnitude.

Representative Tom Sloan moved to recommend **HB 2157** favorable for passage. There was no second. Motion dies for lack of second.

**HB 2221: Promotions by local exchange carriers within an exchange or group of exchanges, conditions.**

There was no discussion and **HB 2221** lacked a motion and second.

Discussion of movement of **HB 2221** was closed.

Researcher Mary Galligan will give the committee a report Monday February 5<sup>th</sup> on the conference that took place in Manhattan, Kansas on renewable energy.

The next meeting is scheduled for Monday February 5, 2007.

Meeting adjourned.

# HOUSE ENERGY AND UTILITIES COMMITTEE GUEST LIST

DATE: February 2, 2007

NAME	REPRESENTING
PHIL WAGES	KCP&O
LES EVANS	KCP&O
COLIN HANSEN	KNU
Steve Johnson	Kansas Gas Service/ONEOK
LON STANTON	NORTHERN NATURAL GAS
Joe Duke	KCBPU
Dave Springle	Crub
Paul Snider	KCPL
Tom Thompson	Sierra Club
Don Low	KLL
Janet Buchanan	KLL
Mark Schreiber	Westar Energy
Jim Gartner	AT&T
JAMES LUDWIG	
Dina Fisk	VERIZON

**HOUSE BILL No. 2127**

By Committee on Energy and Utilities

1-19

9 AN ACT concerning certain electric generation facilities; relating to con-  
10 tracts for parallel generation services; amending K.S.A. 66-1,184 and  
11 K.S.A. 2006 Supp. 79-201 and repealing the existing sections.  
12

providing for issuance of bonds for certain purposes;

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 66-1,184 is hereby amended to read as follows: 66-  
15 1,184. (a) Except as provided in subsection (b), every public utility which  
16 provides retail electric services in this state shall enter into a contract for  
17 parallel generation service with any person who is a customer of such  
18 utility, upon request of such customer, whereby such customer may attach  
19 or connect to the utility's delivery and metering system an apparatus or  
20 device for the purpose of feeding excess electrical power which is gen-  
21 erated by such customer's energy producing system into the utility's sys-  
22 tem. No such apparatus or device shall either cause damage to the public  
23 utility's system or equipment or present an undue hazard to utility per-  
24 sonnel. Every such contract shall include, but need not be limited to,  
25 provisions relating to fair and equitable compensation on such customer's  
26 monthly bill for energy supplied to the utility by such customer.

27 (b) (1) For purposes of this subsection:

28 (A) "Utility" means an electric public utility, as defined by K.S.A. 66-  
29 101a, and amendments thereto, any cooperative, as defined by K.S.A. 17-  
30 4603, and amendments thereto, or a nonstock member-owned electric  
31 cooperative corporation incorporated in this state, or a municipally owned  
32 or operated electric utility;

33 (B) "school" means: (i) ~~Any unified school district, school district in-~~  
34 ~~terlocal cooperative, school district cooperative or nonpublic school ac-~~  
35 ~~credited by the state board of education; or (ii) any community college,~~  
36 ~~technical school, area vocational school, area vocational-technical school~~  
37 ~~or Kansas educational institution, as defined in K.S.A. 74-32,120, and~~  
38 ~~amendments thereto.~~

39 (2) Every utility which provides retail electric services in this state  
40 shall enter into a contract for parallel generation service with any person  
41 who is a customer of such utility, if such customer is a residential customer  
42 of the utility and owns a renewable generator with a capacity of 25 kilo-  
43 watts or less, or is a commercial customer of the utility and owns a re-

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ATTACHMENT 1-1

1 newable generator with a capacity of ~~100~~ 200 kilowatts or less or is a  
 2 school and owns a renewable generator with a capacity of 1.5 megawatts  
 3 or less. A commercial customer shall include the operation of a renewable  
 4 generator in connection with irrigation pumps, except that such commer-  
 5 cial customer shall not request more than 10 irrigation pumps connected  
 6 to renewable generators be attached or connected to the utility's system.  
 7 Such customer may attach or connect to the utility's delivery and metering  
 8 system an apparatus or device for the purpose of feeding excess electrical  
 9 power which is generated by such customer's energy producing system  
 10 into the utility's system. No such apparatus or device shall either cause  
 11 damage to the utility's system or equipment or present an undue hazard  
 12 to utility personnel. Every such contract shall include, but need not be  
 13 limited to, provisions relating to fair and equitable compensation for en-  
 14 ergy supplied to the utility by such customer. Such compensation shall  
 15 be not less than 150% of the utility's monthly system average cost of  
 16 energy per kilowatt hour. A utility may credit such compensation to the  
 17 customer's account or pay such compensation to the customer at least  
 18 annually or when the total compensation due equals \$25 or more.

19 (c) The following terms and conditions shall apply to contracts en-  
 20 tered into under subsection (a) or (b):

21 (1) The utility will supply, own, and maintain all necessary meters  
 22 and associated equipment utilized for billing. In addition, and for the  
 23 purposes of monitoring customer generation and load, the utility may  
 24 install at its expense, load research metering. The customer shall supply,  
 25 at no expense to the utility, a suitable location for meters and associated  
 26 equipment used for billing and for load research;

27 (2) for the purposes of insuring the safety and quality of utility system  
 28 power, the utility shall have the right to require the customer, at certain  
 29 times and as electrical operating conditions warrant, to limit the produc-  
 30 tion of electrical energy from the generating facility to an amount no  
 31 greater than the load at the customer's facility of which the generating  
 32 facility is a part;

33 (3) the customer shall furnish, install, operate, and maintain in good  
 34 order and repair and without cost to the utility, such relays, locks and  
 35 seals, breakers, automatic synchronizer, and other control and protective  
 36 apparatus as shall be designated by the utility as being required as suitable  
 37 for the operation of the generator in parallel with the utility's system. In  
 38 any case where the customer and the utility cannot agree to terms and  
 39 conditions of any such contract, the state corporation commission shall  
 40 establish the terms and conditions for such contract. In addition, the  
 41 utility may install, own, and maintain a disconnecting device located near  
 42 the electric meter or meters. Interconnection facilities between the cus-  
 43 tomer's and the utility's equipment shall be accessible at all reasonable

Such generator shall be appropriately sized for such customer's anticipated electric load.

who uses

At the customer's delivery point on the customer's side of the retail meter such

1-2

1-3

1 times to utility personnel. The customer may be required to reimburse  
2 the utility for any equipment or facilities required as a result of the in-  
3 stallation by the customer of generation in parallel with the utility's serv-  
4 ice. The customer shall notify the utility prior to the initial energizing and  
5 start-up testing of the customer-owned generator, and the utility shall  
6 have the right to have a representative present at such test; and

7 (4) the utility may require a special agreement for conditions related  
8 to technical and safety aspects of parallel generation; and

9 (5) the utility may limit the number of renewable generators to be  
10 connected to the utility's system to the capacity of the distribution line to  
11 which such renewable generator would be connected.

12 (d) Service under any contract entered into under subsection (a) or  
13 (b) shall be subject to the utility's rules and regulations on file with the  
14 state corporation commission, which shall include a standard intercon-  
15 nection process and requirements for such utility's system.

16 (e) In any case where the owner of the renewable generator and the  
17 utility cannot agree to terms and conditions of any contract provided for  
18 by this section, the state corporation commission shall establish the terms  
19 and conditions for such contract.

20 Sec. 2, K.S.A. 2006 Supp. 79-201 is hereby amended to read as fol-  
21 lows: 79-201. The following described property, to the extent herein spec-  
22 ified, shall be and is hereby exempt from all property or ad valorem taxes  
23 levied under the laws of the state of Kansas:

24 First. All buildings used exclusively as places of public worship and all  
25 buildings used exclusively by school districts and school district interlocal  
26 cooperatives organized under the laws of this state, with the furniture and  
27 books therein contained and used exclusively for the accommodation of  
28 religious meetings or for school district or school district interlocal co-  
29 operative purposes, whichever is applicable, together with the grounds  
30 owned thereby if not leased or otherwise used for the realization of profit,  
31 except that: (a) (1) Any school building, or portion thereof, together with  
32 the grounds upon which the building is located, shall be considered to be  
33 used exclusively by the school district for the purposes of this section  
34 when leased by the school district to any political or taxing subdivision of  
35 the state, including a school district interlocal cooperative, or to any as-  
36 sociation, organization or nonprofit corporation entitled to tax exemption  
37 with respect to such property; and (2) any school building, together with  
38 the grounds upon which the building is located, shall be considered to be  
39 used exclusively by a school district interlocal cooperative for the purposes  
40 of this section when being acquired pursuant to a lease-purchase agree-  
41 ment; and (b) any building, or portion thereof, used as a place of worship,  
42 together with the grounds upon which the building is located, shall be  
43 considered to be used exclusively for the religious purposes of this section

Upon notification by the customer of the customer's intent to construct and  
install parallel generation, the utility shall provide the customer a written  
estimate of all costs that will be incurred by the utility and billed to the  
customer to accommodate the interconnection.

and size

due

, and in no case shall the utility be obligated to purchase an amount  
greater than 4% of such utility's peak power requirements

either

, or the current FERC interconnection procedures and regulations

(f) The governing body of any school desiring to proceed under this  
section shall, prior to taking any action permitted by this section, make a  
finding that either: (1) Energy cost savings will accrue to the school from  
such renewable generation over a 20 year period, or (2) that such  
renewable generation is a science project being conducted for educational  
purposes and that such project may not recoup the expenses of the project  
through energy cost savings. Any school proceeding under this section  
may contract or enter into a finance, pledge, loan or lease-purchase  
agreement with the Kansas development finance authority as a means of  
financing the cost of such renewable generation.

Net

(g) For the purpose of meeting the governor's stated goal of producing  
10% of the state's electricity by wind power by 2010 and 20% by 2020, the  
parallel generation of electricity provided for in this section shall be  
included as part of the state's energy generation by wind power.

New Sec. 2. (see attachment)

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1 when used as a not-for-profit day care center for children which is li-  
2 censed pursuant to K.S.A. 65-501 *et seq.*, and amendments thereto, or  
3 when used to house an area where the congregation of a church society  
4 and others may purchase tracts, books and other items relating to the  
5 promulgation of the church society's religious doctrines.

6 *Second.* All real property, and all tangible personal property, actually  
7 and regularly used exclusively for literary, educational, scientific, relig-  
8 ious, benevolent or charitable purposes, including property used exclu-  
9 sively for such purposes by more than one agency or organization for one  
10 or more of such exempt purposes. Except with regard to real property  
11 which is owned by a religious organization, is to be used exclusively for  
12 religious purposes and is not used for a nonexempt purpose prior to its  
13 exclusive use for religious purposes which property shall be deemed to  
14 be actually and regularly used exclusively for religious purposes for the  
15 purposes of this paragraph, this exemption shall not apply to such prop-  
16 erty, not actually used or occupied for the purposes set forth herein, nor  
17 to such property held or used as an investment even though the income  
18 or rentals received therefrom is used wholly for such literary, educational,  
19 scientific, religious, benevolent or charitable purposes. In the event any  
20 such property which has been exempted pursuant to the preceding sen-  
21 tence is not used for religious purposes prior to its conveyance which  
22 results in its use for nonreligious purposes, there shall be a recoupment  
23 of property taxes in an amount equal to the tax which would have been  
24 levied upon such property except for such exemption for all taxable years  
25 for which such exemption was in effect. Such recoupment tax shall be-  
26 come due and payable in such year as provided by K.S.A. 79-2004, and  
27 amendments thereto. A lien for such taxes shall attach to the real property  
28 subject to the same on November 1 in the year such taxes become due  
29 and all such taxes remaining due and unpaid after the date prescribed for  
30 the payment thereof shall be collected in the manner provided by law for  
31 the collection of delinquent taxes. Moneys collected from the recoupment  
32 tax hereunder shall be credited by the county treasurer to the several  
33 taxing subdivisions within which such real property is located in the pro-  
34 portion that the total tangible property tax levies made in the preceding  
35 year for each such taxing subdivision bear to the total of all such levies  
36 made in that year by all such taxing subdivisions. Such moneys shall be  
37 credited to the general fund of the taxing subdivision or if such taxing  
38 subdivision is making no property tax levy for the support of a general  
39 fund such moneys may be credited to any other tangible property tax  
40 fund of general application of such subdivision. This exemption shall not  
41 be deemed inapplicable to property which would otherwise be exempt  
42 pursuant to this paragraph because an agency or organization: (a) Is re-  
43 imbursed for the provision of services accomplishing the purposes enu-

1 merated in this paragraph based upon the ability to pay by the recipient  
2 of such services; or (b) is reimbursed for the actual expense of using such  
3 property for purposes enumerated in this paragraph; or (c) uses such  
4 property for a nonexempt purpose which is minimal in scope and insub-  
5stantial in nature if such use is incidental to the exempt purposes of this  
6 paragraph; or (d) charges a reasonable fee for admission to cultural or  
7 educational activities or permits the use of its property for such activities  
8 by a related agency or organization, if any such activity is in furtherance  
9 of the purposes of this paragraph.

10 *Third.* All moneys and credits belonging exclusively to universities, col-  
11 leges, academies or other public schools of any kind, or to religious, lit-  
12 erary, scientific or benevolent and charitable institutions or associations,  
13 appropriated solely to sustain such institutions or associations, not ex-  
14 ceeding in amount or in income arising therefrom the limit prescribed  
15 by the charter of such institution or association.

16 *Fourth.* The reserve or emergency funds of fraternal benefit societies  
17 authorized to do business under the laws of the state of Kansas.

18 *Fifth.* All buildings of private nonprofit universities or colleges which  
19 are owned and operated by such universities and colleges as student union  
20 buildings, presidents' homes and student dormitories.

21 *Sixth.* All real and tangible personal property actually and regularly  
22 used exclusively by the alumni association associated by its articles of  
23 incorporation with any public or nonprofit Kansas college or university  
24 approved by the Kansas board of regents to confer academic degrees or  
25 with any community college approved by its board of trustees to grant  
26 certificates of completion of courses or curriculum, to provide accom-  
27 modations and services to such college or university or to the alumni, staff  
28 or faculty thereof.

29 *Seventh.* All parsonages owned by a church society and actually and  
30 regularly occupied and used predominantly as a residence by a minister  
31 or other clergyman of such church society who is actually and regularly  
32 engaged in conducting the services and religious ministrations of such  
33 society, and the land upon which such parsonage is located to the extent  
34 necessary for the accommodation of such parsonage.

35 *Eighth.* All real property, all buildings located on such property and all  
36 personal property contained therein, actually and regularly used exclu-  
37 sively by any individually chartered organization of honorably discharged  
38 military veterans of the United States armed forces or auxiliary of any  
39 such organization, which is exempt from federal income taxation pursuant  
40 to section 501(c)(19) of the federal internal revenue code of 1986, for  
41 clubhouse, place of meeting or memorial hall purposes, and real property  
42 to the extent of not more than two acres, and all buildings located on  
43 such property, actually and regularly used exclusively by any such veter-

1 ans' organization or its auxiliary as a memorial park.  
2 *Ninth.* All real property and tangible personal property actually and  
3 regularly used by a community service organization for the predominant  
4 purpose of providing humanitarian services, which is owned and operated  
5 by a corporation organized not for profit under the laws of the state of  
6 Kansas or by a corporation organized not for profit under the laws of  
7 another state and duly admitted to engage in business in this state as a  
8 foreign not-for-profit corporation if: (a) The directors of such corporation  
9 serve without pay for such services; (b) the corporation is operated in a  
10 manner which does not result in the accrual of distributable profits, re-  
11 alization of private gain resulting from the payment of compensation in  
12 excess of a reasonable allowance for salary or other compensation for  
13 services rendered or the realization of any other form of private gain; (c)  
14 no officer, director or member of such corporation has any pecuniary  
15 interest in the property for which exemption is claimed; (d) the corpo-  
16 ration is organized for the purpose of providing humanitarian services;  
17 (e) the actual use of property for which an exemption is claimed must be  
18 substantially and predominantly related to the purpose of providing hu-  
19 manitarian services, except that, the use of such property for a nonexempt  
20 purpose which is minimal in scope and insubstantial in nature shall not  
21 result in the loss of exemption if such use is incidental to the purpose of  
22 providing humanitarian services by the corporation; (f) the corporation is  
23 exempt from federal income taxation pursuant to section 501(c)(3) of the  
24 internal revenue code of 1986 and; (g) contributions to the corporation  
25 are deductible under the Kansas income tax act. As used in this clause,  
26 "humanitarian services" means the conduct of activities which substan-  
27 tially and predominantly meet a demonstrated community need and  
28 which improve the physical, mental, social, cultural or spiritual welfare of  
29 others or the relief, comfort or assistance of persons in distress or any  
30 combination thereof including but not limited to health and recreation  
31 services, child care, individual and family counseling, employment and  
32 training programs for handicapped persons and meals or feeding pro-  
33 grams. Notwithstanding any other provision of this clause, motor vehicles  
34 shall not be exempt hereunder unless such vehicles are exclusively used  
35 for the purposes described therein, except that the use of any such vehicle  
36 for the purpose of participating in a coordinated transit district in ac-  
37 cordance with the provisions of K.S.A. 75-5032 through 75-5037, and  
38 amendments thereto, or K.S.A. 75-5051 through 75-5058, and amend-  
39 ments thereto, shall be deemed as exclusive use.  
40 *Tenth.* For all taxable years commencing after December 31, 1986, any  
41 building, and the land upon which such building is located to the extent  
42 necessary for the accommodation of such building, owned by a church or  
43 nonprofit religious society or order which is exempt from federal income

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1 taxation pursuant to section 501(c)(3) of the federal internal revenue code  
2 of 1986, and actually and regularly occupied and used exclusively for  
3 residential and religious purposes by a community of persons who are  
4 bound by vows to a religious life and who conduct or assist in the conduct  
5 of religious services and actually and regularly engage in religious, be-  
6 nevolent, charitable or educational ministrations or the performance of  
7 health care services.

8 *Eleventh.* For all taxable years commencing after December 31, 1998,  
9 all property actually and regularly used predominantly to produce and  
10 generate electricity utilizing renewable energy resources or technologies.  
11 For purposes of this section, "renewable energy resources or technolo-  
12 gies" shall include wind, solar, ~~thermal~~, photovoltaic, biomass, hydro-  
13 power, geothermal and landfill gas resources or technologies.

14 *Twelfth.* For all taxable years commencing after December 31, 2001,  
15 all personal property actually and regularly used predominantly to collect,  
16 refine or treat landfill gas or to transport landfill gas from a landfill to a  
17 transmission pipeline, and the landfill gas produced therefrom.

18 *Thirteenth.* For all taxable years commencing after December 31, 2006,  
19 all property actually and regularly used predominantly for the storage of  
20 electrical power generated by a renewable generator under K.S.A. 66-  
21 1,184, and amendments thereto.

22 The provisions of this section, except as otherwise more specifically  
23 provided, shall apply to all taxable years commencing after December 31,  
24 1995.

25 Sec. 3. K.S.A. 66-1,184 and K.S.A. 2006 Supp. 79-201 are hereby  
26 repealed.

27 Sec. 4. This act shall take effect and be in force from and after its  
28 publication in the statute book.

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New Sec. 2. (a) For the purpose of financing the construction and installation of a renewable generator to be used by a school for parallel generation in accordance with K.S.A. 66-1,184, and amendments thereto, the Kansas development finance authority is hereby authorized to issue revenue bonds in amounts sufficient to pay the costs of such construction and installation, including any required interest on the bonds during construction and installation, plus all amounts required for costs of the bond issuance and for any required reserves on the bonds. The bonds, and interest thereon, issued pursuant to this section shall be payable from revenues derived from sales of electricity generated by the renewable generator pursuant to K.S.A. 66-1,184, and amendments thereto, or from any other revenues available to be pledged by the Kansas development finance authority for such purpose.

(b) The provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, shall not prohibit the issuance of bonds by the Kansas development finance authority for the purposes of this section and any such issuance of bonds is exempt from the provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, which would operate to preclude such issuance.

(c) Revenue bonds, including refunding revenue bonds, issued hereunder shall not constitute an indebtedness of the state of Kansas, nor shall they constitute indebtedness within the meaning of any constitutional or statutory provision limiting the incurring of indebtedness.

(d) Revenue bonds, including refunding revenue bonds, issued hereunder and the income derived therefrom are and shall be exempt from all state, county and municipal taxation in the state of Kansas, except Kansas estate taxes.

## Proposed Substitute for HOUSE BILL NO. 2219

By Committee on Energy and Utilities

AN ACT concerning coal-fired electric generation facilities; relating to the creation of an atmospheric mercury deposition monitoring network.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) The secretary of health and environment shall establish a statewide atmospheric mercury deposition monitoring network to measure mercury deposition in Kansas.

(b) The secretary of health and environment may fix, charge and collect annual mercury emission fees in amounts necessary to pay the direct and indirect costs of administering the atmospheric mercury deposition monitoring network provisions of the Kansas air quality act. The secretary shall adopt rules and regulations fixing such fees and shall periodically increase or decrease such fees consistent with the need to cover the direct and indirect costs of administering the program. The monitoring fees shall be based on actual mercury emissions data where available or any other relevant design or operating information deemed necessary by the secretary to estimate the actual mercury emissions from the coal-fired electrical generating unit.

(c) (1) There is hereby established in the state treasury the atmospheric mercury deposition monitoring fee fund. The secretary of health and environment shall remit to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, all moneys received by the secretary from fees collected pursuant to subsection (b). Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the atmospheric mercury deposition monitoring fee fund.

(2) Moneys credited to the atmospheric mercury deposition monitoring fee fund shall be expended only for the purpose of administering the atmospheric mercury deposition monitoring network provisions of the Kansas air quality act.

(3) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund

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to the atmospheric mercury deposition monitoring fee fund interest earnings based on: (A) The average daily balance of moneys in the atmospheric mercury deposition fee fund for the preceding month; and (B) the net earnings rate of the pooled money investment portfolio for the preceding month.

(4) All expenditures from the atmospheric mercury deposition monitoring fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment for the purposes set forth in this section.

(d) On the first day of the regular legislative session in 2009 and each year thereafter, the secretary of health and environment shall submit to the legislature a report summarizing the results of the atmospheric mercury deposition monitoring provided for by this section.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

## Proposed Substitute for HOUSE BILL NO. 2219

By Committee on Energy and Utilities

AN ACT concerning coal-fired electric generation facilities; relating to the creation of an atmospheric mercury deposition monitoring network.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) The secretary of health and environment shall establish a statewide atmospheric mercury deposition monitoring network to measure mercury deposition in Kansas.

(b) The secretary of health and environment may fix, charge and collect annual mercury emission fees in amounts necessary to pay the direct and indirect costs of administering the atmospheric mercury deposition monitoring network provisions of the Kansas air quality act. The secretary shall adopt rules and regulations fixing such fees and shall periodically increase or decrease such fees consistent with the need to cover the direct and indirect costs of administering the program. The monitoring fees shall be based on actual mercury emissions data where available or any other relevant design or operating information deemed necessary by the secretary to estimate the actual mercury emissions from the coal-fired electrical generating unit.

(c) (1) There is hereby established in the state treasury the atmospheric mercury deposition monitoring fee fund. The secretary of health and environment shall remit to the state treasurer, in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, all moneys received by the secretary from fees collected pursuant to subsection (b). Upon receipt of the remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the atmospheric mercury deposition monitoring fee fund.

(2) Moneys credited to the atmospheric mercury deposition monitoring fee fund shall be expended only for the purpose of administering the atmospheric mercury deposition monitoring network provisions of the Kansas air quality act.

(3) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund



to the atmospheric mercury deposition monitoring fee fund interest earnings based on: (A) The average daily balance of moneys in the atmospheric mercury deposition fee fund for the preceding month; and (B) the net earnings rate of the pooled money investment portfolio for the preceding month.

(4) All expenditures from the atmospheric mercury deposition monitoring fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment for the purposes set forth in this section.

(d) On the first day of the regular legislative session in 2009 and each year thereafter, the secretary of health and environment shall submit to the legislature a report summarizing the results of the atmospheric mercury deposition monitoring provided for by this section.

Sec. 2. This act shall take effect and be in force from and after its publication in the Kansas register.

## PROPOSED Substitute for HOUSE BILL NO. 2219

By Committee on Energy and Utilities

AN ACT concerning certain electric generation facilities;  
concerning application of certain taxes.

Be it enacted by the Legislature of the State of Kansas:

Section 1. To the extent allowed by federal law, if the United States government imposes a tax on emissions of carbon dioxide, coal-fired electric generation facilities in existence in this state prior to the effective date of such tax shall not be exempt from such tax. If federal law requires that such facilities be exempt from such tax, there is hereby imposed on emissions of carbon dioxide from such facilities a tax at the same rate as that which would be imposed by federal law if such facilities were not exempt.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

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## PROPOSED Substitute for HOUSE BILL NO. 2219

By Committee on Energy and Utilities

AN ACT concerning certain electric generation facilities;  
concerning application of certain taxes.

Be it enacted by the Legislature of the State of Kansas:

Section 1. To the extent allowed by federal law, if the United States government imposes a tax on emissions of carbon dioxide, coal-fired electric generation facilities in existence in this state prior to the effective date of such tax shall not be exempt from such tax. If federal law requires that such facilities be exempt from such tax, there is hereby imposed on emissions of carbon dioxide from such facilities a tax at the same rate as that which would be imposed by federal law if such facilities were not exempt.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

## HOUSE BILL No. 2169

By Committee on Energy and Utilities

1-23

9 AN ACT concerning the Kansas development finance authority; relating  
10 to energy conservation improvements and energy conservation meas-  
11 ures; amending K.S.A. 75-37,114 and K.S.A. 2006 Supp. 74-8902 and  
12 75-37,125 and repealing the existing sections.  
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2006 Supp. 74-8902 is hereby amended to read as  
16 follows: 74-8902. The following words or terms used in this act shall have  
17 the following meanings unless a different meaning clearly appears from  
18 the context:

- 19 (a) "Act" means the Kansas development finance authority act.  
20 (b) "Authority" means the Kansas development finance authority cre-  
21 ated by K.S.A. 74-8903, and amendments thereto.  
22 (c) "Agricultural business enterprises" means facilities supporting or  
23 utilized in the operation of farms, ranches and other agricultural, aqua-  
24 cultural or silvicultural commodity producers and services provided in  
25 conjunction with the foregoing. "Agricultural business enterprise" shall  
26 not include a swine production facility on agricultural land which is  
27 owned, acquired, obtained or leased by a corporation, limited liability  
28 company, limited partnership, corporate partnership or trust.  
29 (d) "Agricultural land," "corporation," "corporate partnership," "lim-  
30 ited liability company," "limited partnership," "swine production facility"  
31 and "trust" have the meanings ascribed pursuant to K.S.A. 17-5903, and  
32 amendments thereto.  
33 (e) "Board of directors" means the board of directors of the authority  
34 created by K.S.A. 74-8903, and amendments thereto.  
35 (f) "Bonds" means any bonds, notes, debentures, interim certificates,  
36 grant and revenue anticipation notes, interest in a lease, lease certificate  
37 of participation or other evidences of indebtedness, whether or not the  
38 interest on which is subject to federal income taxation, issued by the  
39 authority pursuant to this act.  
40 (g) "Capital improvements" means any physical public betterment or  
41 improvement or any preliminary plans, studies or surveys relative thereto;  
42 land or rights in land, including, without limitations, leases, air rights,  
43 easements, rights-of-way or licenses; and any furnishings, machinery, ve-

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1 hicles, apparatus or equipment for any public betterment or  
2 improvement.

3 (h) "Construct" means to acquire or build, in whole or in part, in  
4 such manner and by such method as the authority shall determine to be  
5 in the public interest and necessary to accomplish the purposes of and  
6 authority set forth in this act.

7 (i) "Loans" means loans made for the purposes of financing any of  
8 the activities authorized within this act, including loans made to financial  
9 institutions for funding or as security for loans made for accomplishing  
10 any of the purposes of this act and reserves and expenses appropriate or  
11 incidental thereto.

12 (j) "Educational facilities" means real, personal and mixed property  
13 of any and every kind intended by an educational institution in further-  
14 ance of its educational program.

15 (k) "Facilities" means any real property, personal property or mixed  
16 property of any and every kind.

17 (l) "Health care facilities" means facilities for furnishing physical or  
18 mental health care.

19 (m) "Housing development" means any work or undertaking,  
20 whether new construction or rehabilitation, which is designed and fi-  
21 nanced pursuant to the provisions of this act for the primary purpose of  
22 providing dwelling accommodations for elderly persons and families of  
23 low income in need of housing.

24 (n) "Industrial enterprise" means facilities for manufacturing, pro-  
25 ducing, processing, assembling, repairing, extracting, warehousing, dis-  
26 tributing, communications, computer services, transportation, corporate  
27 and management offices and services provided in connection with any of  
28 the foregoing, in isolation or in any combination, that involve the creation  
29 of new or additional employment or the retention of existing employment.

30 (o) "Political subdivision" means political or taxing subdivisions of the  
31 state, including municipal and quasi-municipal corporations, boards, com-  
32 missions, authorities, councils, committees, subcommittees and other  
33 subordinate groups or administrative units thereof, receiving or expend-  
34 ing and supported, in whole or in part, by public funds *and any municipi-*  
35 *ality as defined in K.S.A. 75-1117, and amendments thereto.*

36 (p) "Pooled bonds" means bonds of the authority, the interest on  
37 which is subject to federal income taxation, which are issued for the pur-  
38 pose of acquiring bonds issued by two or more political subdivisions.

39 (q) "Research facilities" means facilities for use in research and de-  
40 velopment activities, whether conducted for profit or not for profit, of an  
41 agricultural business enterprise, industrial enterprise or any other com-  
42 mercial enterprise or educational institution or health care institution.

43 (r) "State" means the state of Kansas.

4-2

4-3

1 (s) "State agency" means any office, department, board, commission,  
 2 bureau, division, public corporation, agency or instrumentality of this  
 3 state.

4 Sec. 2. K.S.A. 75-37,114 is hereby amended to read as follows: 75-  
 5 37,114. The projects for energy conservation improvements for state fa-  
 6 cilities which are initiated by state agencies under this act are hereby  
 7 approved for such state agencies for the purposes of subsection (b) of  
 8 K.S.A. 74-8905 and amendments thereto. The total costs of the projects  
 9 for energy conservation improvements under this act for any fiscal year,  
 10 exclusive of financing costs, shall not exceed ~~\$5,000,000~~ *the amounts ap-*  
 11 *proved for such energy conservation improvements by the secretary of*  
 12 *administration.*

state corporation commission
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13 Sec. 3. K.S.A. 2006 Supp. 75-37,125 is hereby amended to read as  
 14 follows: 75-37,125. (a) As used in this act:

15 (1) ~~"Municipality" shall have the meaning ascribed thereto in K.S.A.~~  
 16 ~~75-1117, and amendments thereto. "Federal entity" means the govern-~~  
 17 ~~ment of the United States of America or any bureau, department, instru-~~  
 18 ~~mentality or other agency of the federal government.~~

19 (2) "Political subdivision" shall have the meaning ascribed thereto in  
 20 subsection (o) of K.S.A. 74-8902, and amendments thereto.

21 ~~(2)~~ (3) "State agency" shall have the meaning ascribed thereto in  
 22 K.S.A. 75-3049, and amendments thereto.

23 ~~(3)~~ (4) "Energy conservation measure" means an energy study, audit,  
 24 improvement or equipment which is designed to provide energy and op-  
 25 erational cost savings at least equivalent to the amount expended by a  
 26 participating ~~municipality~~ *political subdivision* or state agency for such  
 27 energy study, audit, improvement or equipment over a period of not more  
 28 than ~~20~~ 30 years after the date such improvement or equipment is in-  
 29 stalled or becomes operational, as the case may be.

30 (b) Subject to the provisions of subsection (c), a ~~municipality~~ *political*  
 31 *subdivision* or state agency, *which include the board of regents and a*  
 32 *regent's institution and a community or technical college,* may enter into  
 33 a contract or lease-purchase agreement for an energy conservation mea-  
 34 sure which meets the criteria of this section. In addition to any other  
 35 authority provided by law a ~~municipality~~ *political subdivision* or state  
 36 *agency* may (1) *contract or enter into a finance, pledge, loan or lease-*  
 37 *purchase agreement with the Kansas development finance authority for*  
 38 *an energy conservation measure* or (2) solicit proposals to contract for an  
 39 energy conservation measure ~~by advertising for proposals and qualifica-~~  
 40 ~~tions in a newspaper of general circulation or the Kansas register, and by~~  
 41 ~~sending requests for proposals to at least three vendors and negotiating~~  
 42 ~~a lease-purchase agreement with one or more vendors submitting a pro-~~  
 43 ~~posal thereto. Negotiations entered into pursuant to this section with the~~

4-4

1 *Kansas development finance authority* or individual vendors shall not be  
 2 subject to the provisions of the open meetings act *or the open records*  
 3 *act*. After an agreement has been executed, the agreement and all pro-  
 4 posals from vendors shall be open records available for public inspection  
 5 in accordance with the open records act. A state agency may: (1) *Contract*  
 6 *or enter into a finance, pledge, loan or lease-purchase agreement with the*  
 7 *Kansas development finance authority for an energy conservation mea-*  
 8 *sure; or (2) utilize the procedures prescribed in K.S.A. 75-37,102, and*  
 9 *amendments thereto, by the to convene a procurement negotiating com-*  
 10 *mittee to negotiate and contract for energy conservation measures. Each*  
 11 *state agency shall provide copies of plans of the proposed energy conser-*  
 12 *vation measure to the secretary of administration, or such secretary's des-*  
 13 *ignee, for review. No state agency may enter into a contract for an energy*  
 14 *conservation measure unless such measure has been approved by the*  
 15 *secretary of administration. Plans submitted under this section shall be*  
 16 *retained and maintained by the secretary of administration.*

state corporation commission

state corporation commission

state corporation commission

17 (c) Before executing any contract *or finance, pledge, loan or lease-*  
 18 *purchase agreement under this section, the energy conservation contrac-*  
 19 *tor shall provide the municipality political subdivision or state agency with*  
 20 *plans for the proposed energy conservation measures prepared by an*  
 21 *engineer licensed to practice in Kansas. The energy conservation con-*  
 22 *tractor shall also provide a report of the calculations showing the esti-*  
 23 *imated energy and operational cost savings that would result from the*  
 24 *proposed energy conservation measures. Notwithstanding any provision*  
 25 *contained in K.S.A. 71-201 and 72-8225, and amendments thereto or*  
 26 *other provisions of law, the board of education of any school district and*  
 27 *the board of any community college or technical college may enter into*  
 28 *a contract or finance, pledge, loan or lease-purchase agreement for an*  
 29 *energy conservation measure for a period exceeding 10 years. Muni-*  
 30 *cipalities Political subdivisions and state agencies may include a provision*  
 31 *in the contract with an entity providing the energy conservation measure*  
 32 *requiring such entity to guarantee that the actual amount of savings of*  
 33 *energy and operational costs attributable to the energy conservation mea-*  
 34 *sure be not less than the cost of the energy conservation measure over*  
 35 *the time specified including financing costs.*

36 (d) Within the limits of appropriations available therefor, the state  
 37 corporation commission is authorized to provide grants for engineering  
 38 studies and energy conservation measures for *municipalities political sub-*  
 39 *divisions and state agencies. The Kansas development finance authority*  
 40 *is authorized to assist the state corporation commission and any political*  
 41 *subdivision, state agency or federal entity with engineering studies and*  
 42 *energy conservation measures.*

state corporation commission

43 (e) The *secretary of administration* may provide administrative sup-

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1 port and resources available under the ~~facility~~ *energy* conservation im-  
 2 provement program under this section or K.S.A. 75-37,111 et seq., and  
 3 amendments thereto, as requested by school districts, private and public  
 4 colleges in Kansas, ~~municipalities and political subdivisions~~, state agencies  
 5 *or federal entities* for purposes of this section. The ~~secretary of adminis-~~  
 6 ~~tration~~ may fix, charge and collect reasonable fees for any administrative  
 7 support and resources or other services provided by the ~~secretary~~ under  
 8 this subsection.

state corporation commission

state corporation commission

9 (f) The provisions of the cash basis law and K.S.A. 79-2925, and  
 10 amendments thereto, shall not apply to any contract or lease-purchase  
 11 agreement entered into pursuant to this section.

12 (g) *The energy conservation measures for political subdivisions or*  
 13 *state agencies are hereby authorized to be financed by the Kansas devel-*  
 14 *opment finance authority pursuant to subsection (a) of K.S.A. 74-8905,*  
 15 *and amendments thereto. The energy conservation measures for state fa-*  
 16 *cilities which are initiated by state agencies under this section are hereby*  
 17 *approved for such state agencies for the purposes of subsection (b) of*  
 18 *K.S.A. 74-8905, and amendments thereto. The total costs of energy con-*  
 19 *servation measures for state facilities initiated by state agencies under this*  
 20 *section for any fiscal year, exclusive of financing costs, shall not exceed*  
 21 *the amounts approved for such energy conservation measures by the see-*  
 22 *retary of administration.*

state corporation commission

23 New Sec. 4. (a) The Kansas development finance authority is hereby  
 24 authorized to issue revenue bonds in amounts sufficient to pay the costs  
 25 of energy conservation measures for or on behalf of federal entities for  
 26 facilities located in the state, and to contract with federal entities with  
 27 respect to such energy conservation measures and such revenue bonds.  
 28 The bonds, and interest thereon, issued pursuant to this section shall be  
 29 payable from: (1) Revenues derived from the use, lease, occupation or  
 30 operation of the facilities for which such energy conservation measures  
 31 are undertaken; (2) any other revenues, appropriations, grants or moneys  
 32 of a federal entity available therefore; or (3) any combination thereof.

33 (b) Revenue bonds, including refunding revenue bonds, issued under  
 34 this section shall not be an obligation of the state of Kansas and shall not  
 35 constitute an indebtedness of the state of Kansas, nor shall they constitute  
 36 indebtedness within the meaning of any constitutional or statutory pro-  
 37 vision limiting the incurring of indebtedness.

38 (c) Revenue bonds, including refunding revenue bonds, issued under  
 39 this section and the income derived therefrom are and shall be exempt  
 40 from all state, county and municipal taxation in the state of Kansas, except  
 41 Kansas estate taxes.

42 Sec. 5. K.S.A. 75-37,114 and K.S.A. 2006 Supp. 74-8902 and 75-  
 43 37,125 are hereby repealed.



1 Sec. 6. This act shall take effect and be in force from and after its  
2 publication in the statute book.

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# HOUSE BILL No. 2033

By Committee on Energy and Utilities

1-9

Subcommittee Report

9 AN ACT concerning the state corporation commission; relating to when  
10 public utility property is deemed to be completed and dedicated to  
11 commercial service; amending K.S.A. 2006 Supp. 66-128 and repealing  
12 the existing section.  
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2006 Supp. 66-128 is hereby amended to read as  
16 follows: 66-128. (a) The state corporation commission shall determine the  
17 reasonable value of all or whatever fraction or percentage of the property  
18 of any common carrier or public utility governed by the provisions of this  
19 act which property is used and required to be used in its services to the  
20 public within the state of Kansas, whenever the commission deems the  
21 ascertainment of such value necessary in order to enable the commission  
22 to fix fair and reasonable rates, joint rates, tolls and charges. In making  
23 such valuations the commission may avail itself of any reports, records or  
24 other things available to the commission in the office of any national, state  
25 or municipal officer or board.

26 (b) (1) For the purposes of this act, except as provided by subsection  
27 (b)(2), property of any public utility which has not been completed and  
28 dedicated to commercial service shall not be deemed to be used and  
29 required to be used in the public utility's service to the public.

30 (2) Any public utility property described in subsection (b)(1) ~~may~~  
31 *shall* be deemed to be completed and dedicated to commercial service  
32 if: (A) Construction of the property will be commenced and completed  
33 in one year or less; (B) the property is an electric generation facility that  
34 has a capacity of 100 megawatts or less and converts wind, solar, biomass,  
35 landfill gas or any other renewable source of energy; (C) construction of  
36 the property has been authorized by a siting permit issued under K.S.A.  
37 66-1,158 et seq. or 66-1,177 et seq., and amendments thereto; (D) the  
38 property is an electric generation facility or addition to an electric gen-  
39 eration facility, which facility or addition to a facility is placed in service  
40 on or after January 1, 2001; or (E) the property is an electric transmission  
41 line, including all towers, poles and other necessary appurtenances to such  
42 lines, which will be connected to an electric generation facility.

43 (3) Electric generation facilities under the provisions of subsection

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1 (b)(2)(D) or (b)(2)(E) shall not include facilities used in generating elec-  
2 tricity by nuclear resources or technologies or by using renewable energy  
3 resources or technologies, as defined in K.S.A. 79-201, and amendments  
4 thereto.

5 (c) As used in this section, "electric transmission line" means any line  
6 or extension of a line with an operating voltage of 34.5 kilovolts or more  
7 which is at least five miles in length and which is used or to be used for  
8 the bulk transfer of electricity.

9 Sec. 2. K.S.A. 2006 Supp. 66-128 is hereby repealed.

10 Sec. 3. This act shall take effect and be in force from and after its  
11 publication in the statute book.

(4) Nothing in this subsection (b) shall be construed to preclude the state corporation, either on the commission's initiation of a docket or in a utility rate proceeding, from reviewing whether expenditures for public utility property were reasonably or prudently incurred.

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1 (b)(2)(D) or (b)(2)(E) shall not include facilities used in generating elec-  
2 tricity by nuclear resources or technologies or by using renewable energy  
3 resources or technologies, as defined in K.S.A. 79-201, and amendments  
4 thereto.

5 (c) As used in this section, "electric transmission line" means any line  
6 or extension of a line with an operating voltage of 34.5 kilovolts or more  
7 which is at least five miles in length and which is used or to be used for  
8 the bulk transfer of electricity.

9 Sec. 2. K.S.A. 2006 Supp. 66-128 is hereby repealed.

10 Sec. 3. This act shall take effect and be in force from and after its  
11 publication in the statute book.

(4) Nothing in this subsection (b) shall be construed to preclude the state corporation, either on the commission's initiation of a docket or in a utility rate proceeding, from reviewing whether expenditures for public utility property were reasonably or prudently incurred efficient and prudent.

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**HOUSE BILL No. 2240**

By Committee on Energy and Utilities

1-25

9 AN ACT concerning retailers' sales tax; relating to the exemptions;  
10 amending K.S.A. 2006 Supp. 79-3603 and repealing the existing  
11 section.  
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2006 Supp. 79-3603 is hereby amended to read as  
15 follows: 79-3603. For the privilege of engaging in the business of selling  
16 tangible personal property at retail in this state or rendering or furnishing  
17 any of the services taxable under this act, there is hereby levied and there  
18 shall be collected and paid a tax at the rate of 5.3%. Within a redevel-  
19 opment district established pursuant to K.S.A. 74-8921, and amendments  
20 thereto, there is hereby levied and there shall be collected and paid an  
21 additional tax at the rate of 2% until the earlier of the date the bonds  
22 issued to finance or refinance the redevelopment project have been paid  
23 in full or the final scheduled maturity of the first series of bonds issued  
24 to finance any part of the project upon:

25 (a) The gross receipts received from the sale of tangible personal  
26 property at retail within this state;

27 (b) (1) the gross receipts from intrastate telephone or telegraph serv-  
28 ices; (2) the gross receipts received from the sale of interstate telephone  
29 or telegraph services, which (A) originate within this state and terminate  
30 outside the state and are billed to a customer's telephone number or  
31 account in this state; or (B) originate outside this state and terminate  
32 within this state and are billed to a customer's telephone number or ac-  
33 count in this state except that the sale of interstate telephone or telegraph  
34 service does not include: (A) Any interstate incoming or outgoing wide  
35 area telephone service or wide area transmission type service which en-  
36 titles the subscriber to make or receive an unlimited number of com-  
37 munications to or from persons having telephone service in a specified  
38 area which is outside the state in which the station provided this service  
39 is located; (B) any interstate private communications service to the per-  
40 sons contracting for the receipt of that service that entitles the purchaser  
41 to exclusive or priority use of a communications channel or group of  
42 channels between exchanges; (C) any value-added nonvoice service in  
43 which computer processing applications are used to act on the form, con-

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1 tent, code or protocol of the information to be transmitted; (D) any tel-  
2 ecommunication service to a provider of telecommunication services  
3 which will be used to render telecommunications services, including car-  
4 rier access services; or (E) any service or transaction defined in this sec-  
5 tion among entities classified as members of an affiliated group as pro-  
6 vided by section 1504 of the federal internal revenue code of 1986, as in  
7 effect on January 1, 2001; and (3) the gross receipts from the provision  
8 of services taxable under this subsection which are billed on a combined  
9 basis with nontaxable services, shall be accounted for and the tax remitted  
10 as follows: The taxable portion of the selling price of those combined  
11 services shall include only those charges for taxable services if the selling  
12 price for the taxable services can be readily distinguishable in the retailer's  
13 books and records from the selling price for the nontaxable services. Oth-  
14 erwise, the gross receipts from the sale of both taxable and nontaxable  
15 services billed on a combined basis shall be deemed attributable to the  
16 taxable services included therein. Within 90 days of billing taxable services  
17 on a combined basis with nontaxable services, the retailer shall enter into  
18 a written agreement with the secretary identifying the methodology to be  
19 used in determining the taxable portion of the selling price of those com-  
20 bined services. The burden of proving that any receipt or charge is not  
21 taxable shall be upon the retailer. Upon request from the customer, the  
22 retailer shall disclose to the customer the selling price for the taxable  
23 services included in the selling price for the taxable and nontaxable serv-  
24 ices billed on a combined basis;

25 (c) the gross receipts from the sale or furnishing of gas, water, elec-  
26 tricity and heat, which sale is not otherwise exempt from taxation under  
27 the provisions of this act, and whether furnished by municipally or pri-  
28 vately owned utilities, except that, on and after January 1, 2006, for sales  
29 of gas, electricity and heat delivered through mains, lines or pipes to  
30 residential premises for noncommercial use by the occupant of such  
31 premises, and for agricultural use and also, for such use, all sales of pro-  
32 pane gas, the state rate shall be 0%; and for all sales of propane gas, LP  
33 gas, coal, wood and other fuel sources for the production of heat or light-  
34 ing for noncommercial use of an occupant of residential premises, the  
35 state rate shall be 0%, but such tax shall not be levied and collected upon  
36 the gross receipts from: (1) The sale of a rural water district benefit unit;  
37 (2) a water system impact fee, system enhancement fee or similar fee  
38 collected by a water supplier as a condition for establishing service; or (3)  
39 connection or reconnection fees collected by a water supplier;

40 (d) the gross receipts from the sale of meals or drinks furnished at  
41 any private club, drinking establishment, catered event, restaurant, eating  
42 house, dining car, hotel, drugstore or other place where meals or drinks  
43 are regularly sold to the public;

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1 (e) the gross receipts from the sale of admissions to any place pro-  
2 viding amusement, entertainment or recreation services including admis-  
3 sions to state, county, district and local fairs, but such tax shall not be  
4 levied and collected upon the gross receipts received from sales of ad-  
5 missions to any cultural and historical event which occurs triennially;

6 (f) the gross receipts from the operation of any coin-operated device  
7 dispensing or providing tangible personal property, amusement or other  
8 services except laundry services, whether automatic or manually operated;

9 (g) the gross receipts from the service of renting of rooms by hotels,  
10 as defined by K.S.A. 36-501 and amendments thereto, or by accommo-  
11 dation brokers, as defined by K.S.A. 12-1692, and amendments thereto  
12 but such tax shall not be levied and collected upon the gross receipts  
13 received from sales of such service to the federal government and any  
14 agency, officer or employee thereof in association with the performance  
15 of official government duties;

16 (h) the gross receipts from the service of renting or leasing of tangible  
17 personal property except such tax shall not apply to the renting or leasing  
18 of machinery, equipment or other personal property owned by a city and  
19 purchased from the proceeds of industrial revenue bonds issued prior to  
20 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through  
21 12-1749, and amendments thereto, and any city or lessee renting or leas-  
22 ing such machinery, equipment or other personal property purchased  
23 with the proceeds of such bonds who shall have paid a tax under the  
24 provisions of this section upon sales made prior to July 1, 1973, shall be  
25 entitled to a refund from the sales tax refund fund of all taxes paid  
26 thereon;

27 (i) the gross receipts from the rendering of dry cleaning, pressing,  
28 dyeing and laundry services except laundry services rendered through a  
29 coin-operated device whether automatic or manually operated;

30 (j) the gross receipts from the rendering of the services of washing  
31 and washing and waxing of vehicles;

32 (k) the gross receipts from cable, community antennae and other sub-  
33 scriber radio and television services;

34 (l) (1) except as otherwise provided by paragraph (2), the gross re-  
35 cepts received from the sales of tangible personal property to all con-  
36 tractors, subcontractors or repairmen for use by them in erecting struc-  
37 tures, or building on, or otherwise improving, altering, or repairing real  
38 or personal property.

39 (2) Any such contractor, subcontractor or repairman who maintains  
40 an inventory of such property both for sale at retail and for use by them  
41 for the purposes described by paragraph (1) shall be deemed a retailer  
42 with respect to purchases for and sales from such inventory, except that  
43 the gross receipts received from any such sale, other than a sale at retail,

1 shall be equal to the total purchase price paid for such property and the  
2 tax imposed thereon shall be paid by the deemed retailer;

3 (m) the gross receipts received from fees and charges by public and  
4 private clubs, drinking establishments, organizations and businesses for  
5 participation in sports, games and other recreational activities, but such  
6 tax shall not be levied and collected upon the gross receipts received from:

7 (1) Fees and charges by any political subdivision, by any organization  
8 exempt from property taxation pursuant to paragraph *Ninth* of K.S.A. 79-  
9 201, and amendments thereto, or by any youth recreation organization  
10 exclusively providing services to persons 18 years of age or younger which  
11 is exempt from federal income taxation pursuant to section 501(c)(3) of  
12 the federal internal revenue code of 1986, for participation in sports,  
13 games and other recreational activities; and (2) entry fees and charges for  
14 participation in a special event or tournament sanctioned by a national  
15 sporting association to which spectators are charged an admission which  
16 is taxable pursuant to subsection (e);

17 (n) the gross receipts received from dues charged by public and pri-  
18 vate clubs, drinking establishments, organizations and businesses, pay-  
19 ment of which entitles a member to the use of facilities for recreation or  
20 entertainment, but such tax shall not be levied and collected upon the  
21 gross receipts received from: (1) Dues charged by any organization ex-  
22 empt from property taxation pursuant to paragraphs *Eighth* and *Ninth* of  
23 K.S.A. 79-201, and amendments thereto; and (2) sales of memberships  
24 in a nonprofit organization which is exempt from federal income taxation  
25 pursuant to section 501 (c)(3) of the federal internal revenue code of  
26 1986, and whose purpose is to support the operation of a nonprofit zoo;

27 (o) the gross receipts received from the isolated or occasional sale of  
28 motor vehicles or trailers but not including: (1) The transfer of motor  
29 vehicles or trailers by a person to a corporation or limited liability com-  
30 pany solely in exchange for stock securities or membership interest in  
31 such corporation or limited liability company; or (2) the transfer of motor  
32 vehicles or trailers by one corporation or limited liability company to  
33 another when all of the assets of such corporation or limited liability  
34 company are transferred to such other corporation or limited liability  
35 company; or (3) the sale of motor vehicles or trailers which are subject  
36 to taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and  
37 amendments thereto, by an immediate family member to another im-  
38 mediate family member. For the purposes of clause (3), immediate family  
39 member means lineal ascendants or descendants, and their spouses. Any  
40 amount of sales tax paid pursuant to the Kansas retailers sales tax act on  
41 the isolated or occasional sale of motor vehicles or trailers on and after  
42 July 1, 2004, which the base for computing the tax was the value pursuant  
43 to subsections (a), (b)(1) and (b)(2) of K.S.A. 79-5105, and amendments

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1 thereto, when such amount was higher than the amount of sales tax which  
2 would have been paid under the law as it existed on June 30, 2004, shall  
3 be refunded to the taxpayer pursuant to the procedure prescribed by this  
4 section. Such refund shall be in an amount equal to the difference be-  
5 tween the amount of sales tax paid by the taxpayer and the amount of  
6 sales tax which would have been paid by the taxpayer under the law as it  
7 existed on June 30, 2004. Each claim for a sales tax refund shall be verified  
8 and submitted not later than six months from the effective date of this  
9 act to the director of taxation upon forms furnished by the director and  
10 shall be accompanied by any additional documentation required by the  
11 director. The director shall review each claim and shall refund that  
12 amount of tax paid as provided by this act. All such refunds shall be paid  
13 from the sales tax refund fund, upon warrants of the director of accounts  
14 and reports pursuant to vouchers approved by the director of taxation or  
15 the director's designee. No refund for an amount less than \$10 shall be  
16 paid pursuant to this act. In determining the base for computing the tax  
17 on such isolated or occasional sale, the fair market value of any motor  
18 vehicle or trailer traded in by the purchaser to the seller may be deducted  
19 from the selling price;

20 (p) the gross receipts received for the service of installing or applying  
21 tangible personal property which when installed or applied is not being  
22 held for sale in the regular course of business, and whether or not such  
23 tangible personal property when installed or applied remains tangible  
24 personal property or becomes a part of real estate, except that no tax shall  
25 be imposed upon the service of installing or applying tangible personal  
26 property in connection with the original construction of a building or  
27 facility, the original construction, reconstruction, restoration, remodeling,  
28 renovation, repair or replacement of a residence or the construction, re-  
29 construction, restoration, replacement or repair of a bridge or highway.

30 For the purposes of this subsection:

31 (1) "Original construction" shall mean the first or initial construction  
32 of a new building or facility. The term "original construction" shall include  
33 the addition of an entire room or floor to any existing building or facility,  
34 the completion of any unfinished portion of any existing building or fa-  
35 cility and the restoration, reconstruction or replacement of a building or  
36 facility damaged or destroyed by fire, flood, tornado, lightning, explosion,  
37 *windstorm, ice loading, terrorism* or earthquake, but such term, except  
38 with regard to a residence, shall not include replacement, remodeling,  
39 restoration, renovation or reconstruction under any other circumstances;

40 (2) "building" shall mean only those enclosures within which individ-  
41 uals customarily are employed, or which are customarily used to house  
42 machinery, equipment or other property, and including the land improve-  
43 ments immediately surrounding such building;

and attendant winds

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1 (3) "facility" shall mean a mill, plant, refinery, oil or gas well, water  
2 well, feedlot or any conveyance, transmission or distribution line of any  
3 ~~natural gas or electric public utility~~, cooperative, nonprofit, membership  
4 corporation organized under or subject to the provisions of K.S.A. 17-  
5 4601 et seq., and amendments thereto, or of any municipal or quasi-  
6 municipal corporation, including the land improvements immediately sur-  
7 rounding such facility; and

and appurtenances

8 (4) "residence" shall mean only those enclosures within which indi-  
9 viduals customarily live;

(5)

(4) "reconstruction" shall mean rebuilding transmission and distribution lines and appurtenances by an independent transmission company or cooperative, the Kansas electric transmission authority or natural gas or electric public utility.

10 (q) the gross receipts received for the service of repairing, servicing,  
11 altering or maintaining tangible personal property which when such serv-  
12 ices are rendered is not being held for sale in the regular course of busi-  
13 ness, and whether or not any tangible personal property is transferred in  
14 connection therewith. The tax imposed by this subsection shall be appli-  
15 cable to the services of repairing, servicing, altering or maintaining an  
16 item of tangible personal property which has been and is fastened to,  
17 connected with or built into real property;

(6) "windstorm" shall mean straight line winds of at least 80 miles per hour as determined by a recognized meteorological reporting agency or organization.

18 (r) the gross receipts from fees or charges made under service or  
19 maintenance agreement contracts for services, charges for the providing  
20 of which are taxable under the provisions of subsection (p) or (q);

21 (s) on and after January 1, 2005, the gross receipts received from the  
22 sale of prewritten computer software and the sale of the services of mod-  
23 ifying, altering, updating or maintaining prewritten computer software,  
24 whether the prewritten computer software is installed or delivered elec-  
25 tronically by tangible storage media physically transferred to the pur-  
26 chaser or by load and leave;

27 (t) the gross receipts received for telephone answering services, mo-  
28 bile telecommunication services, beeper services and other similar serv-  
29 ices. On and after August 1, 2002, the provisions of the federal mobile  
30 telecommunications sourcing act as in effect on January 1, 2002, shall be  
31 applicable to all sales of mobile telecommunication services taxable pur-  
32 suant to this subsection. The secretary of revenue is hereby authorized  
33 and directed to perform any act deemed necessary to properly implement  
34 such provisions;

35 (u) the gross receipts received from the sale of prepaid calling service  
36 as defined in K.S.A. 2006 Supp. 79-3673, and amendments thereto; and

37 (v) the gross receipts received from the sales of bingo cards, bingo  
38 faces and instant bingo tickets by licensees under K.S.A. 79-4701, et seq.,  
39 and amendments thereto, shall be taxed at a rate of: (1) 4.9% on July 1,  
40 2000, and before July 1, 2001; and (2) 2.5% on July 1, 2001, and before  
41 July 1, 2002. From and after July 1, 2002, all sales of bingo cards, bingo  
42 faces and instant bingo tickets by licensees under K.S.A. 79-4701 et seq.,  
43 and amendments thereto, shall be exempt from taxes imposed pursuant

1 to this section.

2 Sec. 2. K.S.A. 2006 Supp. 79-3603 is hereby repealed.

3 Sec. 3. This act shall take effect and be in force from and after its

4 publication in the statute book.

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