

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 16, 2007 in Room 241-N of the Capitol.

All members were present except:  
Tom Sloan-excused.

Committee staff present:  
Mary Galligan, Kansas Legislative Research  
Dennis Hodgins, Kansas Legislative Research  
Mary Torrence, Revisor's Office  
Jason Long, Revisor's Office  
Rena Hansen, Committee Assistant

Conferees appearing before the committee:

Others attending:  
Twenty-Five including the attached list.

Chairman Holmes noted the invitation to attend a panel discussion on Ethanol from wheat straw and bio-mass at the Kansas Museum of History, February 20, 2007, 7-9 pm.

**HB 2492: Counties; wind power siting approval procedures.**

Questions were asked and comments were made by Representatives: Tom Hawk, Carl Holmes, and Annie Kuether.

Representative Annie Kuether made a motion to amend. (Attachment 1), HB 2492. Seconded by Representative Margaret Long.

Discussion by Representatives: Josh Svaty, Annie Kuether, and Revisor Jason Long

Motion carried.

Representative Annie Kuether moved to change the super majority vote to a two thirds vote for HB 2492. Seconded by Representative Tom Hawk.

Discussion by Representatives: Vaughn Flora, and Tom Hawk.

Motion carried.

Representative Annie Kuether moved to amend to make the siting codes uniform for all counties, (Attachment 2) while not erasing the provisions the zoned counties have in place, just adding to them. Seconded by Representative Tom Hawk.

Discussion by Representatives: Vern Swanson, Annie Kuether, Josh Svaty, Peggy Mast, Forrest Knox, Tom Moxley, and Tom Hawk.

Motion carried 11-8.

Representative Annie Kuether moved to amend HB 2492 (Attachment 3). Seconded by Representative

CONTINUATION SHEET

MINUTES OF THE House Energy and Utilities Committee at 9:00 A.M. on February 16, 2007 in Room 241-N of the Capitol.

Margaret Long. Motion failed 8 -9.

Discussion on **HB 2492** as amended by Representatives: Josh Svaty, Don Myers, Tom Hawk, Annie Kuether, Tom Moxley, and Revisor Jason Long.

Representative Tom Moxley moved to strike page 2 lines 20 after thereto through line 23. Seconded by Representative Peggy Mast.

Discussion by Representatives Vern Swanson, Don Myer, and Revisor Jason Long.

Motion Failed.

Comments by Representatives: Vaughn Flora, Tom Hawk, Peggy Mast, Don Myers, Margaret Long, Annie Kuether.

Representative Forrest Knox moved to table the **HB 2492** with a deeper look at the issue rather than just an interim committee. Seconded by Representative Josh Svaty. Motion to table carried 12 - 6.

**HB 2405: Incentives for production of energy from renewable resources and use of waste energy from electric generation; sunset of certain tax credits.**

An amendment was passed out that was suggested by Trevor McKeeman, (Attachment 4).

Revisor Mary Torrence explained the revisions suggested.

Representative Annie Kuether moved the amendments suggested by Trevor McKeeman to **HB 2405**. Seconded by Representative Cindy Neighbor.

Discussion by Representatives: Forrest Knox, Carl Holmes, Tom Hawk, and Revisor Mary Torrence.

Motion Carried.

Continued discussion on the amendment by Revisor Mary Torrence and Representative Carl Holmes.

Debate on this bill was closed for this meeting, to be opened at a later meeting.

**HB 2476: Incentives for purchase and installation of equipment for blending and storing bio-fuel.**

Chairman Holmes noted the fiscal note as a reduction in receipts of \$70,000 per year.

Discussion by Representatives: Josh Svaty, Carl Holmes, and Revisor Mary Torrence.

CONTINUATION SHEET

MINUTES OF THE House Energy and Utilities Committee at 9:00 A.M. on February 16, 2007 in Room 241-N of the Capitol.

Representative Ciny Neighbor moved to recommend **HB 2476** favorable for passage to the House. Seconded by Representative Terry McLachlan. Motion Carried.

Representative Bill Light will carry **HB 2476** on the floor.

**HB 2485: Energy conservation; design standards for public buildings; L.E.D. traffic signals.**

Representative Carl Holmes passed out an amendment (Attachment 5).

Discussion by Representatives: Carl Holmes, and Forrest Knox.

Representative Terry McLachlan moved to pass the amendments presented on **HB 2485**. Seconded by Representative Tom Moxley.

Discussion by Representatives: Tom Hawk, and Carl Holmes.

Motion Carried.

Representative Cindy Neighbor moved to recommend **HB 2485** as amended favorable for passage to the House floor. Seconded by Representative Terry McLachlan. Motion carried.

Representative Vern Swanson will carry the bill on the House floor.

**HB 2406: Wind energy electric generation facilities of public utilities; tax incentives; siting requirements to qualify.**

Revisor Jason Long went over the amendments that will be suggested on Monday February 19, 2007.

**HB 2419: Carbon dioxide reduction act; income tax deductions and property tax exemptions; regulation of carbon dioxide injection wells.**

Revisor Jason Long went over the amendments that will be suggested on Monday February 19, 2007.

Comments were made by Representatives: Carl Holmes and Forrest Knox.

The next meeting is scheduled for February 19, 2007 with a hearing on **HB 2429** and working the bills **HB 2406** and **HB 2419**, and continued work on **HB 2405**.

Meeting adjourned.



1 blade failure or ice throw. The board shall render its decision within 30  
2 days after conclusion of the hearing, and such decision shall be published  
3 in a newspaper of general circulation in the county once each week for  
4 three consecutive weeks.

5 (d) In the event a protest petition signed by not less than 10% of the  
6 affected landowners is filed with the county clerk within 30 days following  
7 the date of the last publication of the board's decision, the board shall  
8 reconsider the application of the developer and approval of such appli-  
9 cation shall require a supermajority vote of the board. The board shall  
10 render its decision on reconsideration of the application within 30 days  
11 following the date of the filing of the petition.

5% of the qualified voters of the county who voted for the office of secretary of state at  
the last preceding general election at which such office was elected

12 New Sec. 4. (a) The following are siting guidelines for wind power  
13 projects in Kansas:

14 (a) Land use guidelines:

15 (1) Agencies and affected landowners have been contacted early in  
16 the process to identify potentially sensitive land uses and issues;

17 (2) the developer knows the rules that govern where and how a wind  
18 project may be developed in the project area;

19 (3) the developer has reviewed and addressed land use compatibility  
20 issues before leasing the land;

21 (4) in the spirit of interacting with all affected landowners in an eq-  
22 uitable and fair fashion when proposing lease and option agreements, the  
23 developer has provided access or direction to objective background in-  
24 formation what will allow the affected landowner to make a fully informed  
25 decision;

26 (5) the developer recognizes there are concerns specific to each re-  
27 gion in the state, and has consulted with appropriate experts, and re-  
28 searched and evaluated the implications of local issues prior to selecting  
29 a specific site within the respective region;

30 (6) because of the rarity and high conservation value of the tallgrass  
31 prairie it harbors, careful consideration should be given to the impact of  
32 wind power projects in the Flint Hills, particularly in the relatively un-  
33 fragmented areas of the landscape. In addition, care should be given to  
34 avoid damage to unfragmented landscapes and high quality remnants in  
35 the Sandsage, Mixed Grass, and Shortgrass prairies in central and western  
36 Kansas. When feasible, wind energy development should be located on  
37 already altered landscapes, such as extensively cultivated land or areas  
38 already developed or both. An undeveloped buffer adjacent to intact prai-  
39 ries is also desirable; and

40 (7) the developer has planned for efficient use of the land, consoli-  
41 dated necessary infrastructure requirements whenever possible and care-  
42 fully evaluated current transmission and market access.

43 (b) Noise management guidelines:

ENERGY AND HOUSE UTILITIES  
DATE: 2/16 / 2007  
ATTACHMENT

## HOUSE BILL No. 2492

By Committee on Energy and Utilities

2-9

9 AN ACT concerning counties; relating to approval of wind power gen-  
10 eration facilities; ~~amending K.S.A. 2006 Supp. 10 101a and repealing~~  
11 ~~the existing section also repealing K.S.A. 2006 Supp. 10 1011 and~~  
12 ~~K.S.A. 2005 Supp. 10 101a, as amended by section 4 of chapter 92 of~~  
13 ~~the 2006 Session Laws of Kansas.~~  
14

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

16 New Section 1. As used in sections 1 through 4, and amendments  
17 thereto:

18 (a) "Affected landowner" means any person, firm, partnership, cor-  
19 poration or association owning an interest in the surface of any parcel of  
20 land, or portion thereof, on the date the notice required by subsection  
21 (b) of section 2, and amendments thereto, is sent, which is located within  
22 2,000 feet of the physical boundary of the land the developer has leased  
23 or intends to lease for the project.

24 (b) "Board" means the board of county commissioners of the county  
25 to which the application is submitted.

26 (c) "Developer" means any person, firm, partnership, corporation,  
27 association, cooperative corporation or other entity desiring to construct  
28 all or any portion of a wind power generation facility.

29 (d) "Supermajority" means the affirmative vote of 75% or more of  
30 the county commissioners authorized to vote on such matter.

31 (e) "Wind power generation facility" means a wind driven machine  
32 of a height of at least 150 feet as measured to the tip of the blade at its  
33 highest point that converts wind energy into electrical power for the pri-  
34 mary purpose of sale, resale or off-site use.

35 New Sec. 2. (a) Prior to the siting of any wind power generation  
36 facility, or expansion thereof, a developer shall submit an application for  
37 approval of such siting to the board of county commissioners of any county  
38 in which the siting is to be located. The application shall be submitted on  
39 such forms and in the manner as specified by the board. The application  
40 shall include the following: (1) The name, address and phone number of  
41 the developer and the developer's contact person for the project; (2)  
42 detailed plans of the development, including all proposed siting locations  
43 and the types of wind power generation facilities to be constructed; and

ENERGY AND HOUSE UTILITIES  
DATE:

ATTACHMENT 2 - 1

2-2

1 (3) the names and addresses of all affected landowners.  
2 (b) The developer shall provide written notice of its intent to develop  
3 a wind power generation facility, or expansion thereof, to all affected  
4 landowners and such notice shall be sent to such landowners prior to the  
5 submission of the application required by subsection (a).  
6 New Sec. 3. (a) Upon receipt of an application described in section  
7 2, and amendments thereto, the board of county commissioners shall  
8 conduct a public hearing on such application at a convenient time and  
9 location. The board shall give notice of the hearing by publication in a  
10 newspaper of general circulation in the county once each week for two  
11 consecutive weeks. Such notice shall state the time, location and purpose  
12 of such hearing. The hearing shall be held no more than 30 days after  
13 the receipt of the application. At the hearing, the board shall receive  
14 testimony from the developer and any other interested persons. The hear-  
15 ing may be continued by resolution of the board.  
16 (b) Prior to the hearing, the board shall require the developer to  
17 produce the following relevant information, which may be submitted  
18 prior to or at the hearing: (1) A report detailing the developer's compli-  
19 ance or noncompliance with the siting guidelines for wind power projects  
20 in Kansas as set forth in section 4, and amendments thereto; and (2) a  
21 power purchase agreement for the purchase of the energy to be generated  
22 by the wind power generation facility or a letter of intent to enter into  
23 such agreement executed by the developer and an energy purchaser.  
24 (c) Upon conclusion of the hearing the board shall by majority vote  
25 approve or disapprove the proposed siting plans set forth in the applica-  
26 tion. As a guide in determining the advisability of approving the appli-  
27 cation, the board's considerations may include, but not be limited to, any  
28 testimony offered at the public hearing and the siting guidelines for wind  
29 power projects in Kansas as set forth in section 4, and amendments  
30 thereto. If approved the board is hereby authorized to adopt a certificate  
31 of public benefit certifying such approval. The board may make its ap-  
32 proval conditional on the developer meeting one or more of the following  
33 conditions and if such conditions are not met in the time specified by the  
34 board, then the board is authorized to withdraw its approval of the ap-  
35 plication: (1) Bonding or cash escrows sufficient to provide decommis-  
36 sioning of the wind power generation facility and reclamation of the site,  
37 including, but not limited to, turbines, access roads, powerlines and as-  
38 sociated equipment and infrastructure; (2) bonding or cash escrows suf-  
39 ficient to mitigate damage to roads and bridges or increased demand on  
40 public accommodations or administrative burdens attributable to the con-  
41 struction and maintenance of a wind power generation facility; or (3)  
42 minimum setbacks from occupied buildings, public roads or other areas  
43 from time to time inhabited by the public to avoid undue risk from turbine

1 blade failure or ice throw. The board shall render its decision within 30  
2 days after conclusion of the hearing, and such decision shall be published  
3 in a newspaper of general circulation in the county once each week for  
4 three consecutive weeks.

5 (d) In the event a protest petition signed by not less than 10% of the  
6 affected landowners is filed with the county clerk within 30 days following  
7 the date of the last publication of the board's decision, the board shall  
8 reconsider the application of the developer and approval of such appli-  
9 cation shall require a supermajority vote of the board. The board shall  
10 render its decision on reconsideration of the application within 30 days  
11 following the date of the filing of the petition.

12 New Sec. 4. (a) The following are siting guidelines for wind power  
13 projects in Kansas:

14 (a) Land use guidelines:

15 (1) Agencies and affected landowners have been contacted early in  
16 the process to identify potentially sensitive land uses and issues;

17 (2) the developer knows the rules that govern where and how a wind  
18 project may be developed in the project area;

19 (3) the developer has reviewed and addressed land use compatibility  
20 issues before leasing the land;

21 (4) in the spirit of interacting with all affected landowners in an eq-  
22 uitable and fair fashion when proposing lease and option agreements, the  
23 developer has provided access or direction to objective background in-  
24 formation what will allow the affected landowner to make a fully informed  
25 decision;

26 (5) the developer recognizes there are concerns specific to each re-  
27 gion in the state, and has consulted with appropriate experts, and re-  
28 searched and evaluated the implications of local issues prior to selecting  
29 a specific site within the respective region;

30 (6) because of the rarity and high conservation value of the tallgrass  
31 prairie it harbors, careful consideration should be given to the impact of  
32 wind power projects in the Flint Hills, particularly in the relatively un-  
33 fragmented areas of the landscape. In addition, care should be given to  
34 avoid damage to unfragmented landscapes and high quality remnants in  
35 the Sandsage, Mixed Grass, and Shortgrass prairies in central and western  
36 Kansas. When feasible, wind energy development should be located on  
37 already altered landscapes, such as extensively cultivated land or areas  
38 already developed or both. An undeveloped buffer adjacent to intact prai-  
39 ries is also desirable; and

40 (7) the developer has planned for efficient use of the land, consoli-  
41 dated necessary infrastructure requirements whenever possible and care-  
42 fully evaluated current transmission and market access.

43 (b) Noise management guidelines:



1 (1) In evaluating prospective sites, the developer has considered  
2 whether there are adequate setbacks from residential areas and rural  
3 homes, especially where the residential unit is in a relatively less windy  
4 or quieter location than the turbines, and recognized that residents who  
5 support the wind system may some day be replaced by others who will  
6 object to the noise; and

7 (2) where acoustic levels are critical because of nearby residences or  
8 natural surroundings, the developer has investigated the possibility of  
9 using sound reduction technology on appropriate turbines.

10 (c) Natural and biological resources guidelines: (1) The developer  
11 has considered the biological setting early in the project evaluation and  
12 planning process, and has used biological and environmental experts to  
13 conduct preliminary reconnaissance of the prospective site area. The de-  
14 veloper has also communicated with wildlife agency and university per-  
15 sonnel. The developer recognizes that if a site has a large potential for  
16 biological or environmental conflicts, or both it may not be worth the  
17 time and cost of conducting detailed wind resource evaluation work;

18 (2) the developer has contacted appropriate resource management  
19 agencies early in the planning process to determine if there are any re-  
20 sources of special concern in the area under consideration;

21 (3) the developer has involved local environmental/natural resources  
22 groups as soon as practicable as these groups will be less likely to react  
23 negatively to a project if they understand its requirements and see their  
24 concerns are being seriously addressed;

25 (4) the developer recognizes that a key tool for avoiding unnecessary  
26 negative ecological impacts of wind power development is planning and  
27 has conducted landscape-level examinations of key wildlife habitats, mi-  
28 gration corridors, staging/concentration areas, and breeding and brood-  
29 rearing areas to develop general siting strategies;

30 (5) legally protected wildlife, such as threatened and endangered spe-  
31 cies, present or potentially present at a site should receive careful review.  
32 The developer recognizes that other seriously declining or vulnerable spe-  
33 cies that have no legal protection may also be present, and has researched  
34 wildlife issues at each site and attempted to understand how a wind en-  
35 ergy project might impact individual species of concern;

36 (6) sites where native vegetation is scarce or absent will have sub-  
37 stantially fewer biological resource concerns, and the developer should  
38 where possible, avoid large, intact areas of native vegetation;

39 (7) the developer should bury power lines when feasible. In regions  
40 where grassland burning is practiced, infrastructure should be able to  
41 withstand periodic burning of vegetation. Roads and fences should be  
42 minimized;

43 (8) the developer should not allow perches on the nacelles of tur-

1 bins. Towers should not utilize lattice-type construction or other designs  
2 that provide perches for avian predators. The developer has addressed  
3 potential adverse affects of turbine warning lights on migrating birds;

4 (9) the developer should situate turbines in a way that does not in-  
5 terfere with important wildlife movement corridors and staging areas;

6 (10) when it is possible to avoid significant ecological damage in the  
7 siting of a wind power generation facility, the developer has considered  
8 mitigation for habitat loss. Appropriate actions may include ecological  
9 restoration, long-term management agreements, and conservation ease-  
10 ments to enhance or protect sites with similar or higher ecological quality  
11 to that of the developed site; and

12 (11) the developer has considered potential cumulative regional im-  
13 pacts from multiple wind energy projects when making environmental  
14 assessments and mitigation decisions because failure to consider multiple  
15 projects will prevent analysis at a scale that could potentially yield a much  
16 different picture.

17 (d) Visual impact guidelines:

18 (1) The visual impact of wind power projects is an important consid-  
19 eration in siting deliberations. The developer has evaluated fully the im-  
20 pact on the quality of the surrounding landscape and viewsheds, especially  
21 in areas with high aesthetic qualities and where affected landowners'  
22 property may be impacted by the siting. Accurate visual representations  
23 of potential projects (including visual simulations and viewshed analyses)  
24 are useful ways of providing information to affected landowners, the gen-  
25 eral public and agencies regarding the visual impact of wind power  
26 projects;

27 (2) the developer has listened to the communities and affected land-  
28 owners in all project phases;

29 (3) the developer has considered adapting the project design to min-  
30 imize visual exposure from visually sensitive areas;

31 (4) the developer has planned the project to minimize the need for  
32 developed roads or cut-and-fill;

33 (5) the developer has considered the possibilities and benefits of us-  
34 ing roadless project designs or designs that rely on existing roads; and

35 (6) the developer has identified designated scenic byways and pop-  
36 ular vistas, and avoided sites that are readily visible from those points.

37 (e) Soil erosion and water quality:

38 (1) Wherever possible, the developer has avoided sites that require  
39 construction activities on steep slopes;

40 (2) in considering the appropriate erosion control measures required  
41 for a specific site, the developer is aware that although some measures  
42 may require greater expense initially, significant savings will occur over  
43 the life of the project in reduced maintenance and replacement costs,

1 and a well-developed erosion and sediment control plan may also reduce  
2 regulatory delays in approving and monitoring the project;

3 (3) the developer recognizes that construction and maintenance  
4 should be done when the ground is frozen or when soils are dry and the  
5 native vegetation is dormant;

6 (4) the developer recognizes that improved roads and construction  
7 staging areas should be kept to a minimum, and care should be given to  
8 avoid sensitive habitats;

9 (5) the developer recognizes that ongoing operation and maintenance  
10 activities should be carried out as practical by use of light conveyances to  
11 minimize habitat disturbance and the need for improved roads; and

12 (6) the developer recognizes that native vegetation of local highest  
13 should be used when reseeding disturbed areas, and that wildlife and  
14 plant composition should be considered in determining the frequency  
15 and timing of mowing near turbines.

16 (f) Safety guidelines: The developer has included the need for safety  
17 setbacks when evaluating specific parcels for development, and recog-  
18 nizes that sufficient spacing from public access ways, and particularly from  
19 residential areas and structures can mitigate many siting issues.

20 (g) Cultural, archaeological and paleontological guidelines:

21 (1) The developer has avoided selecting sites with potentially sensi-  
22 tive cultural or historical resources whenever possible, and always involve  
23 affected landowners early on;

24 (2) the developer has consulted with the Kansas state historical so-  
25 ciety and qualified professional specialists familiar with cultural and fossil  
26 resources in the project development area;

27 (3) the developer recognizes that some sensitive resources and sites  
28 may be confidential to Native Americans, and has respected this confi-  
29 dentiality and plans to work closely with tribal representatives to avoid  
30 disruption of these resources;

31 (4) the developer has designed project site layouts to avoid sensitive  
32 resources if possible;

33 (5) the developer has provided for monitoring and mitigation for pro-  
34 tection of sensitive resources during construction and operation of the  
35 project; and

36 (6) the developer has allowed adequate time in the project schedule  
37 for data and specimen recovery, mapping analysis and reporting.

38 (h) Socioeconomic, public service and infrastructure guidelines:

39 (1) The developer has consulted with the local agencies and service  
40 districts to determine if and how the project's requirements may affect  
41 community services, costs and infrastructure;

42 (2) if possible, the developer has planned the project's operation and  
43 construction to avoid or minimize potential impacts on community serv-

7-2

1 ices and infrastructure;

2 (3) the developer recognizes that the Kansas personal property tax  
3 exemption available to renewable energy projects affects the local com-  
4 munity. Developers are encouraged to incorporate community and good-  
5 will initiatives into the project's economic plan and work to be good  
6 neighbors;

7 (4) the developer has not exploited the fact that some districts or  
8 counties do not yet have an established zoning permitting process appli-  
9 cable to wind energy projects, and has worked with the appropriate local  
10 officials to establish reasonable parameters and made the process as trans-  
11 parent and informative to the public as practicable;

12 (5) the developer has provided information related to possible future  
13 project expansions. Affected landowners should recognize that developers  
14 may not have precise information about future expansions, and the de-  
15 veloper recognizes that affected landowner issues and concerns may be  
16 dependent on project scale, and that expanded projects may involve im-  
17 pacts not specifically addressed during the initial project;

18 (6) the developer has anticipated and made provisions for future site  
19 decommissioning and restoration;

20 (7) the developer will utilize local contractors and providers for serv-  
21 ices, supplies, and equipment as much as possible during construction  
22 and operation of the project; and

23 (8) the developer recognizes that the local community may not have  
24 a specific need for the electricity generated by the proposed project, and  
25 that there should be substantive public benefits beyond the greater good  
26 of hosting a renewable energy facility.

27 (i) Public interaction guidelines:

28 (1) The developer has prepared and will implement a public outreach  
29 program on the benefits and trade-offs involved in wind generation; and

30 (2) the developer has provided access or direction to objective back-  
31 ground resources that will allow the interested parties to make fully in-  
32 formed decisions. Decision making by developers, affected landowners,  
33 elected officials and the general public will be enhanced when accurate  
34 and comprehensive information is shared and ample opportunity for two-  
35 way communication is available. Public involvement through meetings  
36 and public forums should be incorporated into the siting process.

37 ~~New Sec. 5. Sections 1 through 4, and amendments thereto, shall~~  
38 ~~only apply to counties which have not adopted zoning and planning reg-~~  
39 ~~ulations pursuant to article 7 of chapter 12 of the Kansas Statutes An-~~  
40 ~~notated or article 20 of chapter 10 of the Kansas Statutes Annotated, and~~  
41 ~~amendments thereto.~~

42 ~~Sec. 6. K.S.A. 2006 Supp. 10-101a is hereby amended to read as~~  
43 ~~follows: 10-101a. (a) The board of county commissioners may transact all~~

1 county business and perform all powers of local legislation and adminis-  
2 tration it deems appropriate, subject only to the following limitations,  
3 restrictions or prohibitions:

4 (1) Counties shall be subject to all acts of the legislature which apply  
5 uniformly to all counties.

6 (2) Counties may not affect the courts located therein.

7 (3) Counties shall be subject to acts of the legislature prescribing  
8 limits of indebtedness.

9 (4) In the exercise of powers of local legislation and administration  
10 authorized under provisions of this section, the home rule power con-  
11 ferred on cities to determine their local affairs and government shall not  
12 be superseded or impaired without the consent of the governing body of  
13 each city within a county which may be affected.

14 (5) Counties may not legislate on social welfare administered under  
15 state law enacted pursuant to or in conformity with public law No. 271—  
16 74th congress, or amendments thereof.

17 (6) Counties shall be subject to all acts of the legislature concerning  
18 elections, election commissioners and officers and their duties as such  
19 officers and the election of county officers.

20 (7) Counties shall be subject to the limitations and prohibitions im-  
21 posed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto,  
22 prescribing limitations upon the levy of retailers' sales taxes by counties.

23 (8) Counties may not exempt from or effect changes in statutes made  
24 nonuniform in application solely by reason of authorizing exceptions for  
25 counties having adopted a charter for county government.

26 (9) No county may levy ad valorem taxes under the authority of this  
27 section upon real property located within any redevelopment project area  
28 established under the authority of K.S.A. 12-1772, and amendments  
29 thereto, unless the resolution authorizing the same specifically authorized  
30 a portion of the proceeds of such levy to be used to pay the principal of  
31 and interest upon bonds issued by a city under the authority of K.S.A.  
32 12-1774, and amendments thereto.

33 (10) Counties shall have no power under this section to exempt from  
34 any statute authorizing or requiring the levy of taxes and providing sub-  
35 stitute and additional provisions on the same subject, unless the resolution  
36 authorizing the same specifically provides for a portion of the proceeds  
37 of such levy to be used to pay a portion of the principal and interest on  
38 bonds issued by cities under the authority of K.S.A. 12-1774, and amend-  
39 ments thereto.

40 (11) Counties may not exempt from or effect changes in the provi-  
41 sions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

42 (12) Except as otherwise specifically authorized by K.S.A. 12-1,101  
43 through 12-1,100, and amendments thereto, counties may not levy and

2-9

- 1 collect taxes on incomes from whatever source derived.
- 2 ~~(13) Counties may not exempt from or effect changes in K.S.A. 19-~~
- 3 ~~430, and amendments thereto.~~
- 4 ~~(14) Counties may not exempt from or effect changes in K.S.A. 19-~~
- 5 ~~302, 19 502b, 19 503, 19 805 or 19 1202, and amendments thereto.~~
- 6 ~~(15) (A) Counties may not exempt from or effect changes in K.S.A.~~
- 7 ~~13 13a26, and amendments thereto.~~
- 8 ~~(B) This provision shall expire on June 30, 2006.~~
- 9 ~~(16) (A) Counties may not exempt from or effect changes in K.S.A.~~
- 10 ~~71 301a, and amendments thereto.~~
- 11 ~~(B) This provision shall expire on June 30, 2006.~~
- 12 ~~(17) Counties may not exempt from or effect changes in K.S.A. 19-~~
- 13 ~~15,130, 19 15,140 and 19 15,141, and amendments thereto.~~
- 14 ~~(18) Counties may not exempt from or effect changes in the provi-~~
- 15 ~~sions of K.S.A. 12 1223, 12 1225, 12 1225a, 12 1225b, 12 1225c and 12-~~
- 16 ~~1226, and amendments thereto, or the provisions of K.S.A. 12 1260~~
- 17 ~~through 12 1270 and 12 1276, and amendments thereto.~~
- 18 ~~(19) Counties may not exempt from or effect changes in the provi-~~
- 19 ~~sions of K.S.A. 19 211, and amendments thereto.~~
- 20 ~~(20) Counties may not exempt from or effect changes in the provi-~~
- 21 ~~sions of K.S.A. 19 4001 through 19 4015, and amendments thereto.~~
- 22 ~~(21) Counties may not regulate the production or drilling of any oil~~
- 23 ~~or gas well in any manner which would result in the duplication of reg-~~
- 24 ~~ulation by the state corporation commission and the Kansas department~~
- 25 ~~of health and environment pursuant to chapter 55 and chapter 65 of the~~
- 26 ~~Kansas Statutes Annotated, and amendments thereto, and any rules and~~
- 27 ~~regulations adopted pursuant thereto. Counties may not require any li-~~
- 28 ~~cence or permit for the drilling or production of oil and gas wells. Counties~~
- 29 ~~may not impose any fee or charge for the drilling or production of any~~
- 30 ~~oil or gas well.~~
- 31 ~~(22) Counties may not exempt from or effect changes in K.S.A. 70-~~
- 32 ~~41a04, and amendments thereto.~~
- 33 ~~(23) Counties may not exempt from or effect changes in K.S.A. 70-~~
- 34 ~~1611, and amendments thereto.~~
- 35 ~~(24) Counties may not exempt from or effect changes in K.S.A. 70-~~
- 36 ~~1494, and amendments thereto.~~
- 37 ~~(25) Counties may not exempt from or effect changes in subsection~~
- 38 ~~(b) of K.S.A. 19 202, and amendments thereto.~~
- 39 ~~(26) Counties may not exempt from or effect changes in subsection~~
- 40 ~~(b) of K.S.A. 19 204, and amendments thereto.~~
- 41 ~~(27) Counties may not levy or impose an excise, severance or any~~
- 42 ~~other tax in the nature of an excise tax upon the physical severance and~~
- 43 ~~production of any mineral or other material from the earth or water.~~

2-10

1 ~~(28) Counties may not exempt from or effect changes in K.S.A. 79-~~  
2 ~~2017 or 79 2101, and amendments thereto.~~

3 ~~(29) Counties may not exempt from or effect changes in K.S.A. 2-~~  
4 ~~3302, 2 3305, 2 3307, 2 3318, 17 5904, 17 5908, 47 1219, 65 171d, 65-~~  
5 ~~1,178 through 65 1,199, and amendments thereto.~~

6 ~~(30) Counties may not exempt from or effect changes in K.S.A. 2006~~  
7 ~~Supp. 80 121, and amendments thereto.~~

8 ~~(31) Counties may not exempt from or effect changes in K.S.A. 19-~~  
9 ~~228, and amendments thereto.~~

10 ~~(32) Counties may not exempt from or effect changes in the wireless~~  
11 ~~enhanced 911 act, in the VoIP enhanced 911 act or in the provisions of~~  
12 ~~K.S.A. 12 5301 through 12 5308, and amendments thereto.~~

13 ~~(33) Counties may not exempt from or effect changes in K.S.A. 2006~~  
14 ~~Supp. 26 601, and amendments thereto.~~

15 ~~(34)(A) From and after November 15, 2005, counties may not ex-~~  
16 ~~empt from or effect changes in the Kansas liquor control act except as~~  
17 ~~provided by paragraph (B).~~

18 ~~(B) From and after November 15, 2005, counties may adopt resolu-~~  
19 ~~tions which are not in conflict with the Kansas liquor control act.~~

20 ~~(35)(A) From and after November 15, 2005, counties may not ex-~~  
21 ~~empt from or effect changes in the Kansas cereal malt beverage act except~~  
22 ~~as provided by paragraph (B).~~

23 ~~(B) From and after November 15, 2005, counties may adopt resolu-~~  
24 ~~tions which are not in conflict with the Kansas cereal malt beverage act.~~

25 ~~(36) Counties may neither exempt from nor effect changes to the em-~~  
26 ~~inent domain procedure act.~~

27 ~~(37) Counties may not exempt from or effect changes in the provisions~~  
28 ~~of sections 1 through 5, and amendments thereto.~~

29 ~~(b) Counties shall apply the powers of local legislation granted in~~  
30 ~~subsection (a) by resolution of the board of county commissioners. If no~~  
31 ~~statutory authority exists for such local legislation other than that set forth~~  
32 ~~in subsection (a) and the local legislation proposed under the authority~~  
33 ~~of such subsection is not contrary to any act of the legislature, such local~~  
34 ~~legislation shall become effective upon passage of a resolution of the~~  
35 ~~board and publication in the official county newspaper. If the legislation~~  
36 ~~proposed by the board under authority of subsection (a) is contrary to an~~  
37 ~~act of the legislature which is applicable to the particular county but not~~  
38 ~~uniformly applicable to all counties, such legislation shall become effec-~~  
39 ~~tive by passage of a charter resolution in the manner provided in K.S.A.~~  
40 ~~19 101b, and amendments thereto.~~

41 ~~(e) Any resolution adopted by a county which conflicts with the re-~~  
42 ~~strictions in subsection (a) is null and void.~~

43 ~~Sec. 7. K.S.A. 2006 Supp. 19 101a and 19 1011 and K.S.A. 2005~~

1 ~~Supp. 19-101a, as amended by section 4 of chapter 192 of the 2006 Ses-~~  
2 ~~sion Laws of Kansas are hereby repealed.~~  
3 Sec. 8. This act shall take effect and be in force from and after its  
4 publication in the statute book.

6

New Sec. 5 Any county may adopt regulations or requirements in addition to those set forth in sections 1 through 4, and amendments thereto, which are not in conflict with the provisions of this act.

2-11



# HOUSE BILL No. 2492

By Committee on Energy and Utilities

9 AN ACT concerning counties; relating to approval of wind power gen-  
10 eration facilities; amending K.S.A. 2006 Supp. 19-101a and repealing  
11 the existing section also repealing K.S.A. 2006 Supp. 19-1011 and  
12 K.S.A. 2005 Supp. 19-101a, as amended by section 4 of chapter 92 of  
13 the 2006 Session Laws of Kansas.

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

16 New Section 1. As used in sections 1 through 4, and amendments  
17 thereto:

18 (a) "Affected landowner" means any person, firm, partnership, cor-  
19 poration or association owning an interest in the surface of any parcel of  
20 land, or portion thereof, on the date the notice required by subsection  
21 (b) of section 2, and amendments thereto, is sent, which is located within  
22 2,000 feet of the physical boundary of the land the developer has leased  
23 or intends to lease for the project.

24 (b) "Board" means the board of county commissioners of the county  
25 to which the application is submitted.

26 (c) "Developer" means any person, firm, partnership, corporation,  
27 association, cooperative corporation or other entity desiring to construct  
28 all or any portion of a wind power generation facility.

29 (d) "Supermajority" means the affirmative vote of 75% or more of  
30 the county commissioners authorized to vote on such matter.

31 (e) "Wind power generation facility" means a wind driven machine  
32 of a height of at least 150 feet as measured to the tip of the blade at its  
33 highest point that converts wind energy into electrical power for the pri-  
34 mary purpose of sale, resale or off-site use.

35 New Sec. 2. (a) ~~Prior to the siting of any wind power generation~~  
36 ~~facility, or expansion thereof,~~ a developer shall submit an application for  
37 approval of such siting to the board of county commissioners of any county  
38 in which the siting is to be located. The application shall be submitted on  
39 such forms and in the manner as specified by the board. The application  
40 shall include the following: (1) The name, address and phone number of  
41 the developer and the developer's contact person for the project; (2)  
42 detailed plans of the development, including all proposed siting locations  
43 and the types of wind power generation facilities to be constructed; and

On or after January 1, 2008,

, prior to the commencement of construction of any wind power generation facility, or expansion thereof,

construction

wind power generation facility, or expansion thereof,

ENERGY AND HOUSE UTILITIES  
DATE: 2/14/2007  
ATTACHMENT 3-1

1 (3) the names and addresses of all affected landowners.

2 (b) The developer shall provide written notice of its intent to develop  
3 a wind power generation facility, or expansion thereof, to all affected  
4 landowners and such notice shall be sent to such landowners prior to the  
5 submission of the application required by subsection (a).

6 New Sec. 3. (a) Upon receipt of an application described in section  
7 2, and amendments thereto, the board of county commissioners shall  
8 conduct a public hearing on such application at a convenient time and  
9 location. The board shall give notice of the hearing by publication in a  
10 newspaper of general circulation in the county once each week for two  
11 consecutive weeks. Such notice shall state the time, location and purpose  
12 of such hearing. The hearing shall be held no more than 30 days after  
13 the receipt of the application. At the hearing, the board shall receive  
14 testimony from the developer and any other interested persons. The hear-  
15 ing may be continued by resolution of the board.

16 (b) Prior to the hearing, the board shall require the developer to  
17 produce the following relevant information, which may be submitted  
18 prior to or at the hearing: (1) A report detailing the developer's compli-  
19 ance or noncompliance with the siting guidelines for wind power projects  
20 in Kansas as set forth in section 4, and amendments thereto; and (2) a  
21 power purchase agreement for the purchase of the energy to be generated  
22 by the wind power generation facility or a letter of intent to enter into  
23 such agreement executed by the developer and an energy purchaser.

24 (c) Upon conclusion of the hearing the board shall by majority vote  
25 approve or disapprove the ~~proposed siting~~ plans set forth in the applica-  
26 tion. As a guide in determining the advisability of approving the appli-  
27 cation, the board's considerations may include, but not be limited to, any  
28 testimony offered at the public hearing and the siting guidelines for wind  
29 power projects in Kansas as set forth in section 4, and amendments  
30 thereto. If approved the board is hereby authorized to adopt a certificate  
31 of public benefit certifying such approval. The board may make its ap-  
32 proval conditional on the developer meeting one or more of the following  
33 conditions and if such conditions are not met in the time specified by the  
34 board, then the board is authorized to withdraw its approval of the ap-  
35 plication: (1) Bonding or cash escrows sufficient to provide decommis-  
36 sioning of the wind power generation facility and reclamation of the site,  
37 including, but not limited to, turbines, access roads, powerlines and as-  
38 sociated equipment and infrastructure; (2) bonding or cash escrows suf-  
39 ficient to mitigate damage to roads and bridges or increased demand on  
40 public accommodations or administrative burdens attributable to the con-  
41 struction and maintenance of a wind power generation facility; or (3)  
42 minimum setbacks from occupied buildings, public roads or other areas  
43 from time to time inhabited by the public to avoid undue risk from turbine

## HOUSE BILL No. 2405

By Committee on Energy and Utilities

2-6

9 AN ACT concerning certain energy; relating to production of energy  
10 from renewable energy resources or technologies and use of waste  
11 energy; concerning certain income tax credits, income tax deductions  
12 and property tax exemptions; providing for issuance of bonds and other  
13 financing for certain purposes; amending K.S.A. 2006 Supp. 74-8949b,  
14 79-229, 79-32,117, 79-32,120, 79-32,138, 79-32,218, 79-32,224, 79-  
15 32,229, 79-32,233, 79-32,234, 79-32,235, 79-32,237 and 79-32,239 and  
16 repealing the existing sections; also repealing K.S.A. 2006 Supp. 79-  
17 32,117l.

18  
19 *Be it enacted by the Legislature of the State of Kansas:*

20 New Section 1. As used in sections 1 through 5, and amendments  
21 thereto:

22 (a) "New renewable electric cogeneration facility" means a renewable  
23 electric cogeneration facility, construction of which begins after Decem-  
24 ber 31, 2006.

25 (b) "Pass-through entity" means any: (1) Corporation which is exempt  
26 from income tax under section 1363 of the federal internal revenue code  
27 and which complies with the requirements of K.S.A. 79-32,100e, and  
28 amendments thereto; (2) limited liability company; (3) partnership; or (4)  
29 limited liability partnership.

30 (c) "Qualified investment" means expenditures made in construction  
31 of a new renewable electric cogeneration facility, for real and tangible  
32 personal property incorporated in and used as part of such facility.

33 (d) "Renewable electric cogeneration facility" means a facility which  
34 generates electricity utilizing renewable energy resources or technologies,  
35 as defined in K.S.A. 79-201, and amendments thereto, and which is  
36 owned and operated by the owner of an industrial, commercial or agri-  
37 cultural process to generate electricity for use in such process to displace  
38 current or provide for future electricity use.

39 New Sec. 2. (a) For taxable years commencing after December 31,  
40 2006, and before January 1, 2012, any taxpayer who is awarded a tax credit  
41 under this act by the secretary of commerce and complies with the con-  
42 ditions set forth in this act and the agreement entered into by the sec-  
43 retary and the taxpayer under this act shall be allowed a credit against the

ENERGY AND HOUSE UTILITIES

DATE: 2/16/2007

ATTACHMENT 4-1

1 taxpayer's tax liability under the Kansas income tax act as provided in  
2 subsection (b). Expenditures used to qualify for this credit shall not be  
3 used to qualify for any other type of Kansas income tax credit.

4 (b) The amount of the credit to which a taxpayer is entitled shall be  
5 equal to the sum of: (1) An amount equal to 10% of the taxpayer's qual-  
6 ified investment for the first ~~\$50,000,000~~ invested and (2) an amount  
7 equal to 5% of the amount of the taxpayer's qualified investment that  
8 exceeds ~~\$50,000,000~~. Such credit shall be taken in 10 equal, annual in-  
9 stallments, beginning with the year in which the taxpayer places into serv-  
10 ice the new renewable electric cogeneration facility.

Strike and add:  
"\$250,000,000"

11 (c) If the amount of an annual installment of a tax credit allowed  
12 under this section exceeds the taxpayer's income tax liability for the tax-  
13 able year in which the annual installment is allowed, the amount thereof  
14 which exceeds such tax liability may be carried over for deduction from  
15 the taxpayer's income tax liability in the next succeeding taxable year or  
16 years until the total amount of the annual installment of the tax credit has  
17 been deducted from tax liability, except that no such tax credit shall be  
18 carried over for deduction after the 14th taxable year succeeding the  
19 taxable year in which the first annual installment is allowed.

Strike and add:  
"\$250,000,000"  
Note - This would  
normalize the incentive  
across the bill in the  
event a larger power  
plant could be developed.

20 (d) (1) Before making a qualified investment, a taxpayer shall apply  
21 to the secretary of commerce to enter into an agreement for a tax credit  
22 under this act. The secretary shall prescribe the form of the application.  
23 After receipt of such application, the secretary may enter into an agree-  
24 ment with the applicant for a credit under this act if the secretary deter-  
25 mines that the taxpayer's proposed investment satisfies the requirements  
26 of this act. The secretary shall enter into an agreement with an applicant  
27 which is awarded a credit under this act. The agreement shall include:  
28 (A) A detailed description of the renewable electric cogeneration facility  
29 project that is the subject of the agreement, (B) the first taxable year for  
30 which the credit may be claimed, (C) the maximum amount of tax credit  
31 that will be allowed for each taxable year and (D) a requirement that the  
32 taxpayer shall maintain operation of the new renewable electric cogen-  
33 eration facility for at least 10 years during the term that the tax credit is  
34 available.

35 (2) A taxpayer must comply with the terms of the agreement de-  
36 scribed in subsection (d)(1) to receive an annual installment of the tax  
37 credit awarded under this act. The secretary of commerce, in accordance  
38 with rules and regulations of the secretary, shall annually determine  
39 whether the taxpayer is in compliance with the agreement. Such agree-  
40 ment shall include, but not be limited to, operation of the new renewable  
41 electric cogeneration facility during the tax years when any installments  
42 of tax credits are claimed by the taxpayer. If the secretary determines  
43 that the taxpayer is in compliance, the secretary shall issue a certificate

1 (e) As used in this section, terms have the meanings provided in sec-  
2 tion 1, and amendments thereto.

3 New Sec. 7. (a) For the purpose of financing the construction, pur-  
4 chase and installation of a waste heat utilization system at an electric  
5 generation facility, the Kansas development finance authority is hereby  
6 authorized to issue revenue bonds pursuant to the Kansas development  
7 finance authority act, K.S.A. 74-8901 et seq., and amendments thereto,  
8 in amounts sufficient to pay the costs of such construction, including any  
9 required interest on the bonds during construction and installation, plus  
10 all amounts required for the costs of bond issuance, costs of credit en-  
11 hancement or other financial contracts, capitalized interest and any re-  
12 quired reserves on the bonds. The bonds, and interest thereon, issued  
13 pursuant to this section shall be payable from revenues pledged to the  
14 Kansas development finance authority for such purpose, which may in-  
15 clude revenues derived from transportation fees paid for transporting oil  
16 through the qualifying pipeline.

17 (b) The provisions of subsection (a) of K.S.A. 74-8905, and amend-  
18 ments thereto, shall not prohibit the issuance of bonds by the Kansas  
19 development finance authority for the purposes of this section and any  
20 such issuance of bonds is exempt from the provisions of subsection (a) of  
21 K.S.A. 74-8905, and amendments thereto, which would operate to pre-  
22 clude such issuance.

23 (c) Revenue bonds, including refunding revenue bonds, issued under  
24 this section shall not constitute an indebtedness of the state of Kansas,  
25 nor shall they constitute indebtedness within the meaning of any consti-  
26 tutional or statutory provision limiting the incurring of indebtedness.

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

31 (e) As used in this section, "waste heat utilization system" means fa-  
32 cilities and equipment for the recovery of waste heat generated in the  
33 process of generating electricity and the use of such heat to generate  
34 additional electricity.

35 New Sec. 8. (a) The following described property, to the extent  
36 herein specified, shall be exempt from all property taxes levied under the  
37 laws of the state of Kansas: Any waste heat utilization system property.

38 (b) The provisions of subsection (a) shall apply from and after pur-  
39 chase or commencement of construction or installation of such property  
40 and for the 10 taxable years immediately following the taxable year in  
41 which construction or installation of such property is completed.

42 (c) The provisions of this section shall apply to all taxable years com-  
43 mencing after December 31, 2006.

add after: electricity..  
"..or utilized in the  
production of  
renewable fuels."  
Note - how could  
cooperatives qualify?

1 (d) As used in this section:  
 2 (1) "Waste heat utilization system" has the meaning provided in sec-  
 3 tion 7, and amendments thereto.  
 4 (2) "Waste heat utilization system property" means any real or tan-  
 5 gible personal property purchased, constructed or installed for incorpo-  
 6 ration in and use as part of a waste heat utilization system.  
 7 New Sec. 9. (a) A taxpayer shall be entitled to a deduction from Kan-  
 8 sas adjusted gross income with respect to the amortization of the amor-  
 9 tizable costs of a waste heat utilization system based upon a period of 10  
 10 years. Such amortization deduction shall be an amount equal to 55% of  
 11 the amortizable costs of such system for the first taxable year in which  
 12 such system is in operation and 5% of the amortizable costs of such system  
 13 for each of the next nine taxable years.  
 14 (b) The election of the taxpayer to claim the deduction allowed by  
 15 subsection (a) shall be made by filing a statement of such election with  
 16 the secretary of revenue in the manner and form and within the time  
 17 prescribed by rules and regulations adopted by the secretary.  
 18 (c) The provisions of this section shall apply to all taxable years com-  
 19 mencing after December 31, 2006.  
 20 (d) The secretary of revenue shall adopt such rules and regulations  
 21 as deemed necessary to carry out the provisions of this section.  
 22 (e) As used in this section, "waste heat utilization system" has the  
 23 meaning provided by section 7, and amendments thereto.  
 24 Sec. 10. K.S.A. 2006 Supp. 74-8949b is hereby amended to read as  
 25 follows: 74-8949b. (a) For the purpose of financing the construction of a  
 26 new ~~cellulosic alcohol biomass-to-energy~~ plant or expansion of an existing  
 27 ~~cellulosic alcohol biomass-to-energy~~ plant, the Kansas development fi-  
 28 nance authority is hereby authorized to issue revenue bonds pursuant to  
 29 the Kansas development finance authority act, K.S.A. 74-8901 et seq.,  
 30 and amendments thereto, in amounts sufficient to pay the costs of such  
 31 construction or expansion, including any required interest on the bonds  
 32 during construction and installation, plus all amounts required for the  
 33 costs of bond issuance, costs of credit enhancement or other financial  
 34 contracts, capitalized interest and any required reserves on the bonds.  
 35 The bonds, and interest thereon, issued pursuant to this section shall be  
 36 payable from revenues pledged to the Kansas development finance au-  
 37 thority for such purpose, which may include revenues derived from sales  
 38 of ~~cellulosic alcohol products~~ fuels, energy and coproducts produced at  
 39 the plant.  
 40 (b) The provisions of subsection (a) of K.S.A. 74-8905, and amend-  
 41 ments thereto, shall not prohibit the issuance of bonds by the Kansas  
 42 development finance authority for the purposes of this section and any  
 43 such issuance of bonds is exempt from the provisions of subsection (a) of

Note - does this definition of "biomass to energy" relate back to definition of biomass in section 18?

1 equal to the sum of: (1) An amount equal to 10% of the taxpayer's qual-  
 2 ified investment for the first \$250,000,000 invested and (2) an amount  
 3 equal to 5% of the amount of the taxpayer's qualified investment that  
 4 exceeds \$250,000,000. Such credit shall be taken in 10 equal, annual  
 5 installments, beginning with the year in which the taxpayer places into  
 6 service the new qualifying pipeline.

"qualifying pipeline"  
 could be expanded  
 to include a new  
 network of CO2  
 pipelines which carry  
 CO2 for advanced oil  
 recovery.

7 (c) If the amount of an annual installment of a tax credit allowed  
 8 under this section exceeds the taxpayer's income tax liability for the tax-  
 9 able year in which the annual installment is allowed, the amount thereof  
 10 which exceeds such tax liability may be carried over for deduction from  
 11 the taxpayer's income tax liability in the next succeeding taxable year or  
 12 years until the total amount of the annual installment of the tax credit has  
 13 been deducted from tax liability, except that no such tax credit shall be  
 14 carried over for deduction after the 14th taxable year succeeding the  
 15 taxable year in which the first annual installment is allowed.

16 (d) (1) Before making a qualified investment, a taxpayer shall apply  
 17 to the secretary of commerce to enter into an agreement for a tax credit  
 18 under this act. The secretary shall prescribe the form of the application.  
 19 After receipt of such application, the secretary may enter into an agree-  
 20 ment with the applicant for a credit under this act if the secretary deter-  
 21 mines that the taxpayer's proposed investment satisfies the requirements  
 22 of this act. The secretary shall enter into an agreement with an applicant  
 23 which is awarded a credit under this act. The agreement shall include:  
 24 (A) A detailed description of the qualifying pipeline project that is the  
 25 subject of the agreement, (B) the first taxable year for which the credit  
 26 may be claimed, (C) the maximum amount of tax credit that will be al-  
 27 lowed for each taxable year and (D) a requirement that the taxpayer shall  
 28 maintain operation of the new qualifying pipeline for at least 10 years  
 29 during the term that the tax credit is available.

30 (2) A taxpayer must comply with the terms of the agreement de-  
 31 scribed in subsection (d)(1) to receive an annual installment of the tax  
 32 credit awarded under this act. The secretary of commerce, in accordance  
 33 with rules and regulations of the secretary, shall annually determine  
 34 whether the taxpayer is in compliance with the agreement. Such agree-  
 35 ment shall include, but not be limited to, operation of the new qualifying  
 36 pipeline during the tax years when any installments of tax credits are  
 37 claimed by the taxpayer. If the secretary determines that the taxpayer is  
 38 in compliance, the secretary shall issue a certificate of compliance to the  
 39 taxpayer. If the secretary determines that the taxpayer is not in compli-  
 40 ance with the agreement, the secretary shall notify the taxpayer and the  
 41 secretary of revenue of such determination of noncompliance, and any  
 42 tax credits claimed pursuant to this section for any tax year shall be  
 43 forfeited.

1 the taxpayer's nitrogen fertilizer plant uses a coal gasification process, a  
2 requirement that the taxpayer shall use at the taxpayer's integrated coal  
3 gasification nitrogen fertilizer plant in any taxable year for which an an-  
4 nual installment of the credit is allowed that percentage of Kansas coal  
5 which the secretary determines practicable, based on availability and cost  
6 of Kansas coal, in such year.

7 (2) A taxpayer must comply with the terms of the agreement de-  
8 scribed in subsection (d)(1) to receive an annual installment of the tax  
9 credit awarded under this act. The secretary of commerce, in accordance  
10 with rules and regulations of the secretary, shall annually determine  
11 whether the taxpayer is in compliance with the agreement. Such deter-  
12 mination of compliance shall include, but not be limited to, operation of  
13 the new or expanded integrated coal or coke gasification nitrogen fertil-  
14 izer plant during the tax years when any installments of tax credits are  
15 claimed by the taxpayer. If the secretary determines that the taxpayer is  
16 in compliance, the secretary shall issue a certificate of compliance to the  
17 taxpayer. If the secretary determines that the taxpayer is not in compli-  
18 ance with the agreement, the secretary shall notify the taxpayer and the  
19 secretary of revenue of such determination of noncompliance, and any  
20 tax credits claimed pursuant to this section for any tax year shall be  
21 forfeited.

22 (3) The secretary of commerce may adopt rules and regulations to  
23 administer the provisions of this subsection.

24 Sec. 18. K.S.A. 2006 Supp. 79-32,233 is hereby amended to read as  
25 follows: 79-32,233. As used in K.S.A. 2006 Supp. 79-32,233 through 79-  
26 32,236, and amendments thereto:

27 (a) ~~"Cellulosic alcohol plant"~~ "Biomass" means any organic matter,  
28 including solid and liquid organic waste, but excluding: (1) Oil, natural  
29 gas, coal and lignite, and any products thereof; and (2) corn or grain  
30 sorghum.

add after: sorghum.. ".when used for the production of alcohol in a conventional gain alcohol facility." Note - this would not disqualify corn and grain sorghum stalks used in a cellulosic ethanol plant as well as corn oil used for biodiesel.

31 (b) ~~"Biomass-to-energy plant"~~ means an industrial process plant, lo-  
32 cated in this state, where ~~matter which contains cellulose and biomass~~  
33 ~~which~~ is available on a renewable or recurring basis is processed to pro-  
34 duce ~~cellulosic alcohol~~ not less than 500,000 gallons of cellulosic alcohol,  
35 ~~or other liquid or gaseous fuel or energy of equal or greater BTU value,~~  
36 and coproducts.

add after: energy.. ".or renewable oil produced for direct conversion into a fuel, such as industrial algae oil, produced in a volume.." ..of

37 ~~(b)~~ (c) "Expansion of an existing ~~cellulosic alcohol~~ biomass-to-energy  
38 plant" means expansion which begins after December 31, 2005, of the  
39 capacity of an existing ~~cellulosic alcohol~~ biomass-to-energy plant by at  
40 least 10% of such capacity.

add after: value.. ".of 500,000 gallons of alcohol," .. and coproducts

41 ~~(c)~~ (d) "New ~~cellulosic alcohol~~ biomass-to-energy plant" means a ~~cel-~~  
42 ~~lulosic alcohol~~ biomass-to-energy plant, construction of which begins after  
43 December 31, 2005.



# HOUSE BILL No. 2485

By Committee on Energy and Utilities

2-8

9 AN ACT concerning energy conservation; prescribing design standards  
10 for certain buildings; requiring use of certain lighting in traffic signals;  
11 amending K.S.A. 2006 Supp. 72-6415b and repealing the existing  
12 section.]

requiring certain reports regarding compliance;

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

15 ~~New~~ Section 1. (a) As used in this section:

16 (1) "Governmental entity" means the state or any political or taxing  
17 subdivision of the state, or any agency thereof.

18 (2) "Life cycle cost" means the total cost of owning, operating and  
19 maintaining a building over its useful life, including such costs as fuel,  
20 energy, labor and replacement components determined on the basis of a  
21 systematic evaluation and comparison of alternative building systems.

22 (3) "Public building" means any building which is heated or cooled  
23 and which is owned or maintained by a governmental entity.

24 (b) The design of any public building which is built or leased by a  
25 governmental entity and construction of which commences on or after  
26 the effective date of this act either shall conform to the International  
27 Energy Conservation Code 2006 (IECC 2006) or shall be made using life  
28 cycle cost methods and procedures.

29 New Sec. 2. On and after January 1, 2008, any new lighting installed  
30 in traffic signals in this state shall be light-emitting diodes lighting ("LED  
31 lighting").

32 ~~[Sec. 3. K.S.A. 2006 Supp. 72-6415b is hereby amended to read as~~  
33 ~~follows: 72-6415b. School facilities weighting may be assigned to enroll-~~  
34 ~~ment of a district only if the district has adopted a local option budget in~~  
35 ~~an amount equal to at least 25% of the amount of the state financial aid~~  
36 ~~determined for the district in the current school year. School facilities~~  
37 ~~weighting may be assigned to enrollment of the district only in the school~~  
38 ~~year, and the next succeeding school year, in which: (1) Operation of a~~  
39 ~~new school facility which conforms to the standards required by section~~  
40 ~~1, and amendments thereto, is commenced and in the next succeeding~~  
41 ~~school year, or (2) operation of a new school facility is commenced and~~  
42 ~~the issuance of bonds for such school facility has been approved by: (A)~~  
43 ~~An election of the voters held before July 1, 2007; (B) action of the school~~

ENERGY AND HOUSE UTILITIES

DATE: 2/16/2007

ATTACHMENT 5-1

1 *board and the time for filing a petition requesting an election on the action*  
 2 *of the school board expired before July 1, 2007, and a sufficient petition*  
 3 *was not filed; or (C) action of the school board before July 1, 2007, and*  
 4 *the voters' approval of such action at an election held upon the filing of*  
 5 *a petition protesting such action.*

6 Sec. 4. ~~K.S.A. 2006 Supp. 72-6415b~~ is hereby repealed. 1

7 Sec. 5. This act shall take effect and be in force from and after its  
 8 publication in the statute book.

9

Sec. 3. On or before the commencement of each school year, the board of education of each school district shall report to the state board of education the following information: (a) Each new school facility of the district which commenced operation during the preceding school year; and (b) whether such facility conforms to the standards required by section 1, and amendments thereto. The state board shall compile all such reports and submit them to the legislature on or before the first day of the next regular legislative session following the date the reports are required to be submitted to the state board.

5-2

4