Approved: March 6, 2007

Date

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairman Barbara Allen at 10:45 A.M. on February 28, 2007 in Room 519-S of the Capitol.

All members were present.

Committee staff present:
- Chris Courtwright, Kansas Legislative Research Department
- Martha Dorsey, Kansas Legislative Research Department
- Gordon Self, Office of Revisor of Statutes
- Judy Swanson, Committee Assistant

Conferees appearing before the committee:
- Rep. Tom Hawk
- Bruce Snead, Kansas State University
- Ed Jaskinia, Association of Landlords
- Tom Thompson, Sierra Club
- George Phillips, Kansas City Power & Light
- Whiteney Damron, Coffee County Board of Commissioners
- Phil Wages, Kansas Electric Cooperatives
- Mark Schreiber, Westar
- Dave Holthaus
- Richard Cram, Kansas Department of Revenue

Others attending:
- See attached list.

Hearing on Sub for HB 2171–Requirements, procedures and penalties related to sales tax refund claims

Richard Cram, KDOR, testified **Sub for HB 2171** would modify sales tax refund statutes, codify existing rules, eliminate administrative complications, reduce administrative costs, burdensome backlogs and litigation, and penalize the filing of duplicate refund requests. (Attachment 1) Mr. Cram said KDOR would like the contents of **SB 334**, the Streamlined Sales and Use Tax Agreement conformity bill, be added to **Sub HB 2171**. Chairman Allen asked Committee members to request any additional information about the Streamlined Sales Tax bill as soon as possible, so this issue may be addressed again in Committee. The hearing was closed.

Hearing on HB 2037–Income tax credits and deductions for certain energy efficiency improvements

Bruce Snead, Kansas State University, testified **HB 2037** would help motivate landlords and rental property owners to evaluate and take advantage of financial benefits from efficiency upgrades. (Attachment 2) He said costs for energy efficiency programs produce energy at 67% of the cost of new supply. During discussion Mr. Snead said they came up with the dollar figures in the bill as a way to find meaningful incentives.

State Representative Tom Hawk said **HB 2037** will provide a financial incentive for landlords. (Attachment 3) The fiscal note of $2.5 million for the first year could be adjusted, taking into account potential increases in sales tax paid to the state with the purchase of new energy efficient systems. The global intent of the bill is to provide incentives for energy efficiency that might reach those Kansans who are renters, who often are most in need of assistance to lower their utility bills. In order to keep the fiscal note down, there was not much discussion on extending this bill to commercial buildings. Senator Schmidt said, based on his personal experience, this bill would probably not incent a great deal of landlords. Rep. Hawk said he had no objection to including commercial property in this bill.

Ed Jaskinia, Associated Landlords of Kansas, testified the financial incentive to the property owner may justify the additional costs of more expensive high efficiency models. (Attachment 4) The tenants of these properties will see lower energy costs, and the environment will be healthier. He was agreeable to raising the dollar amount of the credits.

Tom Thompson, Sierra Club, said **HB 2037** addresses many ideas supported by the Sierra Club and its members. (Attachment 5) Energy efficiency and conservation have been shown to be the most cost effective ways to help consumers meet their energy needs. They also decrease the amount of CO_2 being put into the atmosphere; CO_2 contributes to global warming.

George Phillips, Kansas City Power & Light, said KCP&L supports the development of comprehensive energy efficiency programs for customers, and a regulatory environment in which energy efficiency resources will be considered a preferred resource option. (Attachment 6) **HB 2037** represents a significant step forward in helping Kansas citizens become more energy efficient. The hearing was closed.

Hearing on HB 2038–Nuclear power plants; application of siting act; property tax exemption

Whitney Damron, Coffey County Board of Commissioners, testified HB 2038 would provide property tax incentives to a new nuclear generation facility or an expansion of an existing facility constructed within three miles of an existing nuclear generating facility, which in Kansas would be the Wolf Creek Nuclear Generating Plant. (Attachment 7) It may provide the kind of incentive needed for the nuclear industry to consider an expansion of the Wolf Creek Plant.

Phil Wages, Kansas Electric Cooperatives, said he was also testifying for Westar, in support of **HB 2038**. (Attachment 8) The bill would establish a ten-year property tax exemption for the construction of a nuclear generating facility and expedites the permitting process. It also supports the expansion of Wolf Creek. Although the owners of Wolf Creek are not in a position today to invest in a new facility, the passage of this bill will place Kansas in a better position to keep native utility generation investment in Kansas, as well as attract out-of-state utility investment. Wolf Creek's total tax assessment in is excess of $350 million annually.

Tom Thompson, Sierra Club, testified in opposition to **HB 2038**. (Attachment 9) Other things can be done that are far more cost effective, according to Mr. Thompson. The Sierra Club believes efforts of the state should be put into other cost effective ways to meet energy needs, rather than nuclear power. The hearing was closed.

Hearing on HB 2240–Sales taxation; sales tax exemptions; services for rebuilding of public utility facilities

Mark Schreiber, Westar, said during the 2005 ice storm in south central Kansas, some customers were without electricity for over a week. (Attachment 10) For that one storm, Westar paid the state approximately $1.5 million in sales tax, that was ultimately recovered from their customers. This bill would provide a direct benefit to utility customers.

Dave Holthaus, Kansas Electric Cooperatives, testified **HB 2240** would broaden retail sales tax exemptions to include all electric and gas utilities, and add ice loading, windstorm, and terrorism to the list of natural disasters. (Attachment 11) Current law does not exempt contract labor charges associated with the "restoration, reconstruction, or replacement" of electric lines, damaged by wind or ice storms. During discussion, Doug Shepherd, Tax Department of Kansas Electric Cooperatives, said **HB 2240** would apply to losses covered by FEMA. Mark Schreiber, Westar, said investor-owned facilities cannot access FEMA funds.

Richard Cram, Kansas Department of Revenue, testified that **HB 2240** would significantly expand the sales tax exemption of labor services on original construction, thereby shrinking the sales tax base in several respects. (Attachment 12) If the bill affects plant repairs, the fiscal note will need to be re-worked. The current fiscal note is approximately $6 million. Mr. Cram suggested several amendments and will bring those amendments to the Committee in balloon form for consideration. The hearing was closed.

Senator Schmidt moved to approve the Committee meeting minutes of February 15, February 19, February 20 and February 21. Senator Jordan seconded the motion, and the motion passed.

Being no further business the meeting adjourned at 11:48 A.M. The next meeting will be March 1.

SENATE
ASSESSMENT & TAXATION COMMITTEE

GUEST LIST

DATE: February 28, 2007

NAME	REPRESENTING
Michelle Peterson	Capitol Strategies
Paul Snider	KCP&L
George Phillips	KCP&L
Tom Hawk	67th District House Rep
Tom Thompson	Sierra Club
Shirley Allen	KS Rural Telcos
ED JASKINIA	TALK
Leslie Kaufman	Ks Coop Council
Nikki Reedcott	ATMOS Energy
Wes Ashton	Aquila
Dan Murray	Federico Consulting

KANSAS
DEPARTMENT OF REVENUE

Kathleen Sebelius, Governor
Joan Wagnon, Secretary

www.ksrevenue.org

Testimony to the Senate Committee on Assessment and Taxation

Richard Cram

February 28, 2007

Substitute for House Bill 2171

Senator Allen, Chair, and Members of the Committee:

Substitute for House Bill 2171 recently passed the House with very strong support, 118-2. The department requested its introduction to modify sales tax refund statutes, codify existing rules, eliminate administrative complications, reduce administrative costs, burdensome backlogs and litigation, and penalize the filing of duplicate refund requests. The House Taxation Committee addressed all concerns the Kansas Chamber of Commerce and Industry raised in the substitute version. An explanation follows:

1. Section 1 codifies many of the provisions of K.A.R. 92-19-49c and defines the information and documentation requirements that must be met for a refund application to be considered a properly filed refund claim that tolls the statute of limitations and begins the accrual of interest.
2. Section 2 codifies many of the provisions of K.A.R. 92-19-49d and provides that a refund application will initially be reviewed for a determination of whether it meets the informational and documentation requirements to be considered a properly filed refund claim. If it does not, the refund application will returned to the claimant, who will be advised of administrative appeals rights that are limited to consideration of whether what was originally filed was a complete refund claim or not. Once a complete, properly documented and timely refund claim is filed, it will be reviewed on its merits for a determination as to whether a refund is due. If a complete and properly filed refund claim is denied, the claimant will be advised of administrative appeal rights for a review of the decision to deny the claim on its merits.
3. Section 3 amends K.S.A. 79-3609(b) to clarify that the three-year the statute of limitations for refund claims starts on the due date of the return for the reporting period that includes the transaction on which the refund claim is based. Except as provided in section 2(a), the statute of limitations is not tolled (stopped) until a complete and fully documented refund claim is filed. The postmark date on the refund claim determines its filing date (or if that date is illegible, the date 3 days prior to the claim being received by the Department is presumed to be the filing date). Under the exception in section 2(a), if the department returns a refund application for being incomplete, the refund applicant will have sixty days from

the date on the department's notice to file a complete, fully documented refund claim with the department before the statute of limitations would bar the claim.

4. Section 3 amends K.S.A. 79-3609(d) to clarify that interest does not start to accrue until a complete and fully documented refund claim is filed, except that no interest accrues if the claim is paid within 120 days after the filing of a complete and fully documented refund claim. Under current law, interest does not accrue if the refund is paid within 60 days of receipt of the complete and fully documented refund claim. These modifications of the interest provisions should save the state approximately $750,000 in interest expense per year (by FY 09 or FY 10), once they become effective, the inventory of existing refund claims is processed and newly received claims are subject to them.
5. Section 4 amends K.S.A. 79-3615 to provide that persons submitting refund claims for sales or use tax that was never collected by the retailer and remitted to the Department, or that the retailer had already refunded to the claimant, will be subject to a penalty of 50% of the amount of tax sought to be refunded. This penalty would not apply if the retailer collected the tax from the refund applicant but did not remit it to the department.
6. Section 5 amends K.S.A. 79-3650(a) to require that a refund request must equal or exceed $50 before it can be submitted by the consumer directly to the department, subject to the other current requirements in that statute.

Companies that are utilizing the direct refund statutes have other options that would reduce their costs of applying for, or hiring consultants to apply for sales tax refunds. By utilizing the statutes allowing exemption certificates, companies can provide an exemption to the retailers and not be charged the sales tax. Passage of this bill would encourage companies to utilize exemption certificates to avoid sales tax charges up front and eliminate the need to file with the department for a refund. This would save the business money by not having to apply for the refund to the state, and it would reduce administrative staff over time that would be needed to process refund requests.

We encourage your favorable consideration of House Bill 2171, as its long term effects will promote efficiencies, as well as reduce backlogs and costly litigation.

Recommended Amendments

The Department recommends that the contents of Senate Bill 334, the Streamlined Sales and Use Tax Agreement conformity bill, be added to Substitute for House Bill 2171.

Assessment and Taxation Committee
Kansas Senate
Written Testimony of Bruce Snead
State Extension Specialist in Residential Energy
Engineering Extension at K-State
Manhattan, Kansas
February 28, 2007

HB 2037

Madame Chair and members of the committee, thank you for the opportunity to testify on this bill. I support the bill, have a few comments, and would like to offer some supporting information in the form of the attached power point.

I participated last year in the formulation of the criteria for energy efficiency components in Section 1. (a) 2, and 1. (a) 3 of the bill and believe they are still appropriate to assure meeting Energy Star thresholds and achieve significant energy savings versus more typical equipment. There may be some adjustments in a few criteria that could be amended later in the legislative process if it is advantageous for the improvements to meet pending or future federal energy efficiency tax credits criteria. I will work with resource people in our state to address this possibility.

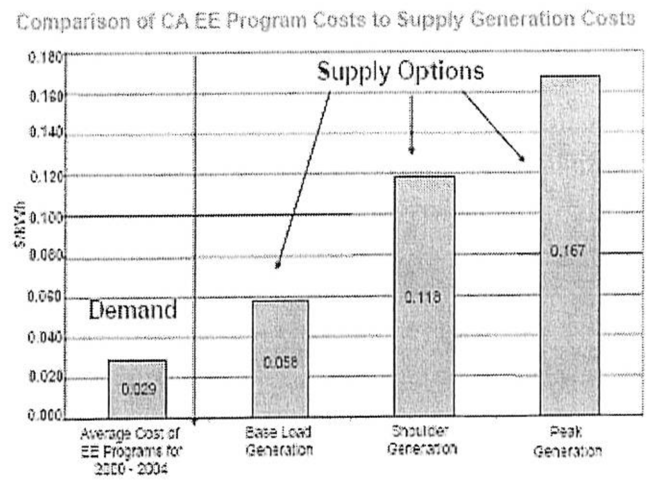
There are no significant federal tax credits in the 2005 Federal EPact for energy efficiency related to rental property unless the rental property is equal or greater than four stories in height, and those credits fall under the commercial category. I believe this bill will help motivate landlords and rental property owners to evaluate and take advantage of the financial benefits from efficiency upgrades, and is worth implementing in the three year time frame indicated. This is the least time I would recommend for almost any energy efficiency program to be able to achieve results that can be reasonably evaluated. I think it will also be important for any utility energy conservation programs envisioned by Senate bill 128 and recommended by the Kansas Energy Council to promote and market the items in this legislation if it is passed into law. Thank you for your attention and I will try to answer any questions.

Bruce Snead
810 Pierre St.
Manhattan, KS 66502
785-537-7260 Home 785-532-4992 Work email bsnead@ksu.edu

Assessment & Taxation
Date 2-28-07
Attachment # 2

You Get the Biggest Bang for the Buck With Energy Efficiency!

- Costs for energy efficiency programs produce energy at 67% of the cost of new supply!



Lessons Learned from other States - Where to Put the Bucks to Get the Biggest Bang!

- The **cost of purchasing the equipment** itself –tax credits, loans
- The **cost of educating consumers** about availability and maintenance of EE products – technical assistance
- **Energy Star** Program promotion can build on existing system/items
- Facility managers/operator **training to sustain the savings**

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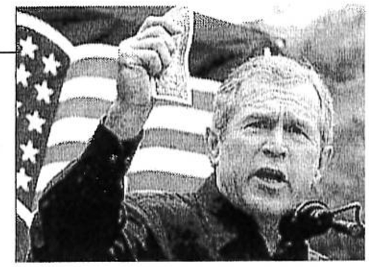
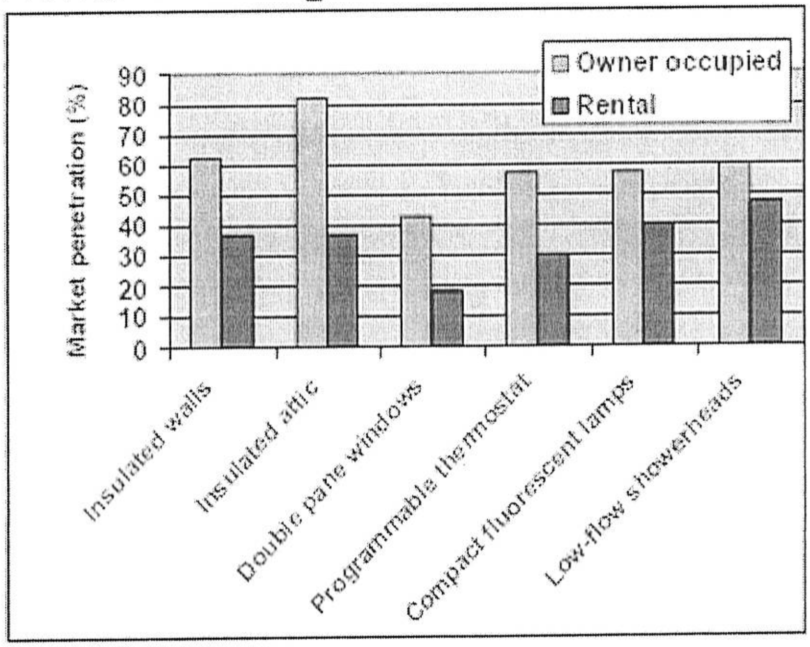
Federal Designated Bangs and Bucks Have a Two Year Life



- **Federal Energy Policy Act of 2005**
- Manufacturer and consumer tax incentives for advanced energy saving technologies and practices
- Minimum energy standards 16 products
- **States and utilities should gear their programs to complement incentives:**
  - **Efficient new homes,**
  - **New commercial bldgs,**
  - **Appliances,**
  - **Heating, air conditioning and water heating equipment,**
  - **Existing home retrofits**
- ***Time is critical if these are not extended***
- ***Do not address rental housing to any significant degree !***

1

Comparison of Energy Efficiency Measures in Owner-Occupied and Rental Housing in California -CEC 2004



4

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Attachment # 2-3

STATE OF KANSAS

TOM HAWK
REPRESENTATIVE, 67TH DISTRICT
3115 HARAHEY RIDGE
MANHATTAN, KANSAS 66502
(785) 537-1225
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STATE CAPITOL
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ROOM 322-S
TOPEKA, KANSAS 66612
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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
FEDERAL AND STATE AFFAIRS
ENERGY AND UTILITIES
SOCIAL SERVICE BUDGET

Written Testimony on HB2037—Senate Assessment and Taxation Committee **Proponent**

Madame Chairperson, Committee Members: HB2037 is a resurrection and update of last year's SB70 that passed the House at the end of the session but did not make it out of Conference Committee. That bill was a compromise that evolved in our committee and was fine-tuned in the Joint House Tax and Utilities Subcommittee. HB2037 would create tax incentives for energy efficiency improvements of non-owner occupied housing units. Those tax incentives would be available for tax years 2007, 2008, and 2009.

Tax credits would be created for the following improvements:

- $100 per dwelling unit for each six inches of ceiling insulation installed;
- $300 for a newly installed heating, ventilation or air conditioning system that replaces an existing system in a single family dwelling if the new system meets the energy efficiency standards established by the bill; and
- $300 per dwelling unit served by a replacement heating, ventilation or air conditioning system for multi-family residences, if the new system meets the energy efficiency standards established by the bill, and if there are separate temperature controls in each unit.

If the amount of the tax credit exceeds the taxpayer's income tax liability for the year in which the expenditures were made, the excess amount of credit could be carried forward. The entire tax credit for expenditures made in a single year would have to taken within five years of the expenditure.

The bill would create an accelerated depreciation schedule for heating, ventilation, and air conditioning equipment described in the bill. Depreciation of the equipment would be taken over five years: 60 percent the first year; and ten percent each of the following years.

The Department of Revenue would be required to report to the Legislature at the start of the 2009 Session regarding the number of taxpayers who claimed tax credits created by the bill and the amount of those credits claimed.

Some other notes on the intent of last year's bill appearing in the supplemental notes were:

- Treat duplexes like other multi-family dwellings for purposes of the tax credits that would be created by the bill;

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- Allow a multi-year deduction for installation costs; and
- Require multi-dwelling heating, ventilation, and air conditioning systems to have individual temperature controls for each unit in order to qualify for the tax credit.

A fiscal impact estimate was prepared by the Department of Revenue last year on a similar bill that indicated a potential expected reduction in state revenue of $2.5 million for the first year. That figure could be adjusted for this bill and take into account potential increases in sales tax with the purchase of installation and new HVAC systems.

The global intent of this bill is to provide incentives for energy efficiency that might reach those Kansans who are renters and often are most in need of assistance to lower their utility bills. Since they are not the owners and may not have the capital to make insulation or HVAC improvements, this bill would give incentives to landlords and ultimately help with overall energy conservation.

Ed Jaskinia
President
(913) 207-0567

James Dunn
Vice President (Zone 1)
(785) 843-5272

The Associated Landlords of Kansas

TALK

Doris Nelson
Vice President (Zone 2)
(785) 223-7226

Gary Hefley
Vice President (Zone 3)
(316) 722-7107

P.O. Box 4221 • Topeka, Kansas 66604-0221

The Associated Landlords of Kansas (TALK) was created in 1981 by a group of people from across Kansas to "Promote a strong voice in the legislature, a high standard of ethics, and provide educational opportunities for landlords." Some of our members helped create The Residential Landlord-Tenant Act of 1975, a model of fair law for both landlords and tenants. Our organization consists of members in 18 chapters across the state, and new chapters are in the process of being formed.

In this 2007 legislative session, we continue to work for fair and decent housing for all. We have listed below some of the issues that are of interest to us in this legislative session.

TESTIMONY IN FAVOR OF HB 2037

This bill would offer a small financial incentive in the form of a tax credit to the owners of non- owner occupied residential property for doing any of the following:

1) Replace existing heating systems or air conditioners with a high efficiency system ($300.00 per unit).

2) Add ceiling insulation ($100.00 for each 6")

3) Offers an accelerated depreciation schedule for these improvements.

This law is NOT a mandate, and it expires in 3 years. The financial incentive to the property owner may allow them to help justify the additional costs of the more expensive high efficiency models.

The tenants of these properties will see lower energy costs, and the environment will be healthier.

The State will benefit by additional tax revenue from the installers of these improvements, the additional sales taxes generated by the improvements, and additional sales taxes from the tenants spending their energy savings.

If we can be of help to you in these or any other areas concerning property, tenants, or landlords, please feel free to contact us.

Ed Jaskinia, President

ZONE 1
Landlords of Lawrence Inc.
Landlords of Johnson County, KS Inc.
K.C.KS. Landlords Inc., serving Wyandotte Co.
Eastern Kansas Landlords Assc., serving Miami Co.
Franklin Co. Landlords Assc.
Osage Co. Landlords Assc.

ZONE 2
Landlords of Manhattan Inc.
Labette County Landlords Assc.
Geary County Landlords Inc.
Shawnee County Landlords Assc.
Salina Rental Property Providers Inc.
South Central Kansas Landlord Assc.
Serving Sumner County

ZONE 3
Central Kansas Landlords Assc.
Bourbon County Landlords Assc.
Cherokee County Landlords Assc.
Crawford County Landlords Assc.
Montgomery County Landlords Assc.
Rental Owner Inc., serving Sedgwick County

Assessment & Taxation
Date 2-28-07
Attachment # 4

Testimony before the Senate Assessment and Taxation Committee
February 28, 2007

Proponent for H.B. 2037

Chairperson Allen and Honorable Members of the Committee:

My name is Tom Thompson and I represent the Kansas Chapter of the Sierra Club. I have come today to speak in support of H.B. 2037.

H.B. 2037 provides for many ideas supported by the Sierra Club and its members

There is little question that there are many things a homeowner can do to become energy efficient. Putting in additional insulation and energy efficient windows and replacing old heating and cooling with newer efficient equipment allows them to save money in the long run. It also decreases the need to rely on energy production that puts CO2, mercury and other pollutants into the air that effect the health of people throughout the state and country.

The importance of this bill is that it extends this opportunity to be energy efficient to landlords and those who rent. It gives landlords an incentive to be more efficient. This will save money for all ratepayers by decreasing the need for expensive additional electrical capacity and allow renters to save money.

It has been reported that programmable thermostats, costing about $100 can save someone living in a home $65 to $100 a year. Sealing leaks and putting in better insulation can save another $120 to $200 annually. And one can save 15% on ones water-heating bill by insulating hot water heaters and pipes.

Energy efficiency and conservation have been shown to be the most cost effective ways to help consumers meet their energy needs. It also decreases the amount of CO2 being put into the atmosphere contributing to global warming.

The Sierra Club supports H.B. 2037 and encourages the committee to pass it out of committee favorably.

Sincerely,
Tom Thompson

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Date 2-28-07
Attachment # 5

Kansas City Power & Light®
E N E R G I Z I N G L I F E

Testimony of George Phillips
Before the Senate Assessment and Taxation Committee
In Support of House Bill 2037
February 28, 2007

Kansas City Power & Light supports the passage and implementation of House Bill 2037. This bill has the potential to reduce air conditioning energy use where high efficiency equipment is installed by as much as 40 to 50 percent. With about 33 percent of our customers living in rental occupied housing, the energy savings can be quite substantial.

KCP&L has spent the last several years strongly advocating the promotion of energy efficiency, as evidenced by its Comprehensive Energy Plan that includes a variety of affordability, energy efficiency and demand response programs. Since approval of KCP&L's Comprehensive Energy Plan by the Kansas Corporation Commission in 2005, energy efficiency has received an increased level of attention and national focus. This increased focus and attention can be seen in initiatives sponsored by several renowned industry groups including the Edison Electric Institute (EEI), the Electric Power Research Institute (EPRI), and the National Association of Regulatory Utility Commissioners (NARUC), and in such documents as the National Action Plan for Energy Efficiency (NAPEE). A confluence of factors has led to the increasing focus on energy efficiency. These factors, as highlighted by the NAPEE, include high and volatile energy prices, global climate change, concerns over energy security and energy independence, and environmental concerns.

KCP&L supports the development of comprehensive energy efficiency programs for our customers and a regulatory environment in which energy efficiency resources will be considered a preferred resource option. KCP&L sees a unique opportunity to develop energy efficiency in a way that benefits customers, regulators, the environment, the state economy and the company.

Passage of HB 2037 represents a significant step forward in helping Kansas citizens become more energy efficient and secure our energy future.

KCP&L believes customers should be encouraged to become more energy efficient. For the customer, energy efficiency programs should demonstrate significant economic and societal benefits. Customers need to realize more influence and control over their own energy and demand usage. HB 2037 could be an important incentive to help owners of rental properties to take action through these programs.

KCP&L supports the passage HB 2037 and the positive impact it will have on energy use.

George Phillips, P.E.
Manager of Commercial and Industrial Markets
Kansas City Power & Light
816-556-2648; george.phillips@kcpl.com

WHITNEY B. DAMRON, P.A.

TESTIMONY

TO: **The Honorable Barbara Allen, Chair**
And Members of the
Senate Committee on Assessment and Taxation

FROM: **Whitney Damron**
On Behalf Of The
Board of Commissioners of Coffey County

RE: **HB 2038** **An Act concerning nuclear power plants; concerning siting permits; providing certain property tax exemptions.**

DATE: **February 28, 2007**

Good morning Madam Chair Allen and Members of the Senate Committee on Assessment and Taxation. My name is Whitney Damron and I appear before you today on behalf of the Board of Commissioners of Coffey County in support of HB 2038, which provides property tax incentives to a new nuclear generation facility or an expansion of an existing facility constructed within three miles of an existing nuclear generating facility, which in Kansas would be the Wolf Creek Nuclear Generating Plant located in Coffey County.

According to the Nuclear Energy Institute (www.nei.org), there are currently 103 commercial nuclear power plants producing electricity in the United States, located at 65 sites in 31 states. Nuclear power plants supply approximately 20 percent of our nation's electricity each year.

As of January, 2007, 30 countries worldwide were operating 435 nuclear power plants for electricity generation and 29 new nuclear plants were under construction in 12 countries. While there are currently no new nuclear power plants under construction in the United States, we are seeing renewed interest in this source of energy as the United States seeks to lessen its reliance on fossil fuels and oil imports. Unlike coal, use of nuclear fuel doesn't create air pollution or carbon dioxide, which is cited as a primary factor of global warming.

919 South Kansas Avenue ■ Topeka, Kansas 66612-1210

(785) 354-1354 (O) ■ (785) 354-8092 (F) ■ (785) 224-6666 (M)

www.wbdpa.com ■ wbdamron@aol.com

Assessment & Taxation
Date 2-28-07
Attachment # 7

I would like to call the committee's attention to a recent news article that appeared in the *Wall Street Journal* related to nuclear power generation.

Power Producers Rush to Secure Nuclear Sites
Wall Street Journal, January 29, 2007

...A flood of applications seeking permission to build at least 30 reactors, primarily in the South, is expected to pour into the Nuclear Regulatory Commission beginning late this year...

A nuclear power plant is licensed by the Nuclear Regulatory Commission for 40 years and can renew their license for an additional 20 years. A ten-year property tax abatement as provided for in HB 2038 would be a worthwhile investment if it leads to construction of a new nuclear power plant within the existing Wolf Creek footprint and would bring investment of over $1 billion into Kansas, thousands of high-paying construction, engineering and operational jobs as well as ultimately increasing property tax revenues when the tax abatement expired.

Legislation such as HB 2038 may very well provide the kind of incentives needed for the nuclear industry to consider an expansion of the Wolf Creek Nuclear Generating Plant and we encourage your favorable consideration of this legislation.

On behalf of the Board of Commissioners of Coffey County, I thank you for your attention to my comments and would be pleased to stand for questions.

WBD
Attachment

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Date 2-28-07
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THE WALL STREET JOURNAL.
ONLINE

January 29, 2007

PAGE ONE

Power Producers Rush to Secure Nuclear Sites

First to Develop Plans Could Tap $8 Billion In Federal Subsidies

By REBECCA SMITH
January 29, 2007; Page A1

With the U.S. on the verge of building a new generation of nuclear power plants, potential owners are racing to identify and lock down the best sites in order to secure billions of dollars in federal subsidies pledged to first-comers.

Their efforts will test local and national attitudes more than two decades after nuclear accidents made headlines. They also represent a considerable financial gamble for the utility industry, which is moving ahead at a rapid pace despite uncertainty ranging from environmental opposition to finding a home for radioactive nuclear waste. In one case, the zeal to secure a promising site has resulted in a nasty legal battle.

A flood of applications seeking permission to build at least 30 reactors, primarily in the South, is expected to pour into the Nuclear Regulatory Commission beginning late this year. If built, the reactors would boost the nation's electricity supply by more than 30,000 megawatts, or 3%. A megawatt is enough to power at least 500 homes.

'A Horse Race'

Under recent legislation intended to jump-start development, Congress is dangling more than $8 billion worth of subsidies, plus loan guarantees, in front of the first few plants that get built. Practically speaking, companies must apply to the NRC this year or next to qualify for the special assistance -- a process that can cost $50 million apiece.

"It's like a horse race," says Adrian Heymer, senior director of new plant development at the Nuclear Energy Institute, a Washington, D.C.-based trade organization. "Most companies are striving to submit applications as fast as they can."

At root is a sea change in views over nuclear power. From 1974 to 1994, spooked by skyrocketing costs, high interest rates and accidents in 1979 at the Three Mile Island plant in Pennsylvania and in 1986 at Chernobyl in the former Soviet Union, utilities canceled 96 nuclear projects in the U.S. Nuclear power currently makes up about 20% of the nation's electricity supply, compared with about 50% from coal, from 104 U.S. reactors.

But in a time of rising concern over price stability, dependence on foreign sources and global warming, nuclear power is on the cusp of a return. It doesn't rely on fossil fuels in tight supply or located in politically troublesome countries. Unlike coal, use of nuclear fuel doesn't create air pollution or carbon dioxide blamed for global warming.

Earlier this month, President Bush in his State of the Union address encouraged "safe, clean" nuclear power. Some existing plants have been getting license extensions from the federal government to keep them running, but the

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inc argues that aging plants eventually will need to be replaced.

Facing Opposition

Still, there's no certainty the industry will build plants, despite the money being spent on the effort. Development of the federal government's waste depository at Yucca Mountain, Nev., is behind schedule and could still face political opposition. Spent fuel is being stored at power-plant sites, a situation never intended to be permanent. Utilities are worried about the waste-disposal problem and construction costs, which spiraled out of control once before.

Meanwhile, opposition is gathering. The advocacy organization Public Citizen criticizes the "nuclear relapse" under way and asks opponents near proposed plants to "let us know how you'd like to help" block construction. Utilities expect some opposition but hope nuclear power's spruced-up image as a carbon-free resource will win over environmentalists.

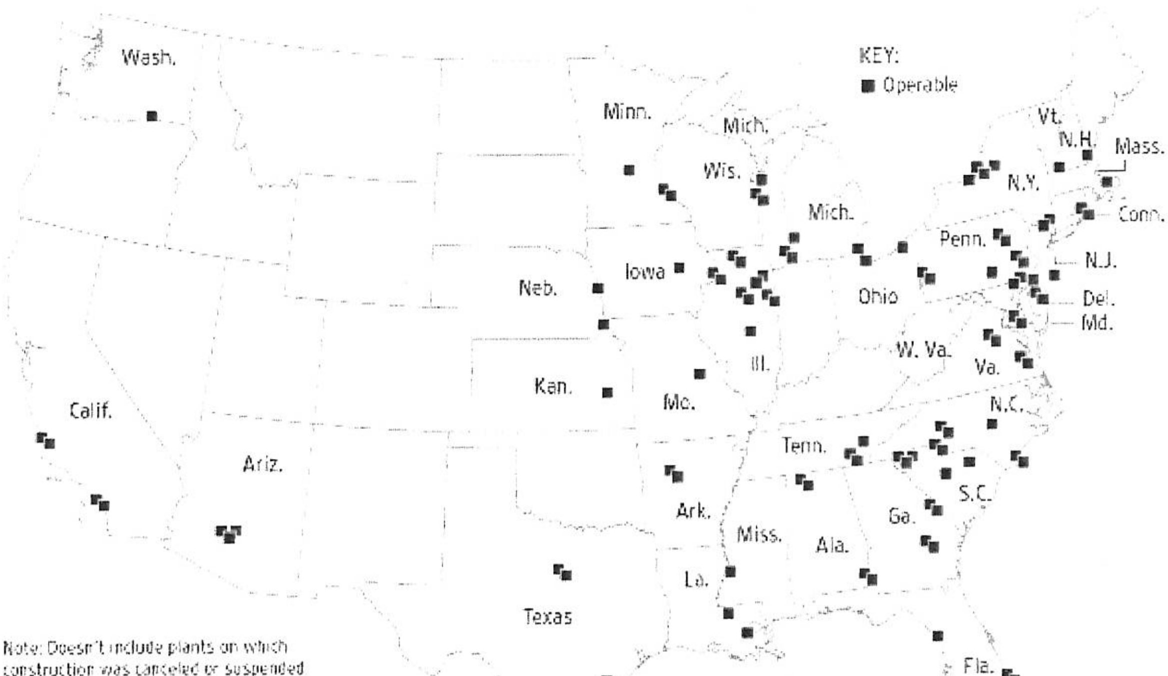
Even the biggest and most profitable nuclear operators are avoiding regions where public sentiment is unpredictable. Big nuclear operator Exelon Corp. is "sniffing around for a site in Texas," says John Rowe, chairman and chief executive of the Chicago-based utility company. He says New Jersey could use more nuclear capacity, but he's "not sure the citizenry is ready for it yet" so he's steering clear. California prohibits nuclear development until there's a federal waste repository.

Focusing on the South

So far, the industry is focusing efforts almost exclusively on the South, where plant operators think acceptance of nuclear power never flagged and where local officials welcome the economic stimulus of multibillion-dollar projects. Applications will focus on sites utilities are confident will pass muster at the Nuclear Regulatory Commission -- locations that are adjacent to existing nuclear units or that were previously approved for nuclear development that never occurred.

Under the Grid: the U.S.'s Nuclear-Power Reactors

In the 10 months ended October 2006, 103 (of 104 total*) operable nuclear generating units in 65 U.S. locations supplied 655 billion kilowatt-hours of electricity. Below, the operable nuclear reactors in U.S.



Note: Doesn't include plants on which construction was canceled or suspended

*Browns Ferry 1 was shut down in 1985. The unit has remained fully licensed and is counted as operable. The Tennessee Valley Authority announced its intention to have the unit resume operation in 2007.

Sources: Energy Information Administration; International Nuclear Safety Center at Argonne National Laboratory

Baltimore-based **Constellation Energy** Inc. has publicly identified two sites for development: the Calvert Cliffs plant in Maryland and -- a notable exception to the Southern concentration of the new sites -- the Nine Mile Point plant in upstate New York. Constellation is willing to chance receptivity because "we already operate there, so we think we can make it happen," says Tracy Imm, Constellation spokeswoman.

ion

The 96 plants canceled long ago

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represente(it half oı the number of projects originally proposed. The cancellations were costly at the time, but they createu .. ıarge inventory of locations now being given a second look. Utilities in many cases still own the sites.

For safety, security and public-relations reasons, nuclear plants typically are built in rural areas. Thus, the jobs they create loom larger than they would in cities. Plants are expected to cost $3 billion to $4 billion, each creating 2,000 construction jobs. Once completed, a plant needs 250 to 400 workers.

A consortium of utilities called NuStart Energy Development LLC is working with the NRC to speed up and smooth out the application and development process. It's working on applications for a new plant at **Entergy** Corp.'s Grand Gulf nuclear site in Mississippi, using a new **General Electric** Co. reactor design, and at Tennessee Valley Authority's Bellefonte site in Alabama, using a new reactor design from Westinghouse Electric Co., now controlled by a consortium led by Japan's **Toshiba** Corp. NuStart members -- Constellation, **Duke Energy** Corp., **EDF International**, Entergy, Exelon, **FPL Group** Inc., **Progress Energy** Inc., **Scana** Corp., **Southern** Co. and TVA -- control half the nation's nuclear capacity.

Utilities also are pursuing separate projects. **Dominion Resources** Inc. is considering its North Anna site in Virginia, and Southern is looking at its Vogtle site in Georgia; in each case, four units were permitted but only two built. "Atlanta is expected to double in the next 25 years," says Southern's Buzz Miller, senior vice president of nuclear engineering. "We're going to need a lot of new generation."

Legal Battle

The imperative to find sites has set off intense jockeying for position in some cases. One transaction, involving utility operator Duke Energy, has led to lawsuits, underscoring the eagerness to secure potential nuclear sites.

Duke announced its intention to pursue nuclear development last March, and it identified a 2,036-acre riverfront tract in Cherokee County, S.C., as its top pick. It was land Duke previously had owned, and decades earlier it received permission to build three nuclear reactors there. But after investing more than $600 million, Duke canceled the Cherokee projects and sold the parcel for $2 million in 1985.

A partnership, Mark V Land and Development LLC, approached Duke and other utilities to gauge purchase interest in 2005. When Duke learned Southern had emerged the apparent victor, it sued to block the sale. The suit was dismissed as groundless. Mark V, in a countersuit, accused Duke of abuse of process and trying to depress the price. Duke denies the allegations and the case is headed for jury trial. Duke and Southern now are teaming up to develop the site.

Write to Rebecca Smith at rebecca.smith@wsj.com[1]

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KEPCo

Kansas Electric Power Cooperative, Inc.

SENATE ASSESSMENT AND TAXATION COMMITTEE
H.B. 2038

Testimony on behalf of Kansas Electric Power Cooperative, Inc., Westar Energy, and Kansas City Power & Light

Madam Chair and members of the committee:

I am Phil Wages, Director of Member Services and External Affairs for Kansas Electric Power Cooperative, Inc. KEPCo is a not-for-profit generation and transmission utility, providing electricity to nineteen member rural electric cooperatives serving the eastern two-thirds of the state.

I am testifying today on behalf of Westar, KCP&L, and KEPCo. Collectively, our three companies own the Wolf Creek Generating Station.

The owners of Wolf Creek support H.B. 2038 and encourage this committee to continue the development of progressive legislation that supports energy development in Kansas. H.B. 2038 establishes a ten-year property tax exemption for the construction of a nuclear generating facility and expedites the permitting process. It also supports the expansion of Wolf Creek.

Wolf Creek is a very efficient, clean and successful generating facility. The success of Wolf Creek allows many Kansas utility customers to enjoy reliable, reasonably priced electricity.

The costs associated with the construction of a nuclear facility are substantial. A ten-year property tax exemption will directly reduce the costs associated with the facility, thus providing a savings to the residents of Kansas that would receive energy generated from the new facility. Incentives, such as the ones proposed in H.B. 2038, can be determining factors of where a utility decides to construct generation. Although the owners of Wolf Creek are not in a position today to invest in a new nuclear facility, the passage of this bill will place Kansas in a better position to keep native utility generation investment in Kansas, as well as attract out-of-state utility investment.

Madam Chair, this concludes my testimony and I stand for questions.

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Testimony before the Senate Assessment and Taxation Committee
February 28, 2007
Opposing H.B. 2038

Chairperson Allen and Honorable Members of the Committee:

My name is Tom Thompson and I represent the Kansas Chapter of the Sierra Club. I have come today to speak in opposition to H.B. 2038.

H.B. 2038 gives a ten-year property tax exemption for nuclear power plants to expand their facilities.

The Sierra Club considers nuclear power to be the least safe and most expensive alternative to fossil fuels. Waste transportation and storage issues remain unresolved. Nuclear power plants are typically very large facilities that when they have an unplanned outage can cause considerable disruption to the grid.

Today there are other things that can be done that are far more cost effective. HB 2037 was a good beginning to make the state more energy efficient. Conservation and energy efficiency have been found to be more cost effective. Incentives for energy efficient doors and windows, compact fluorescent lights, programmable thermostats, photovoltaic, Energy Star appliances, have not been used to their greatest capacity.

Furthermore, renewable sources of energy are just now coming into their own. They have yet to be used and developed to their greatest potential yet are cheaper than nuclear and can react quickly to meet energy needs once transmission capacity is adequately developed.

The Sierra Club believes it is time to put the efforts of the state into these cost effective ways to meet energy needs and not nuclear power.

The Sierra Club opposes H.B. 2038.

Thank you for your time

Sincerely

Tom Thompson
Sierra Club

Westar Energy.

MARK A. SCHREIBER
Director, Government Affairs

Testimony of Mark Schreiber Director Government Affairs Westar Energy On House Bill 2240 February 28, 2007

Madame Chair and members of the committee, my name is Mark Schreiber. I am the Director Government Affairs for Westar Energy. Westar Energy supports HB 2240. Kansas City Power and Light has signed on to our testimony as well. The bill includes within the list of catastrophes two of the most common types of severe weather in Kansas, windstorm and ice loading. An act of terrorism has also been added. The bill allows for the consistent application of the sales tax exemption for all electric and gas utilities when repairing utility facilities in the event of a major storm.

When a major storm strikes Kansas, utility service is usually severely damaged and restoration can take days or weeks. We have witnessed this most recently in western Kansas and in 2005 for our customers in and around Wichita. Current law grants a retail sales tax exemption for the contract labor rural electric co-ops use to recover from certain storms but not for windstorms or ice loading. Electric and gas public utilities do not receive a sales tax exemption for the contract labor used in the restoration work from any storm.

House Bill 2240 remedies the inconsistent application of the sales tax exemption and provides for its use during two of the most common types of storms. These storms occur randomly across the state. During the 2005 ice storm in south central Kansas, some of our customers were without electricity for over a week. Utility crews from across the eastern half of the United States provided assistance. Westar paid sales tax on that labor. For that one storm, we paid the state approximately $1.5 million in sales tax that ultimately is recovered from our customers. Our goal after a major storm is to get the power back on as safely and quickly as possible. We call on other utilities to help us. The sooner our customers can return to work or to their homes, the sooner our economy returns to full production. This bill provides a direct benefit to utility customers.

Thank you for the opportunity to provide testimony in support of HB 2240 this morning. I will be glad to stand for questions at the appropriate time. Mr. Paul Snider from KCPL is also in the audience and is glad to stand for questions as well.

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TESTIMONY OF DAVE HOLTHAUS
KANSAS ELECTRIC COOPERATIVES, INC.
SENATE ASSESSMENT AND TAXATIONCOMMITTEE
HB 2240

February 28, 2007

Madame Chair and members of the Committee, I am testifying in support of HB 2240.

Kansas law provides a retail sales tax exemption for electric cooperative and municipal utilities on labor to repair electric utility facilities damaged during natural disasters. HB 2240 would broaden this exemption to 1.) include all electric and gas utilities in the exemption and 2.) add ice loading, windstorm, and terrorism to the list of natural disasters.

An amendment on page 5, line 37, would expand the list of natural disasters for which the sales tax exemption would apply. Current law does not exempt contract labor charges associated with the "restoration, reconstruction, or replacement" of electric lines damaged by wind or ice storms. This labor was previously exempt as a result of a law enacted in 1977 in response to concerns about the high cost of repairing power lines downed by ice storms. This exemption was eliminated in 1988 when the Legislature amended the definition by deleting windstorm, hailstorm, rainstorm, and snowstorm, and adding tornado. My understanding is that nearly every roofing repair or replacement project was claimed to be the result of damage caused by hail even in cases where the true cause was normal wear and tear. The Legislature acted to close this loophole by amending the natural disaster definition and the unintended affect was to remove the exemption for ice loading of power lines, the original intent of the exemption.

The proposed amendment would apply only to electric and gas utilities that hire contract labor to restore, reconstruct, or replace utility plant damaged by terrorism or natural disaster, including windstorms, ice loading, or terrorism. We believe that this amendment will not adversely impact the preparation of the state budget, as natural disasters such as those covered in the bill are infrequent in nature. Importantly, contract labor associated with normal plant repair or re-construction would continue to be taxable.

Thank you for the opportunity to address this issue.

Kathleen Sebelius, Governor
Joan Wagnon, Secretary

www.ksrevenue.org

Testimony to the Senate Committee on Assessment and Taxation

Richard Cram

February 28, 2007

Department Concerns with House Bill 2240

Senator Allen, Chair, and Members of the Committee:

House Bill 2240 would amend K.S.A. 79-3603 (p) to significantly expand the sales tax exemption of labor services on original construction, and thereby shrink the sales tax base, in several respects. The proposal would broaden the definition of "original construction" to include the restoration, reconstruction or replacement of a commercial building, facility or utility structure damaged or destroyed by windstorm, ice loading and attendant winds, or terrorism. "Utility structure," a new term, is defined as "transmission and distribution lines and appurtenances owned by independent transmission company or cooperative, the Kansas electric transmission authority or natural gas or electric public utility." The bill also would newly exempt labor services on repairs to utility structures damaged by fire, flood, tornado, lightning, explosion, or earthquake.

Under current law, labor services for restoration, reconstruction, or replacement of a commercial building or facility is exempt only if this work was made necessary by damage or destruction from fire, flood, tornado, lightning, explosion, or earthquake. "Facility" is defined to include a mill, plant, refinery, oil or gas well, water well, feedlot or any transmission or distribution line of an electric co-op or municipal or quasi-municipal corporation. Labor services to repair damage from ice and windstorms to commercial buildings and facilities (including power lines owned by electric co-ops or municipalities) are not exempt. Labor services for repairs to transmission or distribution lines owned by entities other than electric co-ops or municipalities caused by damage of any type are not exempt.

House Bill 2240 expands the "original construction" labor services exemption not only to include labor on repairs to commercial buildings and facilities from ice loading and windstorms (which would encompass electric co-op and municipal power transmission and distribution lines), but also the labor on repairs to transmission and distribution lines and appurtenances owned by independent transmission companies, the Kansas electric transmission authority, and natural gas or electric public utilities. We are uncertain what the term "appurtenances" to transmission and distribution lines means. Including this term adds vagueness and ambiguity to the exemption, and we would suggest the term "appurtenances" be stricken at line 13, page 6 of the bill.

The fiscal note for the "ice loading" portion of the exemption on power line repairs alone is significant: approximately $3 million in state sales tax revenue, based on cost estimates received concerning the recent 2005 ice storm. Although a major ice storm may not hit the state every year, the damage to power transmission lines, and subsequent repair costs, can be extensive when they do occur.

Adding to the "original construction" exemption labor on repairs caused by ice or windstorms to commercial buildings or facilities, as well as labor on repairs caused by damage to "utility structures" (transmission and distribution lines and appurtenances—whatever that term means--of independent transmission companies and natural gas and electric public utilities) from fire, flood, tornado, lightning, explosion, or earthquake—as well as ice and windstorms--increases the fiscal note to an estimated $6 million in state sales tax revenue. Our fiscal note is attached.

Requested Amendment

In addition to recommending that the word "appurtenances" be stricken from the bill, should the Committee decide to act on this bill, the department requests that the "original construction" exemption in K.S.A. 2006 Supp. 79-3603(p) be further amended to delete the word "repair" at line 29, page 5 of the bill, as shown below:

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

Residential remodeling work falls within the "original construction" exemption. However, administering the "original construction" labor services exemption for repairs to residences has been problematic: what constitutes repair of the residence vs. repair of an item of tangible personal property within the residence, such as curtains, household appliances, televisions or stereo equipment? Deletion of the word "repair," as described above, would greatly simplify the administration of the "original construction" exemption, as it applies to residences.

MEMORANDUM

To: Mr. Duane Goossen, Director
Division of Budget

From: Kansas Department of Revenue

Date: 02/08/2007

Subject: House Bill 2240
Amended by House Committee

Brief of Bill

House Bill 2240, as Amended by House Committee, amends K.S.A. 79-3603 (p) as it concerns the exemption of labor services on original construction. The proposal expands the definition of original construction to include the restoration, reconstruction or replacement of a building or facility damaged or destroyed by windstorm, ice loading, attendant winds or terrorism. **As amended, the proposal removes public utilities from the definition of a facility. The result is labor services would only be exempt when the damage is from fire, flood, tornado, lightning, explosion, windstorm, ice loading, terrorism and attendant winds. Attendant winds was added by the House Committee. The proposal was also amended to add the term "utility structure" to the definition of original construction to isolate the exemption to damages for those items listed above. The proposal was also amended to exempt appurtenances of transmission or distribution lines and to define windstorm.**

The Act would be effective July 1, 2007.

Fiscal Impact

The proposal is estimated to result in the loss of $6 million in fiscal year 2008. The loss to the state general fund would be $5.3 million with $0.7 million loss to the state highway fund. There would also be the loss of $1.5 million in local sales tax revenues. The proposal broadens the exemption to allow labor services on restoration, reconstruction or replacement of transmission or distribution lines of any natural gas or electric public utility, independent transmission company or Kansas electric transmission authority. In addition, the proposal adds windstorm, ice loading, attendant winds, or terrorism as situations in which the labor services exemption applies.

Although there is some disaster damage each year in Kansas due to wind or ice, generally the costs to private property are not significant. However, there are other years in which there has been extensive damage, not only to buildings and facilities but also to utility company transmission and distribution lines. In these years, the costs are significant.

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Examples of major storms include this winter in western and southern Kansas and the ice storms of 2005.

The proposal as amended by House Committee added appurtenances of transmission and distributions lines as exempt, included independent transmission company or Kansas electric transmission authority in addition to public utilities, and added attendant winds as a condition in which labor services can be exempt. From these additions, and with the uncertainty of knowing what equipment, structures and other components of a transmission or distribution line would be exempt under appurtenances, the department has increased the fiscal impact to account for these changes.

The state of Kansas has not had terrorism damage and one cannot predict nor estimate the impact of a terrorism attack.

Fiscal Year	State Total	General Fund	Highway	Local
2008	$ 6.00	$ 5.26	$ 0.74	$ 1.50
2009	$ 6.21	$ 5.45	$ 0.76	$ 1.55
2010	$ 6.43	$ 5.64	$ 0.79	$ 1.61
2011	$ 6.65	$ 5.83	$ 0.82	$ 1.66
2012	$ 6.89	$ 6.04	$ 0.85	$ 1.72

Administrative Impact

The proposal would require the reissuance of three sales tax publications at a cost of $28,900.

Administrative Problems and Comments

The department respectively suggests the word "cooperative" can be deleted from the definition of utility structure as their transmission and distribution lines are already defined in "facility."

The word "appurtenances" requires definition. Black's Law Dictionary defines it is "something that belongs or is attached to something else." The department envisions administrative problems in determining what is included under appurtenances and recommends it be defined to reduce problems and issues in administering the proposal.

The word "attendant winds" requires definition. If not, there will be interpretation issues. It is suggested the word be stricken from the proposal is windstorm (with a definition) is already included in the proposal.

Taxpayer/Customer Impact

Legal Impact

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Approved By:

Joan Wagnon

Joan Wagnon
Secretary of Revenue

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