

MINUTES OF THE HOUSE ENERGY AND UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9:42 A.M. on February 15, 2008 in Room 783 of the Docking State Office Building.

All members were present except:  
Dan Johnson-excused

Committee staff present:  
Mary Galligan, Kansas Legislative Research  
Carol Toland, Kansas Legislative Research  
Melissa Doeblin, Revisor's Office  
Renae Hansen, Committee Administrative Assistant

Conferees appearing before the committee:  
Tom Sloan, State Representative, 45<sup>th</sup> District  
Mark Galbraith, State Library  
Rose Ann Seimans, Kansas Library Association  
John Federico, Kansas Cable Telecom Association  
Jim Gardner, AT&T

Others attending:  
Thirty three including the attached list.

Hearing on:

**HB 2634-Grant program for deploying broadband service in underserved rural areas.**

Proponents:

Representative Tom Sloan offered testimony (Attachment 1), in support of **HB 2634** noting his passion for deploying broadband service to rural areas.

Mark Galbraith, Deputy Director, State Library, (Attachment 2), presented testimony in support of **HB 2634**. He noted that only about 20% of Kansas libraries have the internet access they need because of the cost of service and the geographical location of the library itself.

Rosanne Siemens, Executive Director, Kansas Library Association, (Attachment 3), spoke as a proponent to **HB 2634**, she noted a few suggestions to make the bill more workable for all local libraries.

Written Proponents:

Terry Holdren, Kansas Farm Bureau, (Attachment 4) offered written testimony in support of **HB 2634**.

Stan R. Ahlerich, President, Kansas Inc., (Attachment 5), presented written testimony in support of **HB 2634**.

Neutral:

Jim Gardner, AT&T, (Attachment 6), presented testimony on **HB 2634** and proposed some suggestions for changes to the bill.

Mike Murray, Embarq, (Attachment 7), offered testimony on **HB 2634**, noting some suggested proposed changes to the bill.

CONTINUATION SHEET

MINUTES OF THE House Energy and Utilities Committee at 9:15 A.M. on February 15, 2008 in Room 783 of the Docking State Office Building.

Opponents:

John Federico, Kansas Cable Telecommunications Association, (Attachment 8), presented testimony in opposition to **HB 2634** regrettably for a well intended bill. He also referenced a recent report of the FCC that notes that broad band support was offered in 99 % of all zip codes, with 91.5 % of those zip codes having 3 or more options for broadband internet service.

Questions were asked and comments made by Representatives: Tom Sloan, Vern Swanson, Tom Moxley, Oletha Faust-Goudeau, Vaughn Flora, Forrest Knox, Peggy Mast, and Carl Holmes.

The hearing was closed on **HB 2634**.

Discussion on:

**HB 2639-Energy resources commission, establishment. Kansas energy science technology commission.**

Representative Tom Sloan moved to adopt the amendment, (Attachment 9), he presented, seconded by Representative Vaughn Flora..

Discussion on **HB 2639** by Representatives: Don Myers, Tom Sloan, Josh Svaty, Vaughn Flora, and Peggy Mast.

Josh Svaty moved to table **HB 2639**, seconded by Representative Rob Olson. Motion to Table passed.

Discussion on:

**HCR 5029-A CONCURRENT RESOLUTION urging Congress and the President of the United States to develop a program of capturing and storing carbon and other greenhouse gases.**

Representative Tom Sloan moved to pass out of committee favorable for passage **HCR 5029**, seconded by Representative Vern Swanson.

Discussion ensued between Representatives: Tom Sloan, Peggy Mast, Josh Svaty, and Forrest Knox.

Representative Tom Sloan called the question.

Motion to pass **HCR 5029**, failed, 5-9.

Discussion on:

**HB 2638-Location and mapping requirements for underground water facilities.**

Representative Tom Sloan move to amend **HB 2638**, (Attachment 10), seconded by Representative Rocky Fund.

Discussion ensued with Representatives: Don Myers, Tom Sloan, Rob Olson, Rocky Fund, Bill Light, Peggy Mast, and Forrest Knox.

Representative Rob Olson moved to table **HB 2638**, seconded by Representative Margaret Long. Motion to table passed, 10 -9.

CONTINUATION SHEET

MINUTES OF THE House Energy and Utilities Committee at 9:15 A.M. on February 15, 2008 in Room 783 of the Docking State Office Building.

The next meeting is scheduled for Monday February 18, 2008.

The meeting was adjourned at 11:09 a.m.



STATE OF KANSAS

TOM SLOAN  
REPRESENTATIVE, 45TH DISTRICT  
DOUGLAS COUNTY

STATE CAPITOL BUILDING  
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TOPEKA  
HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
VICE CHAIRMAN: GOVERNMENT EFFICIENCY  
AND TECHNOLOGY

MEMBER: ENERGY AND UTILITIES  
TRANSPORTATION

HB 2634 - Broadband Survey and Subsidy

House Energy & Utilities Committee

February 15, 2008

Mr. Chairman, Members of the Committee: For several years this Committee has struggled with how to assist constituents in non-urban areas to gain access to broadband services. We have heard compelling testimony about the benefits to persons with broadband for economic, health care, education, and other opportunities. We also have heard testimony about the benefits of the competitive marketplace - unfortunately for too many rural Kansans, not only is there no competition, but there is no broadband provider at all.

HB 2634 requires that the Dept. of Commerce, with assistance from the Kansas Corporation Commission, conduct an annual survey of broadband providers to determine where high speed Internet service is NOT available.

Several other states have contracted with Connect America (operating as Connect Kentucky, Connect Tennessee, etc.) to compile such data, aggregate demand, and bring the information to potential broadband providers. The budget for Connect Kentucky is approximately \$3 million per year.

I believe that the Dept. of Commerce, with the assistance of the Corporation Commission, can accomplish the same objectives for next to no cost to the state, providers, or customers. The Department of Commerce is selected so that there is no implication that the Corporation Commission will gain any regulatory oversight over the broadband providers.

Since I introduced the bill, it has come to my attention that requiring providers whose customers have access to broadband to report every year is unnecessary and unreasonable. Therefore, in New Sec. 4 on page 3, I propose that language be added to the effect that:

“Any broadband provider that certifies on a form provided by the department that service is available at a minimum of 386 kbs in both directions within their service territory to every customer or certifies that the provider has a formal program through which the provider notifies customers annually that such service is available upon demand shall make such a statement on one annual report to the Dept. of Commerce and then no longer incur the requirement to file annually. Upon review of the data provided, the Department may also specify telephone exchanges or other telecommunications service areas in which customers universally have access

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and broadband providers shall no longer incur the requirement to file annually. For the purposes of this section, access to satellite broadband services shall not constitute making service available to all customers unless the broadband provider's primary delivery system is satellite based."

It also has come to my attention that some providers have misinterpreted the intent of the data collection section. The bill does not require the provider to submit the data to the Department of Commerce on the basis of census tracts. The Department will manipulate the raw customer address data so that it is available to the Legislature on a census tract basis. The reason for requiring the data to be provided by the Department on the basis of census tracts is so that the Legislature can examine the broadband service availability data in conjunction with other Bureau of the Census demographic and economic data.

To ensure that providers and the Department understand the intent of this bill, I propose that page 2, line 38 read as follows:

"establish the form and manner in which the provider's customer address information shall be submitted so that the department may aggregate all provider customer service data lists and the department may place customers into the appropriate census tract and to fulfill all other requirements of the department under this act."

The second part of the bill, beginning with Sec. 6, creates the Broadband Deployment Assistance Program. The KCC shall establish and administer a grant program to assist broadband providers to reach underserved rural areas. The grants shall be awarded on a **one-time basis** to assist in the build out of the provider's broadband system and may not be used to pay operating costs.

Some of the criteria to be used in awarding the grants are: demonstrated ability to deliver broadband services, technological neutrality, and best value to the KUSF and customers.

Grants will be available for fiscal years 2010 - 2014 with caps of \$500,000 for fiscal years 2010 and 2014, and \$1 million for fiscal years 2011-2013. Funding for the broadband deployment grants shall be paid from the Kansas Universal Service Fund (just as is done in Arkansas and Maine).

Many of you have previously expressed concerns about the existence and size of the KUSF. You should be aware that Kan-Win and Kan-Ed jointly issued a RFP and awarded a joint contract for the next generation communication platform. That new contract will save the state millions of dollars. My expectation is that the savings will mean that this program will not increase the KUSF rates.

Thank you for your attention. I look forward to your questions.

To: House Energy and Utilities Committee

Representative Carl Holmes, Chair  
Representative Robert Olson  
Representative Rocky Fund  
Representative Dan Johnson  
Representative Forrest Knox  
Representative Bill Light  
Representative Peggy Mast  
Representative Judy Morrison  
Representative Tom Moxley  
Representative Don Myers  
Representative Richard Proehl  
Representative Tom Sloan  
Representative Vern Swanson  
Representative Annie Kuether  
Representative Oletha Faust-Goudeau  
Representative Vaughn Flora  
Representative Tom Hawk  
Representative Margaret Long  
Representative Terry McLachlan  
Representative Cindy Neighbor  
Representative Joshua Svaty

From: Marc Galbraith, Deputy Director  
State Library of Kansas

Date: February 12, 2008

Good morning Mr. Chairman and members of the committee. Thank you for the opportunity to visit with you about HB 2634.

My name is Marc Galbraith; I'm the Deputy Director at the State Library of Kansas, speaking today on behalf of the State Library and those libraries we are privileged to serve.

We asked for time on your agenda today because high-speed broadband access is important to all Kansas libraries. In fact, I'd say it is a critical resource.

It is a critical resource because libraries, just like the rest of the country today, conducts business and provides services that are dependent on quality Internet access.

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Every library in Kansas offers public access to the Internet, but a recent study finds that less than 20% of our libraries are able to secure high-speed broadband access. Why is that so? Well, the reasons vary, but they come down to cost and geography. Oftentimes, it's the rural areas where broadband is hardest to find and the most expensive. Of course, it's also those areas where the smallest libraries exist and where they try to operate with the smallest of budgets.

What we also know is that, while libraries offer many wonderful services that are delivered online, libraries are also the place that 30% of the population turns to when they need Internet access. These users don't have Internet access at home. These individuals need their local library and its Internet access to do homework, to apply for jobs, to conduct e-government and to send e-mail to family and friends. If libraries cannot deliver the information-rich content needed, these users will be left out of the modern information marketplace.

So we support HB 2634. We support the bill because libraries offer wonderful online services that are dependent upon fast, and faster, Internet speeds, and because libraries are the place that a large segment of the population turns to access the Internet. We support HB 2634 as the right step forward. We thank the committee for bringing it forward. We would, however, like to suggest that you consider an amendment so that criteria #1, in New Section 7, becomes T-1, or 1.5 m.b.p.s., in both directions.

Why do we think T-1 should be the base? Because a recent study on Internet access and libraries, that included Kansas, reaches that conclusion; because libraries all over the country report that they frequently experience less than adequate bandwidth capacity; because even libraries with T-1 access report that it often isn't enough; because many states offer T-1 access to all of their libraries and are still looking for ways to increase that speed; and because many countries already offer access to business and residential users that is well beyond T-1, and we believe Kansas libraries and Kansas communities not only deserve, but need the same.



February 15, 2008

To: House Utilities Committee, Representative Carl Holmes, Chair  
From: Kansas Library Association, Rosanne Siemens, Executive Director  
Re: HB 2634 (Broadband and Kansas Libraries)

Thank you for allowing me to speak today. I represent the 800 members of the Kansas Library Association. I am speaking as a proponent of HB 2634.

There are a couple of issues I would like to speak to regarding the bill and I will be brief.

The first issue I raise is on P. 1, line 18. I believe "at least 200 kilobits per second" is the FCC definition of Broadband; the industry definition is 256kbit/s. I wondered if that threshold should be changed in the definition of Broadband to fit the industry standard.

I also raise a curiosity about the definition of "Provider" on P. 1, line 35. I am curious about why this definition does not include all Broadband providers instead of just wireless service providers? I would like to suggest the word "wireless" be removed.

On P. 1, line 39, in defining "Underserved rural areas" the minimum "at least 386 kilobits per second" is fine for individuals, but I would like to suggest for government (libraries) and/or businesses, that threshold be raised to at least 1.5 Mbits/s (T1) in both directions. That threshold is found again in the bill on P. 2, line 4, and again in the criteria for qualifications to receive the grants on P. 3, lines 37 – 39.

Reasons for these suggestions:

The very nature of the business of libraries providing information relies on the Internet and in turn the broadband speed. Many Kansas libraries now have their card catalogs only accessible on the Internet. This means the basic searching and checking in and out of books and other materials is all done on the Internet, making libraries very dependent on the broadband speed. Libraries also provide patrons with access to the online safe, peer reviewed databases, downloadable audio books, and Internet based homework help. A recent example for higher speed Internet access occurred at Ford City Library in SW Kansas. The connection there was too slow to download the software necessary to participate in the regional system "federated" interlibrary loan system because it would take over an hour to come across. The library director had to download it at a site with a higher bandwidth onto a CD, take it back to the library in Ford, and then install it, in order to participate in the interlibrary loan system in that region. Other required software upgrades have had to take place this way in order to upgrade in under an hour.

In the smaller communities where patrons either do not have a computer or do not have access to high speed Internet at home, they use the library. Some of those smallest libraries now have several computers for patrons to use, and will need to increase their number of computers in the library in the near future. This has put a strain on library budgets to increase the bandwidth capacity so that multiple computers can be used at the same time.

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Any web-based conferencing between libraries or between other Kansas communities for training and/or continuing education for the public is well within the purview of public libraries. Individuals may have a personal computer, but they come to the library to participate in town hall meetings and state-wide programming. This is very important in rural areas, to keep the people in these communities, and these communities connected. This conferencing via the Internet requires a huge amount of bandwidth, but is so important to rural towns.

Thank you for your consideration of the suggested changes in the thresholds and definitions that are currently in the bill. Thank you for allowing me to speak today. I am open to questions. Or, if you have further questions after the hearing, please feel free to contact me at:

Rosanne Siemens  
Kansas Library Association  
[kansaslibraryassociation@yahoo.com](mailto:kansaslibraryassociation@yahoo.com)  
785-580-4518



*PUBLIC POLICY STATEMENT*

HOUSE COMMITTEE ON ENERGY AND UTILITIES

Re: HB 2634; Broadband deployment assistance

**February 15, 2008  
Topeka, Kansas**

**Written Testimony by:  
Terry D. Holdren  
KFB Governmental Relations**

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Chairman Holmes and members of the House Committee on Energy and Utilities, thank you for the opportunity to share our thoughts on HB 2634. As you know KFB is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations.

Today a significant amount of business is being transacted over the internet making access to high-speed internet service more important than ever before. Unfortunately, residents across the state often struggle to access reliable high-speed internet service, and there remain areas where there simply is no provider willing to offer the service at an affordable price.

HB 2634 will greatly expand our understanding of gaps in our current service and then use grant dollars to assist providers in expanding their infrastructure to meet this need for all Kansans. We're grateful for this effort and hopeful that this program will prove to be an effective resource for Kansans.

Thank you for the opportunity to comment. KFB strongly supports this concept and HB 2634 and asks for your favorable consideration at the appropriate time.

*Kansas Farm Bureau represents grass roots agriculture. Established in 1919, this non-profit advocacy organization supports farm families who earn their living in a changing industry.*

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ATTACHMENT 4

**Kansas, Inc. Written Testimony on House Bill 2634**  
**House Energy and Utilities Committee**  
**February 15, 2008**  
**Stan R. Ahlerich, President**

Chairman Holmes, members of the House Energy and Utilities Committee, Kansas, Inc. appreciates the opportunity to provide written testimony on House Bill 2634 establishing the broadband deployment assistance program.

Kansas, Inc. is an independent, objective, and non-partisan organization designed to conduct economic development research and analysis with the goal of crafting policies and recommendations to ensure the state's ongoing competitiveness for economic growth. Through analysis and open dialogue, Kansas, Inc. identifies policy options and builds consensus essential for concerted action on vital economic issues.

**Kansas, Inc. stands as a proponent to the concepts brought forth with House Bill 2634.** Through our written testimony, we hope to provide some insight in regards to the importance of broadband deployment throughout the state and its relation to many of the concepts that were brought forth during the 2007 statewide economic development strategic planning process. Entitled *Leveraging our Foundations and Designing the Future: A Kansas Economic Renaissance*, the 2007 strategic plan was the result of a yearlong process, driven by sound, fundamental research and tested with business input throughout the state.

During the strategic planning process, participants throughout the state stressed the importance of having access and coverage to both broadband and wireless voice service. In our assessment, areas without access to these technologies will be at an economic disadvantage when competing with areas which can provide these amenities. In a way, these technologies must be considered as essential as traditional utility services and will be required for future economic growth.

Strategy 7 (included in testimony) from the strategic plan specifically speaks towards this issue from a rural development perspective; however, we must also remember that you do not have to travel very far from a Metropolitan or Micropolitan Statistical Area to find an area underserved by these technologies.

Also, Strategy 35 (included in testimony) from the strategic plan specifically speaks towards this issue from a technology and innovation perspective.

In conclusion, access to broadband technology is critical to economic growth throughout Kansas, and anything the state can do to enhance this infrastructure, through acting on its own or partnerships will hopefully facilitate the development of this technology throughout Kansas. Again, thank you for the opportunity and we applaud the common sense approach of your Committee to build prudent policies for our future.

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## **Strategy 7 – Address technology infrastructure needs in rural Kansas, including broadband, Internet access and wireless voice access.**

- 7-1 Study, map and enhance the broadband infrastructure of the state. Increase broadband Internet access and the capacity to move large amounts of data securely. Urge the private sector to respond to broadband service gaps as they are identified.**
- 7-2 Assure through regulator mechanisms such as eligible telecommunications carrier designation and a tax structure that rewards investment, that wireless coverage is available throughout Kansas.**

Whether rural communities flourish or become increasingly isolated may depend on how they exploit technology infrastructure such as broadband, Internet access, and wireless voice access. Today's business environment demands access to these technologies. Research has shown a link between infrastructure investments and economic growth, such as investments in highways and telecommunications accelerating economic growth, or investments in information technology contributing to increased labor productivity.<sup>1</sup>

A major obstacle to development in rural communities is distance and connectivity, and technology provides a way to minimize these barriers. Without these amenities, large parts of rural Kansas will lose out on economic development, jobs and population. Technology such as broadband and wireless voice access must be considered as essential as traditional utility services. Through open access, competition and innovation at the federal and state level, rural communities and businesses can partner to develop these technologies. Understanding and mapping existing broadband infrastructure will assist both the public and private sectors in addressing the needs of rural Kansas. Regulator mechanisms and tax incentives could reward investment and facilitate further wireless coverage throughout the state.

## **Strategy 35 – Address technology infrastructure needs throughout the state.**

- 35-1 Develop and maintain maps of strategic technology assets in the state and identify those accessible through regional, national, and global networks.**
- 35-2 Identify and address infrastructure gaps through collaborative cross-boundary relationships.**
- 35-3 Increase industry access to public research infrastructure by developing an environment conducive to institution-industry interactions and addressing policy impediments.**

Kansas must study, map and enhance strategic technology assets in the state while identifying and addressing infrastructure gaps through collaborative cross-boundary relationships. Technology infrastructure such as broadband, Internet access and wireless voice access is crucial for today's business environment.

Best practices of state initiatives, such as ConnectKentucky<sup>2</sup>, should be monitored and potentially modeled if appropriate for Kansas. Understanding and mapping existing technology infrastructure will assist both the public and private sectors in addressing the needs of Kansas.

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<sup>1</sup> Orazem, Peter. *The Impact of High-Speed Internet Access on Local Economic Growth*, The Center for Applied Economics, School of Business, University of Kansas, August 2005.

<sup>2</sup> The mission of ConnectKentucky is to accelerate the growth of technology in support of community and economic development, improved healthcare, enhanced education, and more effective government. By leveraging the latest in technology and networking, ConnectKentucky helps ensure Kentucky remains the place of choice to live, work, and raise a family.





Testimony of Jim Gartner - AT&T Kansas  
Neutral on HB 2634  
Before the House Energy & Utilities Committee  
February 15, 2008

Mr. Chairman and Members of the Committee,

Thank you for the opportunity to comment on HB 2634. AT&T is generally in favor of broadband availability mapping, the subsequent use of mapping data to identify underserved areas and the use of subsidies to help cover the upfront costs of deploying broadband service to truly unserved areas.

However, there are some troubling aspects of this bill that should be addressed if the Committee decides to proceed with this approach:

- Sec. 1(c): AT&T believes that an economic development authority should have responsibility over any subsidy program and not the KCC. Broadband internet is not an area subject to KCC regulation currently, and should remain that way.
- Sec. 2, lines 43 and 1: The bill states that broadband providers should submit a list of all addresses currently receiving broadband service. AT&T believes that a map displaying coverage ranges of DSL or satellite services would be more representative of reality.
- Sec. 3(a) 1-2: The bill requires providers to report subscribers based on census tract. This method is not uniform with other states. Further, AT&T does not track information in this matter and a change would be costly. The FCC has stated that tracking based upon zip code is sufficient and AT&T agrees with this assessment.

The bill also includes provisions that would defer to an FCC program should one be adopted that requires data collection at the census tract level. AT&T believes that a national broadband mapping initiative administered by the FCC would be a more efficient solution. It would enable companies to develop consistent data reporting capabilities for all states. Consequently, AT&T feels that Kansas should defer to a federal program even if it does not require data collection at the census tract level. I am available for questions.

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ATTACHMENT 6



WRITTEN  
TESTIMONY

Before the House Utilities Committee  
HB 2634, Broadband Deployment Funding, Mapping  
Michael R. Murray, Embarq Corporation  
February 15, 2008



Mr. Chairman and Member of the Committee:

Thank you for the opportunity to comment on HB 2634 which provides funding for broadband deployment in unserved and underserved areas of Kansas, and for mapping of current broadband coverage.

We have few concerns and hope the Committee can address them.

On page 1, line 35-36, "provider" is defined as a wireless high speed internet access service domiciled in Kansas.

However, on page 3, New Section 7 paragraph (2) beginning on line 40, it speaks of technological neutrality, including the use of satellite, cable-modem, digital subscriber line and other technologies....

**Embarq does not provide wireless broadband. Embarq provides digital subscriber line (DSL) over its wireline network.**

If the grant program contained in this bill is available only to wireless broadband providers, Embarq would not be eligible, and would oppose the legislation.

Who is to pay for the mapping is not addressed. If Embarq is not eligible for funding, we have a concern about being assessed for the cost of the mapping.

Also, if Embarq is not eligible for any funding, Embarq would be required to devote large amounts of staff time and resources to the mapping project with no hope of receiving any benefit from the funding side of the equation.

All of Embarq's customers pay into the Kansas Universal Service Fund, but if wireless is the only technology eligible for funding, Embarq would be denied access to any grants to extend broadband coverage in the more rural areas of its exchanges.

We are also concerned about the type of information being gathered in New Section 3. Rather than compiling the data as to where broadband service is being used by customers, Embarq believes that data should be collected as to where service is **available whether or not it is being used, and where broadband service is not yet available.**

**That is what this legislation should be aimed at: deployment in areas which don't have access to broadband service.**

Respectfully, we ask that the Committee consider these changes to HB 2634.

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Kansas Cable Telecommunications Association

## Testimony In Opposition To HB 2634

John J. Federico: President

February 12, 2008

Mr. Chairman,

I appear before you today on behalf of the Kansas Cable Telecommunications Association, in opposition to the well-intentioned HB 2634. The KCTA is a professional association representing the interests of both small and large cable telecommunication companies serving urban and rural communities in all four corners of the state.

The KCTA must regrettably, but aggressively oppose HB 2634 for several reasons including the "need" for such a grant program, some confusion regarding some of the components of the bill, and the duplicative nature of its intended purpose.

In speaking to my members in the rural parts of the state, who could possibly benefit from the provisions of HB 2634, they question the need for such legislation. Even the smallest of communities, with recent advances in wireless and satellite technology, have high speed internet services available to them if they choose. I offer as examples Hoxie, KS (population 1,200) and Munjor, KS (population 143) each has 4 different options for high speed internet services.

Although HB 2634 appears to be a well-thought out piece of legislation, my members have raised specific concerns about the bill.

1. The unrecoverable cost to gather and disseminate the necessary information required under *New Section 2*, with no consideration given to whether you intend on participating in the grant program or not.
2. What is the penalty for non-compliance *New Section 3 (e)*.
3. In our humble opinion the focus is incorrectly placed on underserved-rather than unserved communities. The definition of underserved rural areas in *New Section 1 (i)* does not appear to take into account the communities where broadband is available, but not subscribed to with enough frequency to meet benchmarks. (compare take-rate)
4. Overall impact on the KUSF fund.

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Of greatest concern though is the duplicative nature of the bill. As many of you are aware, there is a well-funded federal program available for a very similar purpose, and Kansas has been one of the more aggressive states availing themselves of the lucrative low-interest loan Program. The US Department of Agriculture has been administering the RUS program and provides low-interest loans for the construction, improvement and acquisition of facilities and equipment to provide broadband services to eligible rural communities.

At some point you have to ask yourself how much government intervention, well-intentioned or not, is enough. In a very competitive environment, do you run the risk of “tilting” the playing field to benefit one competitor to the detriment of another.

Mr. Chairman, the KCTA continues to look forward to opportunities to work with your committee to solve problems as they arise. If your committee desires to advance HB 2634, we look forward to the opportunity to provide input.

Thank you for your time and I am happy to stand for questions at the appropriate time.

# HOUSE BILL No. 2639

By Committee on Energy and Utilities

1-17

Kansas energy science and technology

9 AN ACT establishing the energy resources commission; relating to pow-  
10 ers and duties thereof.

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

12 ~~Section 1. (a) There is hereby established the Kansas energy re-~~  
13 ~~sources commission. The commission shall be made up of the following~~  
14 ~~members:~~

- 15 ~~(1) Two members appointed by the speaker of the house of~~  
16 ~~representatives;~~
- 17 ~~(2) two members appointed by the president of the senate;~~
- 18 ~~(3) one member appointed by the minority leader of the house of~~  
19 ~~representatives;~~
- 20 ~~(4) one member appointed by the minority leader of the senate; and~~
- 21 ~~(5) one member appointed by the governor.~~

22 ~~All appointments shall be from persons recognized for their breadth of~~  
23 ~~knowledge on energy issues and initiatives. All appointments shall be~~  
24 ~~residents of Kansas. Except as provided in subsection (b), members shall~~  
25 ~~be appointed for a term of four years and until a successor is appointed~~  
26 ~~and qualifies. Nothing in this section shall be construed as prohibiting the~~  
27 ~~reappointment of members to the commission.~~

28 ~~(b) The appointing authorities indicated in subsection (a) shall make~~  
29 ~~initial appointments on or before August 1, 2008. The terms of these~~  
30 ~~initial appointments shall be as follows, as designated by the appointing~~  
31 ~~authority:~~

- 32 ~~(1) One appointment by the speaker of the house of representatives~~  
33 ~~shall expire on June 30, 2009, and the other appointment shall expire on~~  
34 ~~June 30, 2011;~~
- 35 ~~(2) one appointment by the president of the senate shall expire on~~  
36 ~~June 30, 2009, and the other appointment shall expire on June 30, 2011;~~
- 37 ~~(3) one appointment by the minority leader of the house of repre-~~  
38 ~~sentatives shall expire on June 30, 2010;~~
- 39 ~~(4) one appointment by the minority leader of the senate shall expire~~  
40 ~~on June 30, 2010; and~~
- 41 ~~(5) one appointment by the governor shall expire on June 30, 2012.~~
- 42 ~~(e) The member appointed by the speaker of the house of represen-~~  
43

Section 1. (a) There is hereby established the Kansas energy science and technology commission. The commission shall be made up of the following 12 members:

- (1) Chairperson of the house committee on energy and utilities, or its successor;
- (2) chairperson of the senate committee on utilities, or its successor;
- (3) director of the division of environment in the Kansas department of health and environment;
- (4) executive director of the Kansas health policy authority;
- (5) a person knowledgeable in national and global greenhouse gas regulations and practices, appointed by the governor;
- (6) a research scientist in climatology, appointed by the governor;
- (7) a research scientist in climatology, appointed by the speaker of the house of representatives;
- (8) a research scientist or engineer knowledgeable in bio-mass and agricultural waste to energy, appointed by the speaker of the house of representatives;
- (9) a research scientist knowledgeable in the production of fossil-fuels, appointed by the minority leader of the house of representatives;
- (10) an engineer knowledgeable in fossil-fuel and nuclear electric generation technologies, appointed by the president of the senate;
- (11) an engineer knowledgeable in electric generation from renewable resources, appointed by the president of the senate; and
- (12) a person knowledgeable in energy conservation technologies, appointed by the minority leader of the senate.

(b) The director of the division of environment in the Kansas department of health and environment shall call the first meeting of the commission, at which members shall choose a chairperson and vice-chairperson of the commission. The commission shall meet at least four times a year on call of the chairperson of the commission, with additional meetings as deemed necessary. A majority of the members of the commission or their designees shall constitute a quorum for the exercise of powers conferred upon the commission

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1 tatives whose term expires June 30, 2011 shall call the first meeting. The  
2 members of the commission shall choose their own chairperson, vice-  
3 chairperson and secretary treasurer for the commission, who shall serve  
4 for terms of two years and are eligible for re-election.

5 (d) The commission is hereby granted such specific powers as are  
6 necessary to carry out the functions enumerated in this section. The com-  
7 mission shall submit annual reports of the activities and recommendations  
8 of the commission to the governor and the legislature. A preliminary  
9 report shall be submitted on or before September 1, 2009. The commis-  
10 sion shall:

11 (1) Develop strategies to maximize productive use of the existing re-  
12 sources in Kansas, including, but not limited to: water, coal, oil, natural  
13 gas, coal bed methane, wind, solar, municipal and other waste, agricul-  
14 tural ground, bio mass and such other energy resources as shall be iden-  
15 tified by the commission members as having economic value to the state;

16 (2) identify means of sustaining and, if possible, increasing production  
17 and use of identified resources;

18 (3) identify emerging technologies and technological opportunities to  
19 sustain or increase production and make better use of existing and po-  
20 tential resources, and recommend state investments in specific research  
21 projects. Development of sustainable policies shall include conservation,  
22 enhanced production technologies and other strategies;

23 (4) investigate and research scientifically derived literature on public  
24 health impacts of greenhouse gases and particulates emitted from all nat-  
25 ural and man made sources and the technological ability to capture or  
26 reduce such emissions. Recommend emission limits for primary man-  
27 made emissions by type of emitting source. Such recommendations shall  
28 be based on a consensus of the main stream scientific community and  
29 regulatory recommendations and shall note the cost benefit ratio of lim-  
30 iting or capturing such gases and particulates. Recommendations shall  
31 recognize the technological feasibility of capturing or significantly reduc-  
32 ing such emissions and the cost to consumers of the recommended  
33 actions;

34 (5) recommend reallocations of existing state budget resources;

35 (6) recommend permanent funding sources for energy sustainability  
36 research; and

37 (7) pursue such other issues as the council members may deem  
38 necessary;

39 (e) The commission shall hold meetings at least once in each quarter,  
40 and additional meetings as deemed necessary. Meetings shall be called  
41 and held at the discretion of the chairperson, or upon written request of  
42 a majority of the members of the commission. A majority of the members  
43 of the commission shall constitute a quorum for the exercise of powers

(c) The commission is hereby granted such specific powers as are necessary to carry out the functions enumerated in this section. The commission shall have a mission to:

(1) Investigate and research scientifically derived literature on public health impacts of emissions from all natural and man-made sources and the technological ability to capture or reduce such emissions. Based on this, the commission shall recommend to the governor and legislature emission limits for primary man-made emissions by type of emitting source. Report on any emission standards that most of the main-stream scientific community agree are in the public's best interests and which the engineering and technological community agree are cost-effectively achievable.

(2) Develop strategies to maximize productive use of the existing resources in Kansas, including coal, oil, natural gas, methane, wind, solar, municipal and other waste, agricultural waste, bio-mass crops and such other energy resources as shall be identified.

(3) Identify emerging technologies and technological opportunities to sustain or increase production and make better use of existing and potential resources, and recommend state investments in specific research projects. Development of sustainable policies shall include conservation, enhanced production technologies and other strategies.

(4) Recommend reallocation of existing state budget resources and permanent funding sources for energy sustainability research.

(5) Review and recommend policies to address human health risks associated with energy production based on main-stream medical research.

(d) The commission shall submit annual written reports of its activities and recommendations to the house committee on energy and utilities, the senate committee on utilities and the governor on or before the first day of each legislative session.

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1 conferred upon the commission. Members of the commission attending  
2 meetings of such commission, or subcommittee meetings thereof as au-  
3 thorized by the commission, shall be paid compensation, subsistence al-  
4 lowances, mileage and other expenses as provided in K.S.A. 75-3223, and  
5 amendments thereto.

6 (f) In the event of a vacancy in the membership of the commission  
7 by reason of expiration of any member's term of office, a successor of like  
8 qualifications shall be appointed in the manner and for the term of office  
9 prescribed herein. In the event of a vacancy in the membership of the  
10 commission, before the expiration of the member's term, a successor of  
11 like qualifications shall be appointed by the appointing authority for the  
12 remainder of the unexpired term.

13 (g) The commission may receive and expend moneys appropriated to  
14 the commission and received from any other source, whether public or  
15 private, to further the purposes of this act.

16 (h) The staff of the office of the revisor of statutes, the legislative  
17 research department and the division of legislative administrative services  
18 shall provide such assistance as may be requested by the energy resources  
19 commission and authorized by the legislative coordinating council. The  
20 Kansas corporation commission shall also provide such assistance as may  
21 be requested.

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

(e) The commission may receive and expend moneys appropriated to the  
commission from the public service regulation fund created by K.S.A.  
66-1a01, and amendments thereto, and moneys received from any other  
source, whether public or private, to further the purposes of this section.

(f) Commission members shall be paid compensation, subsistence  
allowances, mileage and other expenses as provided by K.S.A. 75-3223,  
and amendments thereto, for each day of actual attendance at any meeting  
of the commission or any subcommittee meeting approved by the  
commission.

(g) The state corporation commission, the Kansas department of health  
and environment, the Kansas geological survey, the Kansas biological  
survey and each other state agency shall provide assistance to the  
commission as may be requested by the commission. The staff of the  
office of the revisor of statutes and the legislative research department shall  
provide such assistance as may be requested by the commission and  
authorized by the legislative coordinating council.

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# HOUSE BILL No. 2638

By Committee on Energy and Utilities

1-17

9 AN ACT concerning the location and mapping of underground water  
10 and wastewater facilities.

11  
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) All new and substantially rebuilt water transmission  
14 and distribution pipelines, wastewater pipelines and service lateral taps  
15 shall be locatable on and after July 1, 2008.

16 (b) For purposes of this section, "locatable" means the ability to lo-  
17 cate underground facilities within 24 inches of the outside dimensions in  
18 all horizontal directions of an underground facility using properly installed  
19 and maintained tracer wire, conductive material, GPS technology, or  
20 other technologies which will provide the operator of the water or waste-  
21 water system utility the ability to locate such pipelines for at least 20 years.  
22 Such location data shall be maintained in the form of maps or other  
23 format as determined by the water or wastewater system utility.

24 Sec. 2. (a) Existing water transmission pipelines of four inches in  
25 diameter or larger shall be mapped on or before June 30, ~~2013~~. Such  
26 location data shall be maintained in the form of maps or other format as  
27 determined by the water system utility.

28 (b) Existing wastewater pipelines and service lateral taps shall be  
29 mapped or otherwise retained in a retrievable format as determined by  
30 the wastewater system utility as such pipelines are located for repairs or  
31 other reasons.

32 (c) All water and wastewater system valves shall be mapped on or  
33 before June 30, ~~2013~~. Such location data shall be maintained in the form  
34 of maps or other format as determined by the water or wastewater system  
35 utility.

36 (d) The location of existing water pipelines with diameters of less than  
37 four inches shall be mapped or otherwise retained in a retrievable format  
38 as determined by the water system utility when such pipelines are visually  
39 located for repairs or other reasons.

40 (e) All water or wastewater system maps or other data format shall  
41 be updated, and such updates documented, at least annually.

42 (f) For purposes of this section, water system utilities may use any  
43 technology available that provides sufficient accuracy as to the actual lo-

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1 cation of the water transmission pipeline, water pipeline, wastewater  
2 pipeline, water system valve, wastewater system valve or service lateral  
3 tap within 60 inches of the outside dimensions in all horizontal directions  
4 of an underground facility.

5 Sec. 3. The department of health and environment administered wa-  
6 ter and wastewater revolving loan programs and the department of com-  
7 merce administered community development block grant program shall  
8 require: (1) Applicants to have locatable water transmission pipelines and  
9 valves and/or wastewater pipelines and valves as indicated on accurate  
10 maps or other acceptable data format prior to being considered for such  
11 loans or grants; or (2) that the project for which funding is sought shall  
12 include a component which requires water or wastewater transmission  
13 and distribution system pipelines and valves to be locatable as an integral  
14 component of the project. For purposes of this section the term "locat-  
15 able" means the ability to locate underground facilities within 24 inches  
16 of the outside dimensions in all horizontal directions of an underground  
17 facility using properly installed and maintained tracer wire, conductive  
18 material, GPS technology, or other technologies which will provide the  
19 operator of the water or wastewater system utility the ability to locate  
20 such pipelines for at least 20 years. Such location data shall be maintained  
21 in the form of maps or other format as determined by the water or waste-  
22 water system utility.

23 Sec. 4. ~~In any action concerning liability for damage to underground~~  
24 ~~water or wastewater facilities, a water or wastewater system utility shall~~  
25 ~~be presumed to have exercised ordinary care if it has complied with the~~  
26 ~~requirements of sections 1 through 3, and amendments thereto.~~

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

Mapping that is conducted on behalf of water and wastewater systems using state funds in whole or in part shall adhere to minimum standards as established by the Kansas water office. Such standards shall include, but are not limited to, systems owning the data and update potential. Mapping assistance shall be conducted in accordance with K.S.A. 82a-2101 et seq., and amendments thereto.

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