

## HOUSE BILL No. 2083

By Committee on Taxation

Requested by Kimberly Gencur on behalf of the Advanced Power Alliance

1-23

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1 AN ACT concerning property taxation; relating to exemptions; providing a  
2 property tax exemption for new energy storage systems; excluding new  
3 energy storage systems from the commercial and industrial machinery  
4 and equipment exemption; amending K.S.A. 79-223 and K.S.A. 2024  
5 Supp. 79-266 and repealing the existing sections.  
6

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

8 Section 1. K.S.A. 79-223 is hereby amended to read as follows: 79-  
9 223. (a) It is the purpose of this section to promote, stimulate, foster and  
10 encourage new investments in commercial and industrial machinery and  
11 equipment in the state of Kansas, to contribute to the economic recovery of  
12 the state, to enhance business opportunities in the state, to encourage the  
13 location of new businesses and industries in the state as well as the  
14 retention and expansion of existing businesses and industries and to  
15 promote the economic stability of the state by maintaining and providing  
16 employment opportunities, thereby contributing to the general welfare of  
17 the citizens of the state, by exempting from property taxation all newly  
18 purchased or leased commercial and industrial machinery and equipment,  
19 including machinery and equipment transferred into this state for the  
20 purpose of expanding an existing business or for the creation of a new  
21 business.

22 (b) The following described property, to the extent specified by this  
23 section, shall be and is hereby exempt from all property or ad valorem  
24 taxes levied under the laws of the state of Kansas:

25 *First.* Commercial and industrial machinery and equipment acquired by  
26 qualified purchase or lease made or entered into after June 30, 2006, as the  
27 result of a bona fide transaction not consummated for the purpose of  
28 avoiding taxation.

29 *Second.* Commercial and industrial machinery and equipment  
30 transported into this state after June 30, 2006, for the purpose of expanding  
31 an existing business or creation of a new business.

32 (c) Any purchase, lease or transportation of commercial and industrial  
33 machinery and equipment consummated for the purpose of avoiding  
34 taxation shall subject the property to the penalty provisions of K.S.A. 79-  
35 1422 and 79-1427a, and amendments thereto. The county appraiser shall

1 not reclassify any property that is properly classified for property tax  
2 purposes within subclass (5) of class 2 of section 1 of article 11 of the  
3 constitution of the state of Kansas.

4 (d) As used in this section:

5 (1) "Acquired" shall not include the transfer of property pursuant to  
6 an exchange for stock securities, or the transfer of assets from one going  
7 concern to another due to a merger, reorganization or other consolidation;

8 (2) "commercial and industrial machinery and equipment" means  
9 property classified for property tax purposes within subclass (5) of class 2  
10 of section 1 of article 11 of the constitution of the state of Kansas, but shall  
11 not include:

12 (A) Any electric generation facility ~~or addition to an electric~~  
13 ~~generation facility~~ that is used predominately to produce and generate  
14 electricity utilizing renewable energy resources or technologies as defined  
15 in K.S.A. 79-201, and amendments thereto; *or*

16 (B) *on and after January 1, 2026, any new energy storage system as*  
17 *defined in K.S.A. 2024 Supp. 79-266, and amendments thereto. This*  
18 *exclusion shall not apply to an energy storage system that received any*  
19 *necessary county approval prior to January 1, 2026;*

20 (3) "qualified lease" means a lease of commercial and industrial  
21 machinery and equipment for not less than 30 days for fair and valuable  
22 consideration where such machinery and equipment is physically  
23 transferred to the lessee to be used in the lessee's business or trade; and

24 (4) "qualified purchase" means a purchase of commercial and  
25 industrial machinery and equipment for fair and valuable consideration  
26 where such machinery and equipment is physically transferred to the  
27 purchaser to be used in the purchaser's business or trade.

28 (e) The secretary of revenue is hereby authorized to adopt rules and  
29 regulations to administer the provisions of this section.

30 Sec. 2. K.S.A. 2024 Supp. 79-266 is hereby amended to read as  
31 follows: 79-266. (a) The following described property, to the extent herein  
32 specified, shall be exempt from all property or ad valorem taxes levied  
33 under the laws of the state of Kansas:

34 (1) Any new electric generation facility.

35 (2) Any new addition to a new or existing electric generation facility.

36 (3) Any new pollution control device constructed or installed on or  
37 after January 1, 2025, at a new or existing electric generation facility.

38 (4) *On and after January 1, 2026, any new energy storage system.*

39 (b) The provisions of this section shall apply from and after  
40 commencement of construction or installation of such property and for the  
41 10 taxable years immediately following the taxable year in which  
42 construction or installation of such property is completed.

43 (c) As used in this section:

1 (1) "Existing electric generation facility" means an electric generation  
2 facility described in K.S.A. 66-104(e) or 66-128(b)(2)(C), and  
3 amendments thereto, that is in existence on December 31, 2024. "Existing  
4 electric generation facility" does not include an electric generation facility  
5 that converts wind, solar, biomass, landfill gas or any other renewable  
6 source of energy to electricity.

7 (2) "New addition" means any real or tangible personal property  
8 constructed or installed on or after January 1, 2025, for incorporation in  
9 and use as part of a new or existing electric generation facility.

10 (3) "New electric generation facility" means an electric generation  
11 facility described in K.S.A. 66-104(e) or 66-128(b)(2)(C), and  
12 amendments thereto, and the commencement of construction of such  
13 facility began on or after January 1, 2025. "New electric generation  
14 facility" includes any electric generation facility that utilizes nuclear  
15 energy for the generation of electricity. "New electric generation facility"  
16 does not include any electric generation facility that converts wind, solar,  
17 biomass, landfill gas or any other renewable source of energy to electricity.

18 (4) *"Energy storage system" or "ESS" means commercial or utility-*  
19 *scale electrochemical, mechanical, electrostatic or gravitational devices*  
20 *that charge or collect energy from the electrical grid or a generation*  
21 *facility, store or use that energy and then discharge stored energy at a*  
22 *later time to provide electricity or other electrical grid services. For*  
23 *purposes of this paragraph, a generation facility includes any existing or*  
24 *new electric generation facilities or any electric generation facility that*  
25 *utilizes renewable energy resources or technologies including wind, solar,*  
26 *biomass, landfill gas or any other renewable source of energy.*

27 (5) *"New energy storage system" means an energy storage system*  
28 *that the commencement of construction or installation of such property*  
29 *began on or after January 1, 2026, but does not include an energy storage*  
30 *system that received any necessary county approval prior to January 1,*  
31 *2026.*

32 (d) *Except as otherwise specifically provided, the provisions of this*  
33 *section shall apply to all taxable years commencing after December 31,*  
34 *2024.*

35 Sec. 3. K.S.A. 79-223 and K.S.A. 2024 Supp. 79-266 are hereby  
36 repealed.

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