

INTRODUCTION

This publication includes summaries of the energy related legislation enacted by the 2007 Legislature.

During the 2007 Session, 996 bills were introduced: 395 in the Senate and 601 in the House. Of these 996 bills, 202 (20.2 percent) became law: 97 Senate bills and 105 House bills. Further, of the 202 bills becoming law, 181 (90.0 percent) were introduced by committees and 21 (10.0 percent) were introduced by individual legislators.

The Governor vetoed three bills and three line items in appropriations bills from the 2007 Legislature. One veto was overridden (HB 2528, Concealed Carry).

A total of 765 bills will be carried over to the 2008 Session of the Legislature.

Kansas Propane Safety and Licensing Act—Exemption from Licensure

HB2294 exempts those persons who have earned a certificate either under the provisions of law dealing with plumbing contractors and master and journeyman plumbers or those provisions dealing with contractors and master and journeymen who are heating, ventilation, and air conditioning mechanics from all licensure and training provisions of the Kansas Propane Safety and Licensing Act.

Mercury Deposition Monitoring

HB2526 requires the Secretary of the Kansas Department of Health and Environment to establish a statewide network to measure mercury deposition. The network must consist of at least six sites where samples and related data are collected. At least two of the sites must be positioned to measure deposition of mercury from the direction of prevailing winds.

The Secretary is required to contract with a laboratory to analyze the samples and provide reports. After the samples are analyzed, data and analysis reports, including data on long term trends, must be provided to the public through a website and via a national database designated by the Secretary. In addition, the Secretary is required to provide data and analyses specifically to Kansas-based research institutes and scientists for exploration of the impact of mercury on plants and people and other animals in Kansas. At the start of the 2009 Legislative Session and annually thereafter, the Secretary is required to submit summary monitoring reports to the Governor and to the leadership of the House and Senate Committees that consider issues related to utilities, natural resources, and the environment.

Scrap Metal Regulation

Senate Sub. for Sub. for HB2035 enacts new law to regulate scrap metal dealers. The major provisions include:

- Limiting the law to apply only to scrap metal dealers who operate from a fixed location and deal in “regulated scrap metal.” Regulated scrap metal is defined to include:
 - Wire, cable, bars, ingots, wire scraps, pieces, pellets, clamps, aircraft parts, pipes, or connectors made from aluminum, catalytic converters containing platinum, palladium or rhodium; and
 - Any form of copper, titanium, tungsten and nickel whose purchase price was primarily based on the content of the named metals.
- Requiring persons who are not scrap metal dealers and who are not known to the purchasing dealer to be an established business that generates regulated scrap metal, to present to the dealer, at the time of certain sales of scrap metal, the seller’s name, address and place of business, if any. The information must be provided for sales of regulated scrap metal for over \$50.00, unless the scrap metal is a catalytic converter, for which the threshold is \$30.00. The seller is required to present to the dealer, at the time of sale, government-issued photo identification.
 - Scrap metal dealers are required to maintain records including the name, residence or place of business, of the seller, a description of the items

purchased, the price paid for the item, and a copy of the seller's photo identification card. The dealer's register may be maintained electronically.

- Establishing conditions under which it is legal for scrap metal dealers to purchase regulated scrap metal. The dealer is required to:
 - Obtain the required identification information; and
 - Maintain the required transaction records and make hard copy of electronic records available to law enforcement officials.
- Making an intentional violation of these provisions a class A misdemeanor. (Class A misdemeanors are subject to a maximum one year jail term and a maximum \$2,500 fine or an alternative fine that does not exceed double the monetary gain from the crime.)

Energy and Utilities

Gas Gathering Services

Sub. for SB325 amends two sections of law and adds a new statute relating to gas gathering systems and those persons who are maintaining or acquiring an exit tap on a gathering system.

Specifically, the bill allows the Kansas Corporation Commission (KCC), upon complaint by a party who has or seeks an exit tap on a natural gas gathering system, to review disputes over access, service, or abandonment, regarding exit taps under certain conditions.

The KCC can review disputes for reasons other than health or safety of:

- Exit taps provided pursuant to right-of-way agreements between landowners and gas gathering system owners or operators; and
- Exit taps being provided on or before the effective date of this act, directly to an end user or to a public utility.

In addition, the bill permits the KCC to review disputes for reasons other than health or safety for exit taps requested to serve a non-profit utility that provides natural gas service exclusively for agricultural activity, but not including any domestic use.

The bill requires that before filing a complaint with the KCC, the existing or proposed exit tap customer be required to meet the following requirements:

- Customers must have acquired or be able to acquire a supply of natural gas with access to the gas gathering system;
- Customers must meet the same financial requirements and guarantees as all other shippers on the gathering system, including credit worthiness; and
- Customers must be prepared to pay all costs and any associated expenses for the exit tap installation and service as imposed by the provider.

Upon review, the bill permits the KCC to order that exit tap service be provided and may determine if rates and charges for the service are reasonable and non-discriminatory, when compared to rates for similar service on the same gas gathering system.

Service will not be required unless the KCC finds all of the following:

- The service will not impair the ability of the gas gathering system to meet all existing and anticipated demand on the system;
- The provision of the service will not require installation, relocation, or modification of compression or other operations and equipment or features;
- The charges for the service are adequate to cover the provider's administrative and operating expenses for the exit tap service, the cost of installing the exit tap, and a reasonable profit margin considering the risks;
- The service will be provided on an interruptible basis and that the provider will be indemnified by the exit tap customer from liability for and will not be held liable for damages to human life, crops, livestock, equipment, environmental, or any other damage arising from the use, interruption of service, or curtailment of the service;
- The customer has agreed that the service may be terminated for failure to pay bills promptly and maintain credit worthiness;
- The customer has agreed that the service may be terminated at any time if continued service threatens the operational stability and reliability of the provider's system or if service cannot be continued to be safely provided;
- The service will not impair or modify existing contracts held by the gas gathering system owner or operator;
- The service will not unreasonably increase the total number of exit taps;
- The service can be provided in a safe and environmentally sound manner; and
- The provision of service will not adversely affect service or cost to any other gas gathering service customers on the system.

Further, the bill provides that when addressing any complaint, the KCC will not review the terms, including the price and volume of the gas, of any purchase agreement for acquisition of natural gas by the exit tap customer and cannot order any producer, gatherer, or other party to sell natural gas to the customer or proposed customer and cannot require the provision of a new exit tap on any gathering system which has not provided at least one exit tap prior to the effective date of the bill.

Finally, the bill modifies the definition of "gas gathering system" to include transportation to a main transmission line or to any exit tap on a gas gathering system. Further clarification is added to this definition to state that existing, new, or additional exit taps added to a gathering system will not cause a gathering system to be regulated as a public utility. A new definition of "exit tap on a gas gathering system" is added and defined to mean the point on a gas gathering system at which natural gas is delivered to a consumer, homeowner, business, agricultural user, person, gas marketer, or public utility. The terms "agricultural activity," "confined feeding facility," and "feedlot" also are defined.

State Energy Plan—Modifications and New Requirements

SB326 amends a portion of law which requires the Kansas Corporation Commission (KCC) to develop a state energy plan in accordance with federal requirements.

The bill:

- Requires the KCC to prepare an emergency management plan (energy allocation and curtailment of energy consumption) for natural gas and electric energy to be adopted during activation of Emergency Support Function 12 of the Kansas Response Plan;
- Removes requirements for the KCC to collect and compile data on energy resources, monitor energy resources supplies in the state, cooperate in the implementation of any energy rationing program, prepare annual reports describing energy emergency management programs, and make and enter into certain contracts for implementing the provisions of this section of the law:
- Modifies statutory language regarding the Governor's potential declaration of an energy emergency by recognizing the law enacting the Kansas Response Plan, but continues to allow the Governor to declare that a state of disaster emergency exists when the supply of natural gas and electricity is inadequate; and
- Modifies the requirement that the KCC adopt rules and regulations establishing allocation of natural gas and electric energy or their curtailment of consumption during an activation of Emergency Support Function 12 of the Kansas Response Plan.

Municipal Utilities—Exemption from KCC Regulation

HB2032. (See HB 2597)

Utility Construction Work in Progress

HB2033 requires the Kansas Corporation Commission (KCC) to include certain property that has not been placed in service in a utility's value for rate making purposes. Under the bill, the KCC may, on its own initiative or as part of a utility rate proceeding, review whether a public utility's expenditures for property were efficiently and prudently incurred.

The bill also repeals a provision that authorized, but did not require, the KCC to consider construction costs of permitted nuclear generation facilities for ratemaking purposes. In addition, the bill allows costs of construction work in progress for all property related to an electrical generation facility producing energy from renewable sources to be included in the utility's value for ratemaking purposes.

Utility Security Costs

HB2034 extends, until July 1, 2011, the law authorizing the Kansas Corporation Commission (KCC) to allow electric and gas utilities to recover from their customers the cost of prudent expenditures for security measures. The statute was scheduled to expire on July 1, 2007.

Energy Efficiency of Buildings

HB2036 amends two statutes regarding energy efficiency of certain commercial, industrial, and residential buildings. In regard to commercial and industrial buildings, the bill replaces the 2003 International Energy Conservation Code with the 2006 version of that Code as the energy efficiency standard for new buildings.

In regard to residential structures, the bill amends prior law to limit the requirement for disclosure of energy efficiency information to single family units and multifamily units of four or fewer units. In addition, the statute is amended to require disclosure of energy efficiency information to the buyer or prospective buyer prior to the signing of the contract to purchase and prior to closing, if changes have occurred or are requested, and at any other time, upon request. For new residential structures that are completed and suitable for occupancy, but unsold, the bill requires that the builder or seller provide the completed disclosure form to the buyer or prospective buyer when the residence is shown and at any time upon request. Finally, the bill creates a new residential energy efficiency disclosure form which enables comparison of the residence being purchased with the 2006 International Residential Code/International Energy Conservation Code (IRC/IECC) standard for the two climate zones within the state. The new form also allows the builder to provide additional information.

Nuclear Generation Facilities; Biofuels and Renewable Electric Cogeneration Facilities

HB2038 creates a property tax exemption for certain new nuclear generation facilities and exempts those facilities from various siting requirements; income tax incentives for qualified investments in fuel storage and blending equipment used for biofuels; and tax incentives for renewable electric cogeneration facilities and certain waste heat utilization systems.

Nuclear Generation Facilities

The bill creates a property tax exemption and creates a payment-in-lieu-of-taxes requirement, beginning with the 2007 tax year, for certain new nuclear generation facilities in Kansas. New facilities to which the exemption applies must be within three miles of a nuclear facility in existence on January 1, 2007. The bill also exempts from statutory siting requirements the addition of nuclear generating capacity to a nuclear facility within three miles of an existing nuclear facility.

The property tax exemption applies from the time of purchase or start of construction and continues for ten years after the completion of the new facility. The property tax exemption applies only to projects begun after December 31, 2006. The bill requires the owners of new property eligible for the exemption to pay to the appropriate taxing subdivisions a payment-in-lieu-of-taxes (PILOT) equal to the amount that would have been levied upon the real portion of such property for as long as the exemption created by the bill remains in effect.

Biofuels Equipment Tax Incentives

The bill also creates income tax incentives for investment in fuel storage and blending equipment used for biofuels. "Biofuels" are defined by the bill to be fuels made from organic matter, including organic waste, but excluding fuels made from oil, natural gas, coal or lignite, or products of those substances.

An income tax credit is available for tax years 2007 through 2011 for investment in the purchase, construction or installation of equipment used for storing and blending petroleum-based fuel and biodiesel, ethanol or other biofuel and installed at a fuel terminal, refinery or biofuel production plant. The tax credit is not available for equipment used only to denature ethyl alcohol.

The tax credit is equal to 10 percent of the taxpayer's qualified investment for the first \$10 million invested and 5 percent of the investment in excess of \$10 million. The credit may be taken in 10 equal annual installments beginning with the year the equipment is placed into service. Any excess credit may be carried over for deduction from the taxpayer's income tax liability in subsequent years for a maximum of 14 years after the first installment. The bill provides for making the income tax credits available to pass-through entities and co-owners of storage and blending equipment.

In order to be eligible for the tax credit, the taxpayer will be required to enter into and remain in compliance with an agreement with the Secretary of Commerce requiring, among other things, that the taxpayer continue to operate the equipment for at least 10 years during the term of the tax credit. The Secretary of Commerce is required to determine annually whether the taxpayer is in compliance with the agreement. The Secretary of Commerce is authorized to adopt rules and regulations to administer the provisions regarding the taxpayer agreements.

The bill also provides for an income tax deduction based on accelerated depreciation for storage and blending equipment. This income tax deduction extends over a ten-year period and is equal to 55 percent the first year, 5 percent for each of the nine subsequent years. The deduction will be available beginning in tax year 2007. The Secretary of Revenue is authorized to adopt rules and regulations necessary to implement the tax deduction provisions.

Renewable Electric Cogeneration and Waste Heat Utilization Tax Incentives

Other provisions of the bill create tax incentives for investment in new renewable electric cogeneration facilities and waste heat utilization systems at electric generation facilities. The bill authorizes the Kansas Development Finance Authority (KDFA) to assist in financing those facilities. Finally, the bill amends certain existing incentives for investment in alcohol fuels production facilities to include a broader range of input materials and fuel products.

Renewable electric cogeneration. Facilities eligible for the tax incentives and KDFA financing under the bill include those, built after December 31, 2006 and located in Kansas, that generate electricity from renewable energy resources or technologies for use in an industrial, commercial or agricultural process. The cogeneration facility and the process consuming the electricity must be owned by the same entity. The bill creates an

income tax credit for tax years 2007 through 2011 for investments in the construction of the cogeneration facility and in real and tangible personal property used in the facility.

In order to be eligible for the tax credit, the taxpayer must enter into and remain in compliance with an agreement with the Secretary of Commerce requiring, among other things, that the taxpayer maintain operation of the cogeneration facility for at least 10 years during the term of the tax credit. The Secretary of Commerce is required to determine annually whether the taxpayer is in compliance with the agreement. The Secretary of Commerce is authorized to adopt rules and regulations to administer the provisions regarding the taxpayer agreements.

The tax credit is equal to 10 percent of the taxpayer's qualified investment for the first \$50 million invested and 5 percent of the investment in excess of \$50 million. The credit will be taken in 10 equal annual installments beginning with the year the facility is placed into service. Any excess credit may be carried over for deduction from the taxpayer's income tax liability in subsequent years for a maximum of 14 taxable years after the first installment. The bill provides for making the credits available to any pass-through entities and co-owners of the cogeneration facility.

The bill also provides for an income tax deduction based on accelerated depreciation for a cogeneration facility. This income tax deduction extends over a ten-year period and equals 55 percent the first year and 5 percent for each of the nine subsequent years. The deduction is available beginning in tax year 2007. The Secretary of Revenue is authorized to adopt rules and regulations necessary to implement the tax deduction provisions.

The bill authorizes the KDFA to issue tax-exempt revenue bonds to finance construction of cogeneration facilities. The bonds will be repaid from revenues of the facilities and will not constitute state debt.

Waste heat utilization systems. Certain waste heat utilization systems are eligible for a property tax exemption beginning with tax year 2007. The exemption is for the ten-year period after the facility is completed. Waste heat utilization facilities are defined to be facilities and equipment used to recover waste heat created during electricity generation and the use of that heat to generate additional electricity or to produce fuels from renewable energy resources.

The bill also provides an income tax deduction based on accelerated depreciation for waste heat utilization systems in Kansas. This income tax deduction extends over a ten year period and is equal to 55 percent the first year and 5 percent for each of the nine subsequent years. The deduction is available beginning in tax year 2007. The Secretary of Revenue is authorized to adopt rules and regulations necessary to implement the tax deduction provisions.

The bill authorizes the KDFA to issue tax-exempt revenue bonds to finance construction of waste heat utilization systems at electric generation facilities in the state. The bonds will be repaid from revenues of the facilities and would not constitute state debt.

Biomass-to-energy. Tax credits and incentives available to cellulosic alcohol production plants are expanded by the bill to include other forms of biomass-to-energy plants. Biomass is defined to include any organic matter available on a renewable or recurring basis, including solid and liquid organic waste, but excluding petroleum oil, natural gas, coal and lignite, and any products of those substances; and corn or grain sorghum suitable for human consumption.

“Biomass-to-energy plant” is defined to be an industrial process plant located in Kansas that produces annually:

- At least 500,000 gallons of cellulosic alcohol;
- Liquid or gaseous fuel or energy in a quantity having a BTU value equal to or greater than 500,000 gallons of cellulosic alcohol; or
- Oil produced for direct conversion into fuel in a quantity having a BTU value equal to or greater than 500,000 gallons of cellulosic alcohol.

The law that was extended by the bill to biomass-to-energy plants provides:

- Eligibility for KDFA financing assistance;
- A ten-year property tax exemption;
- An investment tax credit of 10 percent of the first \$250 million invested and 5 percent of the amount over \$250 million. Prior law also was amended to make those tax credits available only until the end of tax year 2010; and
- Accelerated depreciation over 10 years (55 percent the first year and 5 percent for the succeeding nine years).

Existing law also was amended by the bill to make income tax credits created in 2006 for investment in a new or expanded oil refinery, certain pipelines, integrated coal gasification power plants, or integrated coal or coke gasification nitrogen fertilizer production facilities, available only until the end of tax year 2010.

Renewable Energy

HB2039 amends the definition of renewable energy in several statutes by deleting the word “thermal” from the definition of renewable resources or technologies.

Petroleum Meter Inspection; Parallel Wind Generation Projects; Retail Biofuels Incentives; Above Ground Storage Tanks

Senate Sub. for HB2145 amends existing law and enacts new law addressing inspection of petroleum meters on vehicle tanks, wind generation projects at two community colleges, parallel generation of electricity from renewable resources, incentives for retailers of alternative motor fuels and biodiesel, and training for operators of aboveground storage tanks. The bill includes a technical amendment to 2007 SB 190, as signed into law. Major provisions of the bill are described below.

Inspection of Petroleum Meters on Vehicle Tanks—Amendments

The bill amends the definition of a “dispensing device” to allow petroleum inspection fee funds to be used for inspecting and testing meters on vehicle tanks. In addition, the bill authorizes the Secretary of Agriculture to reduce the fees and charges imposed upon manufacturers, importers, exporters or distributors first selling, offering for sale, using or delivering gasoline or diesel including government sales when the Secretary of Agriculture determines that the fees and charges being paid are yielding more revenue than required to administer the petroleum inspection program.

Wind Generation Education Projects at Community Colleges

In addition, the bill authorizes both Cloud County and Dodge City Community Colleges to establish a wind generation education pilot project. Prior to instituting an electric generation project that will result in sale of energy on the electric grid, each of the colleges must make a finding that either:

- Net energy cost savings will accrue from renewable generation over a 20-year period; or
- Renewable generation is a science project being conducted for educational purposes and that the project may not recoup the expenses of the project through cost savings.

Both community colleges are permitted to contract or enter into a finance, pledge, loan, or lease-purchase agreement with the Kansas Development Finance Authority (KDFA) as a means of financing the cost of a renewable generation project. KDFA is permitted to finance the construction and installation of a renewable generator by either school for parallel generation through the issuance of revenue bonds.

Parallel Generation from Renewable Resources—Amendments

In regard to commercial customers participating in parallel generation other than Cloud County and Dodge City community colleges, the bill amends existing law to increase from 100 kilowatts to 200 kilowatts the maximum allowable generation capacity for parallel generation from renewable resources. The community colleges are treated as parallel generators as long as their renewable generation capacity is 1.5 megawatts or less. A generator used by a commercial customer for parallel generation must be appropriately sized for the customer's anticipated electrical load. The bill limits commercial customers who power irrigation pumps with renewable energy generators to connecting a maximum of 10 such pumps to a utility's system. The parallel generator must attach the mechanism necessary to feed excess electrical power onto the utility's system on the customer's side of the retail electric meter. Utilities are required to provide a written estimate of costs expected to be incurred by the utility and billed to a parallel generator when a customer notifies the utility of intent to construct and install parallel generation capacity. The bill also limits the number and size of renewable generators that can connect to the utility's system and utilities are not required to purchase from a parallel generator more than 4 percent of the utility's peak power requirement. The bill also requires the Kansas Corporation Commission (KCC) to establish terms and conditions of parallel generation contracts if the renewable generator and the utility cannot agree on contract terms.

Motor Fuel Dealers—Incentive for Selling Renewable Fuels

The bill creates a monetary incentive for licensed retail motor fuel dealers selling renewable fuels and for licensed retail dealers of biodiesel beginning in 2009 and ending in 2026. "Biodiesel" is defined by the bill to be a renewable, biodegradable, mono alkyl ester combustible liquid fuel derived from vegetable oils or animal fats and that meets the specifications adopted by rules and regulations of the Secretary of Agriculture pursuant to existing law. The specification must meet American Society for Testing and Materials Specification D6751-07 for biodiesel fuel (B100) blend stock for distillate fuels, but may

be more stringent regarding biodiesel quality and usability. Renewable fuels are defined by the bill to be combustible liquids derived from grain starch, oil seed, animal fat or other biomass; or produced from biogas source, including any nonfossilized, decaying, organic matter which is capable of powering spark-ignition machinery.

A maximum of \$400,000 quarterly will be transferred from the State General Fund to the Kansas Retail Dealer Incentive Fund, created by the bill, from which the incentive payments will be made. The fund balance is capped at \$1.5 million. If the balance in the Fund exceeds \$1.1 million at the time of a quarterly transfer, the transfer will be limited to the amount necessary for the Fund to reach \$1.5 million. The Secretary of Revenue is authorized to pro-rate the incentive payments if the amount in the fund is insufficient to pay all incentives claimed.

For any quarter in which a retail dealer sells renewable fuels from a fixed location, the retail dealer will be eligible for an incentive of \$0.065 per gallon of renewable fuels sold if the required threshold percentage is met. The threshold percentage for the incentive payment for renewable fuel sold will be 10 percent in the calendar year 2009 and gradually increase to 25 percent beginning on January 1, 2024. If in any quarter the retailer fails to meet the threshold percentage by 2 percent or less, the payment will be \$0.045. No incentive payment will be made if the retailer fails to meet the threshold percentage by more than two percent.

The bill also establishes an incentive payment of \$0.03 per gallon of biodiesel sold by a retail dealer. The threshold percentage for the incentive payment for the sale of biodiesel is 2 percent in calendar year 2009 and gradually increases to 25 percent in calendar year 2025. No payment will be made if there is a percentage disparity in sales of biodiesel.

The Secretary of Revenue is authorized to adopt rules and regulations necessary to administer the act. The Secretary also is required to annually submit a written report to the House Appropriations Committee, the House Energy and Utilities Committee, the Senate Ways and Means Committee, and the Senate Agriculture Committee beginning with the 2010 Legislative Session. The report must contain information regarding incentive payments claimed and amounts of renewable fuels and biodiesel sold in the state, including any recommendation for statutory changes.

Alternative-Fuel Fueling Stations–Amendments

Existing law regarding incentives for alternative-fuel fueling stations is amended to permit any such station placed in service on or after January 1, 2009 to be eligible for an income tax credit equal to 40 percent of the total amount expended, not to exceed \$100,000 for each fueling station. The tax credit may be carried forward for four years after the taxable year in which the expenditure was made.

In addition, the definition of “alternative fuel” is amended to clarify the types of fuels included in the definition. The definition of “biodiesel” is amended to make it consistent with the definition in other provisions of the act.

Reimbursement of Above Ground Storage Tank Operators

The bill extends the deadline for application for reimbursement of owners of aboveground storage tank facilities or bulk plants for costs incurred in upgrading a facility or for closure expenses from January 1, 2009 to January 1, 2011.

KDFA Financing for Energy Conservation Projects—Federal Agencies

HB2169 enacts a new law authorizing the Kansas Development Finance Authority to issue revenue bonds to pay for energy conservation measures for or on behalf of state agencies, subdivisions of the state, and federal entities with facilities in Kansas. Bonds and interest are payable from revenue derived from the use, lease, occupation or operation of the facilities and other moneys available to the state, local, or federal entity. Bonds authorized by the act will not be obligations of the State and will not constitute indebtedness of the State. The bonds issued pursuant to the act will be exempted from state and local taxes, except Kansas estate tax.

The bill transfers authority for the Facility Conservation Improvement Program from the Department of Administration to the Kansas Corporation Commission (KCC). The bill also removes the \$5,000,000 per fiscal year cap on energy conservation improvements for state facilities and authorizes the KCC to approve the amounts necessary for energy conservation improvements.

Electric Transmission Related Charges

HB2220 amends prior law regarding transmission charges for retail electric service. The bill specifically authorizes two procedures for approval of transmission-related charges by the Kansas Corporation Commission (KCC). The bill also authorizes approval of transmission charges that result from “interim” federal transmission cost orders.

Under the bill, transmission charges may be determined by the KCC in response to a general retail rate application or as part of a full rate case. Under prior law, as interpreted by Kansas courts, transmission delivery charges could not be determined during a rate case.

In regard to transmission charges resulting from federal orders, the bill authorizes the KCC to order changes to a utility’s transmission charge if a federal transmission rate order changes. Under prior law, utilities had discretion regarding changing their transmission delivery charges when a federal transmission rate order was changed.

Energy Conservation Measures—Financing by Utilities

Sub. for HB2278 authorizes electric and natural gas utilities to enter into agreements with utility customers and their landlords whereby the utility will finance the purchase and installation of energy conservation measures. Customers who participate in the program will pay for the financing and other costs through their monthly utility bills. The amount included in utility bills for that purpose must be approved by the Kansas Corporation Commission (KCC).

Under the bill, a utility’s liability for the energy conservation measures will be limited to that required by the KCC. Further, utilities will be prohibited from providing certain warranties regarding measures. The bill does not limit rights or remedies of utility customers and their landlords against other parties to a transaction involving the purchase and installation of energy conservation measures.

Kansas Electric Transmission Authority Act—Amendments

HB2306 amends the Kansas Electric Transmission Authority Act to enable the Authority to conduct its day-to-day business without the necessity of providing notice

and waiting for responses as is required for planning, financing, constructing, and owning transmission facilities. Notification and response timelines established in prior law that apply to the planning, financing, constructing, and owning transmission facilities are unchanged by the bill.

Carbon Dioxide Reduction Act

HB2419 creates the Carbon Dioxide Reduction Act to provide tax incentives for the sequestration of carbon dioxide through underground storage. The Act also provides for Kansas Corporation Commission (KCC) regulation of underground carbon dioxide facilities.

The bill creates tax incentives by exempting from property tax any carbon dioxide capture, sequestration and utilization property and any electric generation unit which captures and sequesters all carbon dioxide and other emissions. The property tax exemption is available beginning with tax year 2008. The exemption for a particular facility is available from the time of purchase or the start of construction or installation and for five taxable years following completion of construction or installation of the property. “Carbon dioxide capture, sequestration or utilization property” is defined as machinery and equipment used to capture man-made carbon dioxide or to convert carbon dioxide into one or more products; carbon dioxide injection wells; and machinery and equipment used to recover carbon dioxide from sequestration.

The bill also provides for accelerated depreciation of carbon dioxide capture, sequestration or utilization machinery and equipment. That equipment, located in Kansas, may be depreciated for income tax purposes over a ten-year period (55 percent the first year and 5 percent each of the subsequent nine years). The accelerated depreciation is available beginning with tax year 2008.

The Act makes the KCC responsible for regulating both existing and future underground carbon dioxide sequestration. By July 1, 2008, the KCC must establish rules and regulations providing for the safe and secure injection and maintenance of underground storage of carbon dioxide. The administrative penalty for violation of the regulatory provisions of the Act is a maximum of \$10,000 per violation per day. In addition, the KCC is authorized to adopt rules and regulations establishing fees for permitting, monitoring and inspecting carbon dioxide injector wells and underground storage facilities. Fees collected by the KCC pursuant to the bill will be remitted to the Carbon Dioxide and Underground Storage Fund which is created by the bill.

Municipal Utilities—Exemption from KCC Regulation

HB2597 enacts new law and amends prior law regarding municipal utilities and the extent to which those utilities are regulated by the Kansas Corporation Commission (KCC).

The bill exempts municipal natural gas and electric utilities from KCC regulation for those services provided more than three miles from the municipality’s boundary under certain circumstances. The exemption from KCC jurisdiction applies if:

- The number of customers served in the outlying area constitutes 40 percent or less of the utility’s total customers;
- Rates and charges are no greater than, and terms and conditions of service are the same for customers in the outlying area as for customers inside the municipality.

(Rates and charges for customers in the outlying area may be increased a maximum of 10 percent per year until they are equal to those for customers inside the municipality.);

- Outlying customers are provided with notice a minimum of 10 days before any meeting at which changes to rates and charges will be considered. Contents of the notice, including a statement of the right to petition, are specified in the bill;
- The municipality furnishes, within 21 days of a request, names, addresses, and rate classifications of customers in the outlying area; and
- The municipality provides to the KCC an annual report stating the number of customers served in the outlying area and the total number of customers served by the utility as of the end of the prior calendar year. The annual report must be filed with the KCC by May 1.

The bill creates a procedure by which customers in an outlying area may protest a change in rates, charges, or terms and conditions of service.

The bill specifically states that the new municipal utility provisions will not be construed to affect the single certified service territory of the municipal utility or the authority of the KCC over the municipal utility as provided for in existing law.

Sales Tax Exemption for Repair Services

HB 2240 extends in two ways the existing sales tax exemption for repair services to certain facilities damaged by natural or man-made disasters. First, the exemption will be expanded to include repairs necessitated by windstorms, ice loading and attendant winds and terrorism to buildings or facilities, including electric distribution and transmission lines, of cooperatives and municipal and quasi-municipal corporations. Under prior law, the sales tax exemption applied to services necessary to repair those buildings and facilities damaged by fire, flood, tornado, lightning, explosion, or earthquake.

Second, for electric transmission and distribution lines owned by an independent transmission company or cooperative, the Kansas electric Transmission Authority, or a natural gas or electric public utility, the sales tax exemption applies to services to repair damage caused by fire, flood, tornado, lightning, explosion, earthquake, windstorm, ice loading and attendant wind, or terrorism.

The bill defines “windstorm” as straight line winds of at least 80 miles per hour. The wind speed must be determined by a recognized meteorological reporting agency or organization.

Motor Vehicles; Speed Zones; safety belts; and Work-Site Vehicles

SB 8 pertains to television-type receiving equipment; school speed zones; idle reduction technology; tow trucks; safety belts; emergency medical services license plates; work-site utility vehicles; and all-terrain vehicles.

Television-Type Receiving Equipment

The bill repeals KSA 8-1748 which prohibits a person from operating a motor vehicle equipped with television-type receiving equipment so located that the viewer or screen is visible from the driver's seat.

BILLS VETOED BY THE GOVERNOR

- SB 55** This bill would have amended the private remedies provision of the Kansas Consumer Protection Act regarding health care providers.
- HB 2202** This bill would have allowed a licensed farm winery or a person holding an interest in a licensed farm winery to hold a class B club license, a drinking establishment license, and a caterer's license.
- HB 2293** This bill would make several changes to the law governing licensure, examination, and registration of Certified Public Accountants.
- HB 2368** (Line Item) Section 136 (i) would have required approval by the State Board of Regents and the members of the board of directors of the University of Kansas Hospital Authority before an affiliation agreement between the University of Kansas Medical Center or the University of Kansas School of Medicine and St. Luke's Hospital system could be implemented.
- SB 357** (Line Item) Section 65 would have required the Department of Health and Environment to establish procedures for collecting information from physicians regarding the diagnosis and the condition necessitating an abortion to preserve the life of the pregnant woman or the substantial and irreversible impairment of a major bodily function of the pregnant woman caused by the pregnancy's continuation.
- SB 357** (Line Item) Section 8 (g) would have authorized the Department of Administration to print a state employee telephone directory once every two years.
- SB 357** (Line Item) Section 26 (b) would have prevented the University of Kansas Medical Center from entering into any affiliation agreement with any entity until it had entered into a new operating agreement with the University of Kansas Hospital Authority.

BILL VETOED BY THE GOVERNOR, BUT OVERRIDDEN

- HB 2528** This bill deletes the authority of cities and counties to regulate firearms licenses by zoning measures; repeals the ability of public entities from restricting or prohibiting concealed weapons on public premises; repeals the ability of property owners from restricting or prohibiting concealed weapons; and requires posting of signage at the areas that are in the law as not allowing concealed weapons on the premises.