

HOUSE BILL No. 2169

By Committee on Energy and Utilities

1-23

10 AN ACT concerning the Kansas development finance authority; relating  
11 to energy conservation improvements and energy conservation meas-  
12 ures; amending K.S.A. 75-37,114 and K.S.A. 2006 Supp. 74-8902 and  
13 75-37,125 and repealing the existing sections.

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

16 Section 1. K.S.A. 2006 Supp. 74-8902 is hereby amended to read as  
17 follows: 74-8902. The following words or terms used in this act shall have  
18 the following meanings unless a different meaning clearly appears from  
19 the context:

- 20 (a) "Act" means the Kansas development finance authority act.
- 21 (b) "Authority" means the Kansas development finance authority cre-  
22 ated by K.S.A. 74-8903, and amendments thereto.
- 23 (c) "Agricultural business enterprises" means facilities supporting or  
24 utilized in the operation of farms, ranches and other agricultural, aqua-  
25 cultural or silvicultural commodity producers and services provided in  
26 conjunction with the foregoing. "Agricultural business enterprise" shall  
27 not include a swine production facility on agricultural land which is  
28 owned, acquired, obtained or leased by a corporation, limited liability  
29 company, limited partnership, corporate partnership or trust.
- 30 (d) "Agricultural land," "corporation," "corporate partnership," "lim-  
31 ited liability company," "limited partnership," "swine production facility"  
32 and "trust" have the meanings ascribed pursuant to K.S.A. 17-5903, and  
33 amendments thereto.
- 34 (e) "Board of directors" means the board of directors of the authority  
35 created by K.S.A. 74-8903, and amendments thereto.
- 36 (f) "Bonds" means any bonds, notes, debentures, interim certificates,  
37 grant and revenue anticipation notes, interest in a lease, lease certificate  
38 of participation or other evidences of indebtedness, whether or not the  
39 interest on which is subject to federal income taxation, issued by the  
40 authority pursuant to this act.
- 41 (g) "Capital improvements" means any physical public betterment or  
42 improvement or any preliminary plans, studies or surveys relative thereto;  
43 land or rights in land, including, without limitations, leases, air rights,

1 easements, rights-of-way or licenses; and any furnishings, machinery, ve-  
2 hicles, apparatus or equipment for any public betterment or  
3 improvement.

4 (h) "Construct" means to acquire or build, in whole or in part, in  
5 such manner and by such method as the authority shall determine to be  
6 in the public interest and necessary to accomplish the purposes of and  
7 authority set forth in this act.

8 (i) "Loans" means loans made for the purposes of financing any of  
9 the activities authorized within this act, including loans made to financial  
10 institutions for funding or as security for loans made for accomplishing  
11 any of the purposes of this act and reserves and expenses appropriate or  
12 incidental thereto.

13 (j) "Educational facilities" means real, personal and mixed property  
14 of any and every kind intended by an educational institution in further-  
15 ance of its educational program.

16 (k) "Facilities" means any real property, personal property or mixed  
17 property of any and every kind.

18 (l) "Health care facilities" means facilities for furnishing physical or  
19 mental health care.

20 (m) "Housing development" means any work or undertaking,  
21 whether new construction or rehabilitation, which is designed and fi-  
22 nanced pursuant to the provisions of this act for the primary purpose of  
23 providing dwelling accommodations for elderly persons and families of  
24 low income in need of housing.

25 (n) "Industrial enterprise" means facilities for manufacturing, pro-  
26 ducing, processing, assembling, repairing, extracting, warehousing, dis-  
27 tributing, communications, computer services, transportation, corporate  
28 and management offices and services provided in connection with any of  
29 the foregoing, in isolation or in any combination, that involve the creation  
30 of new or additional employment or the retention of existing employment.  
31 (o) "Political subdivision" means political or taxing subdivisions of the  
32 state, including municipal and quasi-municipal corporations, boards, com-  
33 missions, authorities, councils, committees, subcommittees and other  
34 subordinate groups or administrative units thereof, receiving or expend-  
35 ing and supported, in whole or in part, by public funds *and any munici-  
36 pality as defined in K.S.A. 75-1117, and amendments thereto.*

37 (p) "Pooled bonds" means bonds of the authority, the interest on  
38 which is subject to federal income taxation, which are issued for the pur-  
39 pose of acquiring bonds issued by two or more political subdivisions.

40 (q) "Research facilities" means facilities for use in research and de-  
41 velopment activities, whether conducted for profit or not for profit, of an  
42 agricultural business enterprise, industrial enterprise or any other com-  
43 mercial enterprise or educational institution or health care institution.

1 (r) "State" means the state of Kansas.  
 2 (s) "State agency" means any office, department, board, commission,  
 3 bureau, division, public corporation, agency or instrumentality of this  
 4 state.

5 Sec. 2. K.S.A. 75-37,114 is hereby amended to read as follows: 75-  
 6 37,114. The projects for energy conservation improvements for state fa-  
 7 cilities which are initiated by state agencies under this act are hereby  
 8 approved for such state agencies for the purposes of subsection (b) of  
 9 K.S.A. 74-8905 and amendments thereto. The total costs of the projects  
 10 for energy conservation improvements under this act for any fiscal year,  
 11 exclusive of financing costs, shall not exceed ~~\$5,000,000~~ *the amounts ap-*  
 12 *proved for such energy conservation improvements by the secretary of*  
 13 *administration state corporation commission.*

14 Sec. 3. K.S.A. 2006 Supp. 75-37,125 is hereby amended to read as  
 15 follows: 75-37,125. (a) As used in this act:

16 (1) "~~Municipality~~" shall have the meaning ascribed thereto in K.S.A.  
 17 ~~75-1117, and amendments thereto. "Federal entity" means the govern-~~  
 18 ~~ment of the United States of America or any bureau, department, instru-~~  
 19 ~~mentality or other agency of the federal government.~~

20 (2) "*Political subdivision*" shall have the meaning ascribed thereto in  
 21 *subsection (c) of K.S.A. 74-8902, and amendments thereto.*

22 (3) "State agency" shall have the meaning ascribed thereto in  
 23 ~~K.S.A. 75-3040, and amendments thereto.~~

24 (4) "Energy conservation measure" means an energy study, audit,  
 25 improvement or equipment which is designed to provide energy and op-  
 26 erational cost savings at least equivalent to the amount expended by a  
 27 participating ~~municipality~~ *political subdivision* or state agency for such  
 28 energy study, audit, improvement or equipment over a period of not more  
 29 than ~~20~~ 30 years after the date such improvement or equipment is in-  
 30 stalled or becomes operational, as the case may be.

31 (b) Subject to the provisions of subsection (c), a ~~municipality~~ *political*  
 32 *subdivision* or state agency, *which include the board of regents and a*  
 33 *regent's institution and a community or technical college*, may enter into  
 34 a contract or lease-purchase agreement for an energy conservation mea-  
 35 sure which meets the criteria of this section. In addition to any other  
 36 authority provided by law a ~~municipality~~ *political subdivision or state*  
 37 *agency may (1) contract or enter into a finance, pledge, loan or lease-*  
 38 *purchase agreement with the Kansas development finance authority for*  
 39 *an energy conservation measure or (2) solicit proposals to contract for an*  
 40 *energy conservation measure by advertising for proposals and qualifica-*  
 41 *tions in a newspaper of general circulation or the Kansas register, and by*  
 42 *sending requests for proposals to at least three vendors and negotiating*  
 43 a lease-purchase agreement with one or more vendors submitting a pro-

(t) "Federal entity" means the government of the United States of America or any bureau, department, instrumentality or other agency of the federal government.

means any office, department, board, commission, bureau, division, public corporation, agency or instrumentality of this state.

by advertising for proposals and qualifications in a newspaper of general circulation or the Kansas register, and by sending requests for proposals to at least three vendors

1 posal thereto. Negotiations entered into pursuant to this section with ~~the~~  
 2 ~~Kansas development finance authority or~~ individual vendors shall not be  
 3 subject to the provisions of the open meetings act ~~or the open records~~  
 4 ~~act~~. After an agreement has been executed, the agreement and all pro-  
 5 posals from vendors shall be open records available for public inspection  
 6 in accordance with the open records act. A state agency may: ~~(1) Contract~~  
 7 ~~or enter into a finance, pledge, loan or lease purchase agreement with the~~  
 8 ~~Kansas development finance authority for an energy conservation mea-~~  
 9 ~~sure; or (2) utilize the procedures prescribed in K.S.A. 75-37, 102, and~~  
 10 ~~amendments thereto, by the to someone a~~ procurement negotiating com-  
 11 mittee to negotiate and contract for energy conservation measures. Each  
 12 state agency shall provide copies of plans of the proposed energy conser-  
 13 vation measure to the ~~secretary of administration, or such secretary's des-~~  
 14 ~~ignee; state corporation commission~~ for review. No state agency may  
 15 enter into a contract for an energy conservation measure unless such  
 16 measure has been approved by the ~~secretary of administration state cor-~~  
 17 ~~poration commission~~. Plans submitted under this section shall be re-  
 18 tained and maintained by the ~~secretary of administration state corpo-~~  
 19 ~~ration commission~~.

20 (c) Before executing any contract or *finance, pledge, loan or lease-*  
 21 *purchase agreement* under this section, the energy conservation contrac-  
 22 *tor shall provide the municipality political subdivision or state agency with*  
 23 *plans for the proposed energy conservation measures prepared by an*  
 24 *engineer licensed to practice in Kansas. The energy conservation con-*  
 25 *tractor shall also provide a report of the calculations showing the esti-*  
 26 *mated energy and operational cost savings that would result from the*  
 27 *proposed energy conservation measures. Notwithstanding any provision*  
 28 *contained in K.S.A. 71-201 and 72-8225, and amendments thereto or*  
 29 *other provisions of law, the board of education of any school district and*  
 30 *the board of any community college or technical college may enter into*  
 31 *a contract or finance, pledge, loan or lease-purchase agreement for an*  
 32 *energy conservation measure for a period exceeding 10 years. Munit-*  
 33 *palities Political subdivisions and state agencies may include a provision*  
 34 *in the contract with an entity providing the energy conservation measure*  
 35 *requiring such entity to guarantee that the actual amount of savings of*  
 36 *energy and operational costs attributable to the energy conservation mea-*  
 37 *sure be not less than the cost of the energy conservation measure over*  
 38 *the time specified including financing costs.*

39 (d) Within the limits of appropriations available therefor, the state  
 40 corporation commission is authorized to provide grants for engineering  
 41 studies and energy conservation measures for ~~municipalities political sub-~~  
 42 ~~divisions and state agencies. The Kansas development finance authority~~  
 43 ~~is authorized to assist the state corporation commission and any political~~

by the

1 *subdivision, state agency or federal entity with engineering studies and*  
 2 *energy conservation measures.*

3 (e) The secretary of administration state corporation commission \_\_\_\_\_  
 4 may provide administrative support and resources available under the  
 5 *facility energy* conservation improvement program under this section or  
 6 K.S.A. 75-37,1.1.1 et seq., and amendments thereto, as requested by school  
 7 districts, private and public colleges in Kansas, municipalities and *political*  
 8 *subdivisions*, state agencies or *federal entities* for purposes of this section.  
 9 The secretary of administration state corporation commission may fix,  
 10 charge and collect reasonable fees for any administrative support and  
 11 resources or other services provided by the secretary state corporation  
 12 **commission** under this subsection.

13 (f) The provisions of the cash basis law and K.S.A. 79-2925, and  
 14 amendments thereto, shall not apply to any contract or lease-purchase  
 15 agreement entered into pursuant to this section.  
 16 (g) *The energy conservation measures for political subdivisions or*  
 17 *state agencies are hereby authorized to be financed by the Kansas devel-*  
 18 *opment finance authority pursuant to subsection (a) of K.S.A. 74-8905,*  
 19 *and amendments thereto. The energy conservation measures for state fa-*  
 20 *cilities which are initiated by state agencies under this section are hereby*  
 21 *approved for such state agencies for the purposes of subsection (b) of*  
 22 *K.S.A. 74-8905, and amendments thereto. The total costs of energy con-*  
 23 *servaion measures for state facilities initiated by state agencies under this*  
 24 *section for any fiscal year, exclusive of financing costs, shall not exceed*  
 25 *the amounts approved for such energy conservation measures by the sec-*  
 26 *retary of administration state corporation commis-*

27 New Sec. 4. (a) The Kansas development finance authority is hereby  
 28 authorized to issue revenue bonds in amounts sufficient to pay the costs  
 29 of energy conservation measures for or on behalf of federal entities for  
 30 facilities located in the state, and to contract with federal entities with  
 31 respect to such energy conservation measures and such revenue bonds.  
 32 The bonds, and interest thereon, issued pursuant to this section shall be  
 33 payable from: (1) Revenues derived from the use, lease, occupation or  
 34 operation of the facilities for which such energy conservation measures  
 35 are undertaken; (2) any other revenues, appropriations, grants or moneys  
 36 of a federal entity available therefore; or (3) any combination thereof.

37 (b) Revenue bonds, including refunding revenue bonds, issued under  
 38 this section shall not be an obligation of the state of Kansas and shall not  
 39 constitute an indebtedness of the state of Kansas, nor shall they constitute  
 40 indebtedness within the meaning of any constitutional or statutory pro-  
 41 vision limiting the incurring of indebtedness.

42 (e) Revenue bonds, including refunding revenue bonds, issued under  
 43 this section and the income derived therefrom are and shall be exempt

\_\_\_\_\_, or its designee,  
 facility

\_\_\_\_\_, or its designee,

\_\_\_\_\_, or its designee,

\_\_\_\_\_, as defined in K.S.A. 75-37,125, and amendments thereto,

(b) The energy conservation measures, as defined in K.S.A. 75-37,125, and amendments thereto, for political subdivisions or state agencies are hereby authorized to be financed by the Kansas development finance authority pursuant to subsection (a) of K.S.A. 74-8905, and amendments thereto. The energy conservation measures for state facilities which are initiated by state agencies under K.S.A. 75-37,125, and amendments thereto, are hereby approved for such state agencies for the purposes of subsection (b) of K.S.A. 74-8905, and amendments thereto. The total costs of energy conservation measures for state facilities initiated by state agencies under K.S.A. 75-37,125, shall not exceed the amounts approved for such energy conservation measures by the state corporation commission.

(c)

(d)

1 from all state, county and municipal taxation in the state of Kansas, except  
2 Kansas estate taxes.

3 Sec. 5. K.S.A. 75-37,114 and K.S.A. 2006 Supp. 74-8902 and 75-  
4 37,125 are hereby repealed.

5 Sec. 6. This act shall take effect and be in force from and after its  
6 publication in the statute book.

(e) Any political subdivision, state agency or federal entity is authorized to contract or enter into a finance, pledge, loan or lease-purchase agreement with the Kansas development finance authority for an energy conservation measure, as defined in K.S.A. 75-37,125, and amendments thereto, in order to facilitate the financing thereof or to provide security for the repayment of bonds authorized under this section.