

## SENATE BILL No. 85

By Senator Corbin

1-28

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AN ACT concerning property taxation; eliminating wind energy resources property exemptions; amending K.S.A. 2002 Supp. 79-201 and repealing the existing section.

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

Section 1. K.S.A. 2002 Supp. 79-201 is hereby amended to read as follows: 79-201. The following described property, to the extent herein specified, shall be and is hereby exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

*First.* All buildings used exclusively as places of public worship and all buildings used exclusively by school districts and school district interlocal cooperatives organized under the laws of this state, with the furniture and books therein contained and used exclusively for the accommodation of religious meetings or for school district or school district interlocal cooperative purposes, whichever is applicable, together with the grounds owned thereby if not leased or otherwise used for the realization of profit, except that: (a) (1) Any school building, or portion thereof, together with the grounds upon which the building is located, shall be considered to be used exclusively by the school district for the purposes of this section when leased by the school district to any political or taxing subdivision of the state, including a school district interlocal cooperative, or to any association, organization or nonprofit corporation entitled to tax exemption with respect to such property; and (2) any school building, together with the grounds upon which the building is located, shall be considered to be used exclusively by a school district interlocal cooperative for the purposes of this section when being acquired pursuant to a lease-purchase agreement; and (b) any building, or portion thereof, used as a place of worship, together with the grounds upon which the building is located, shall be considered to be used exclusively for the religious purposes of this section when used as a not-for-profit day care center for children which is licensed pursuant to K.S.A. 65-501 *et seq.*, and amendments thereto, or when used to house an area where the congregation of a church society and others may purchase tracts, books and other items relating to the promulgation of the church society's religious doctrines.

*Second.* All real property, and all tangible personal property, actually

1 and regularly used exclusively for literary, educational, scientific, relig-  
2 ious, benevolent or charitable purposes, including property used exclu-  
3 sively for such purposes by more than one agency or organization for one  
4 or more of such exempt purposes. Except with regard to real property  
5 which is owned by a religious organization, is to be used exclusively for  
6 religious purposes and is not used for a nonexempt purpose prior to its  
7 exclusive use for religious purposes which property shall be deemed to  
8 be actually and regularly used exclusively for religious purposes for the  
9 purposes of this paragraph, this exemption shall not apply to such prop-  
10 erty, not actually used or occupied for the purposes set forth herein, nor  
11 to such property held or used as an investment even though the income  
12 or rentals received therefrom is used wholly for such literary, educational,  
13 scientific, religious, benevolent or charitable purposes. In the event any  
14 such property which has been exempted pursuant to the preceding sen-  
15 tence is not used for religious purposes prior to its conveyance which  
16 results in its use for nonreligious purposes, there shall be a recoupment  
17 of property taxes in an amount equal to the tax which would have been  
18 levied upon such property except for such exemption for all taxable years  
19 for which such exemption was in effect. Such recoupment tax shall be-  
20 come due and payable in such year as provided by K.S.A. 79-2004, and  
21 amendments thereto. A lien for such taxes shall attach to the real property  
22 subject to the same on November 1 in the year such taxes become due  
23 and all such taxes remaining due and unpaid after the date prescribed for  
24 the payment thereof shall be collected in the manner provided by law for  
25 the collection of delinquent taxes. Moneys collected from the recoupment  
26 tax hereunder shall be credited by the county treasurer to the several  
27 taxing subdivisions within which such real property is located in the pro-  
28 portion that the total tangible property tax levies made in the preceding  
29 year for each such taxing subdivision bear to the total of all such levies  
30 made in that year by all such taxing subdivisions. Such moneys shall be  
31 credited to the general fund of the taxing subdivision or if such taxing  
32 subdivision is making no property tax levy for the support of a general  
33 fund such moneys may be credited to any other tangible property tax  
34 fund of general application of such subdivision. This exemption shall not  
35 be deemed inapplicable to property which would otherwise be exempt  
36 pursuant to this paragraph because an agency or organization: (a) Is re-  
37 imbursement for the provision of services accomplishing the purposes enu-  
38 merated in this paragraph based upon the ability to pay by the recipient  
39 of such services; or (b) is reimbursed for the actual expense of using such  
40 property for purposes enumerated in this paragraph; or (c) uses such  
41 property for a nonexempt purpose which is minimal in scope and insub-  
42 stantial in nature if such use is incidental to the exempt purposes of this  
43 paragraph; or (d) charges a reasonable fee for admission to cultural or

1 educational activities or permits the use of its property for such activities  
2 by a related agency or organization, if any such activity is in furtherance  
3 of the purposes of this paragraph.

4 *Third.* All moneys and credits belonging exclusively to universities, col-  
5 leges, academies or other public schools of any kind, or to religious, lit-  
6 erary, scientific or benevolent and charitable institutions or associations,  
7 appropriated solely to sustain such institutions or associations, not ex-  
8 ceeding in amount or in income arising therefrom the limit prescribed  
9 by the charter of such institution or association.

10 *Fourth.* The reserve or emergency funds of fraternal benefit societies  
11 authorized to do business under the laws of the state of Kansas.

12 *Fifth.* All buildings of private nonprofit universities or colleges which  
13 are owned and operated by such universities and colleges as student union  
14 buildings, presidents' homes and student dormitories.

15 *Sixth.* All real and tangible personal property actually and regularly  
16 used exclusively by the alumni association associated by its articles of  
17 incorporation with any public or nonprofit Kansas college or university  
18 approved by the Kansas board of regents to confer academic degrees or  
19 with any community college approved by its board of trustees to grant  
20 certificates of completion of courses or curriculum, to provide accom-  
21 modations and services to such college or university or to the alumni, staff  
22 or faculty thereof.

23 *Seventh.* All parsonages owned by a church society and actually and  
24 regularly occupied and used predominantly as a residence by a minister  
25 or other clergyman of such church society who is actually and regularly  
26 engaged in conducting the services and religious ministrations of such  
27 society, and the land upon which such parsonage is located to the extent  
28 necessary for the accommodation of such parsonage.

29 *Eighth.* All real property, all buildings located on such property and all  
30 personal property contained therein, actually and regularly used exclu-  
31 sively by any individually chartered organization of honorably discharged  
32 military veterans of the United States armed forces or auxiliary of any  
33 such organization, which is exempt from federal income taxation pursuant  
34 to section 501(c)(19) of the federal internal revenue code of 1986, for  
35 clubhouse, place of meeting or memorial hall purposes, and real property  
36 to the extent of not more than two acres, and all buildings located on  
37 such property, actually and regularly used exclusively by any such veter-  
38 ans' organization or its auxiliary as a memorial park.

39 *Ninth.* All real property and tangible personal property actually and  
40 regularly used by a community service organization for the predominant  
41 purpose of providing humanitarian services, which is owned and operated  
42 by a corporation organized not for profit under the laws of the state of  
43 Kansas or by a corporation organized not for profit under the laws of

1 another state and duly admitted to engage in business in this state as a  
2 foreign not-for-profit corporation if: (a) The directors of such corporation  
3 serve without pay for such services; (b) the corporation is operated in a  
4 manner which does not result in the accrual of distributable profits, re-  
5 alization of private gain resulting from the payment of compensation in  
6 excess of a reasonable allowance for salary or other compensation for  
7 services rendered or the realization of any other form of private gain; (c)  
8 no officer, director or member of such corporation has any pecuniary  
9 interest in the property for which exemption is claimed; (d) the corpo-  
10 ration is organized for the purpose of providing humanitarian services;  
11 (e) the actual use of property for which an exemption is claimed must be  
12 substantially and predominantly related to the purpose of providing hu-  
13 manitarian services, except that, the use of such property for a nonexempt  
14 purpose which is minimal in scope and insubstantial in nature shall not  
15 result in the loss of exemption if such use is incidental to the purpose of  
16 providing humanitarian services by the corporation; (f) the corporation is  
17 exempt from federal income taxation pursuant to section 501(c)(3) of the  
18 internal revenue code of 1986 and; (g) contributions to the corporation  
19 are deductible under the Kansas income tax act. As used in this clause,  
20 “humanitarian services” means the conduct of activities which substan-  
21 tially and predominantly meet a demonstrated community need and  
22 which improve the physical, mental, social, cultural or spiritual welfare of  
23 others or the relief, comfort or assistance of persons in distress or any  
24 combination thereof including but not limited to health and recreation  
25 services, child care, individual and family counseling, employment and  
26 training programs for handicapped persons and meals or feeding pro-  
27 grams. Notwithstanding any other provision of this clause, motor vehicles  
28 shall not be exempt hereunder unless such vehicles are exclusively used  
29 for the purposes described therein, except that the use of any such vehicle  
30 for the purpose of participating in a coordinated transit district in ac-  
31 cordance with the provisions of K.S.A. 75-5032 through 75-5037, and  
32 amendments thereto, or K.S.A. 75-5051 through 75-5058, and amend-  
33 ments thereto, shall be deemed as exclusive use.

34 *Tenth.* For all taxable years commencing after December 31, 1986, any  
35 building, and the land upon which such building is located to the extent  
36 necessary for the accommodation of such building, owned by a church or  
37 nonprofit religious society or order which is exempt from federal income  
38 taxation pursuant to section 501(c)(3) of the federal internal revenue code  
39 of 1986, and actually and regularly occupied and used exclusively for  
40 residential and religious purposes by a community of persons who are  
41 bound by vows to a religious life and who conduct or assist in the conduct  
42 of religious services and actually and regularly engage in religious, be-  
43 nevolent, charitable or educational ministrations or the performance of

1 health care services.

2 *Eleventh.* For all taxable years commencing after December 31, 1998,  
3 all property actually and regularly used predominantly to produce and  
4 generate electricity utilizing renewable energy resources or technologies.  
5 For purposes of this section, “renewable energy resources or technolo-  
6 gies” shall include ~~wind~~, solar, thermal, photovoltaic, biomass, hydro-  
7 power, geothermal and landfill gas resources or technologies, *but, com-*  
8 *mencing in tax year 2003 and all tax years thereafter, shall not include*  
9 *wind resources or technologies.*

10 The provisions of this section, except as otherwise more specifically  
11 provided, shall apply to all taxable years commencing after December 31,  
12 1995.

13 Sec. 2. K.S.A. 2002 Supp. 79-201 is hereby repealed.

14 Sec. 3. This act shall take effect and be in force from and after its  
15 publication in the statute book.

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