

HOUSE BILL No. 2625

By Committee on Energy and Utilities

2-3

9 AN ACT concerning energy conservation measures; amending K.S.A.
10 2009 Supp. 75-37,125 and repealing the existing section.

11

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

13 Section 1. K.S.A. 2009 Supp. 75-37,125 is hereby amended to read
14 as follows: 75-37,125. (a) As used in this act:

15 (1) *“Capital cost avoidance” means savings generated when expend-*
16 *itures of appropriated capital construction funds or appropriated capital*
17 *outlay funds are avoided because the budgeted capital improvements or*
18 *items of equipment are energy conservation measures. The improvements*
19 *or equipment may include one or more of the following:*

20 (A) *Insulation of the building structure or systems within the*
21 *building;*

22 (B) *storm windows or doors, caulking or weather stripping, multig-*
23 *lazed windows or doors, heat absorbing or heat reflective glazed and*
24 *coated window or door systems, additional glazing reductions in glass*
25 *area or other window and door system modifications that reduce energy*
26 *consumption;*

27 (C) *automated or computerized energy control system;*

28 (D) *heating, ventilating or air conditioning system modifications or*
29 *replacements;*

30 (E) *replacement or modification of lighting fixtures to increase the*
31 *energy efficiency of the lighting system without increasing the overall*
32 *illumination of a facility, unless an increase in illumination is necessary*
33 *to conform to any applicable building code for the lighting system after*
34 *the proposed modifications are made;*

35 (F) *indoor air quality improvements to increase air quality that con-*
36 *forms to any applicable building code requirements;*

37 (G) *energy recovery systems;*

38 (H) *cogeneration systems that produce steam or forms of energy such*
39 *as heat, as well as electricity, for use primarily within a building or com-*
40 *plex of buildings;*

41 (I) *tankless hot water systems and solar hot water systems;*

42 (J) *any life safety measures that provide long-term operating cost re-*
43 *ductions and are in compliance with state and local codes;*

1 (K) *building operation programs that reduce the operating costs; or*
2 (L) *any life safety measures related to compliance with the Americans*
3 *with disabilities act, 42 U.S.C. section 12101, et seq., that provide long-*
4 *term operating cost reductions and are in compliance with state and local*
5 *codes.*

6 ~~(1)~~ (2) “Federal entity” means the government of the United States
7 of America or any bureau, department, instrumentality or other agency
8 of the federal government.

9 ~~(2)~~ (3) “Political subdivision” shall have the meaning ascribed thereto
10 in subsection (o) of K.S.A. 74-8902, and amendments thereto.

11 ~~(3)~~ (4) “State agency” means any office, department, board, commis-
12 sion, bureau, division, public corporation, agency or instrumentality of
13 this state.

14 ~~(4)~~ (5) “Energy conservation measure” means an energy study, audit,
15 improvement or equipment which is designed to provide energy and op-
16 erational cost savings at least equivalent to the amount expended by a
17 participating political subdivision or state agency for such energy study,
18 audit, improvement or equipment over a period of not more than 30 years
19 after the date such improvement or equipment is installed or becomes
20 operational, as the case may be.

21 (b) Subject to the provisions of subsection (c), a political subdivision
22 or state agency, which include the board of regents and a regent’s insti-
23 tution and a community or technical college, may enter into a contract or
24 lease-purchase agreement for an energy conservation measure *or capital*
25 *cost avoidance* which meets the criteria of this section. In addition to any
26 other authority provided by law a political subdivision or state agency may
27 solicit proposals to contract for an energy conservation measure *or capital*
28 *cost avoidance* by advertising for proposals and qualifications in a news-
29 paper of general circulation or the Kansas register, and by sending re-
30 quests for proposals to at least three vendors and negotiating a lease-
31 purchase agreement with one or more vendors submitting a proposal
32 thereto. Negotiations entered into pursuant to this section with individual
33 vendors shall not be subject to the provisions of the open meetings act.
34 After an agreement has been executed, the agreement and all proposals
35 from vendors shall be open records available for public inspection in
36 accordance with the open records act. A state agency may utilize the
37 procedures prescribed in K.S.A. 75-37,102, and amendments thereto, by
38 the procurement negotiating committee to negotiate and contract for en-
39 ergy conservation measures *or capital cost avoidance*. Each state agency
40 shall provide copies of plans of the proposed energy conservation measure
41 *or capital cost avoidance* to the state corporation commission for review.
42 No state agency may enter into a contract for an energy conservation
43 measure *or capital cost avoidance* unless such measure has been approved

1 by the state corporation commission. Plans submitted under this section
2 shall be retained and maintained by the state corporation commission.

3 (c) Before executing any contract or finance, pledge, loan or lease-
4 purchase agreement under this section, the energy conservation contrac-
5 tor shall provide the political subdivision or state agency with plans for
6 the proposed energy conservation measures *or capital cost avoidance* pre-
7 pared by an engineer licensed to practice in Kansas. The energy conser-
8 vation contractor shall also provide a report of the calculations showing
9 the estimated energy and operational cost savings that would result from
10 the proposed energy conservation measures *or capital cost avoidance*.
11 Notwithstanding any provision contained in K.S.A. 71-201 and 72-8225,
12 and amendments thereto, or other provisions of law, the board of edu-
13 cation of any school district and the board of any community college or
14 technical college may enter into a contract or finance, pledge, loan or
15 lease-purchase agreement for an energy conservation measure *or capital*
16 *cost avoidance* for a period exceeding 10 years. Political subdivisions and
17 state agencies may include a provision in the contract with an entity pro-
18 viding the energy conservation measure *or capital cost avoidance* requir-
19 ing such entity to guarantee that the actual amount of savings of energy
20 and operational costs attributable to the energy conservation measure *or*
21 *capital cost avoidance* be not less than the cost of the energy conservation
22 measure *or capital cost avoidance* over the time specified including fi-
23 nancing costs.

24 (d) Within the limits of appropriations available therefor, the state
25 corporation commission is authorized to provide grants for engineering
26 studies and energy conservation measures *or capital cost avoidance* for
27 political subdivisions and state agencies.

28 (e) The state corporation commission, or its designee, may provide
29 administrative support and resources available under the facility conser-
30 vation improvement program under this section or K.S.A. 75-37,111 et
31 seq., and amendments thereto, as requested by school districts, private
32 and public colleges in Kansas, political subdivisions, state agencies or fed-
33 eral entities for purposes of this section. The state corporation commis-
34 sion, or its designee, may fix, charge and collect reasonable fees for any
35 administrative support and resources or other services provided by the
36 state corporation commission, or its designee, under this subsection.

37 (f) The provisions of the cash basis law and K.S.A. 79-2925, and
38 amendments thereto, shall not apply to any contract or lease-purchase
39 agreement entered into pursuant to this section.

40 Sec. 2. K.S.A. 2009 Supp. 75-37,125 is hereby repealed.

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