

STATE OF KANSAS

SENATE CHAMBER

MR. PRESIDENT:

I move to amend **HB 2225**, As Amended by House Committee, on page 1, following line 14, by inserting:

"Section 1. K.S.A. 26-101 is hereby amended to read as follows: 26-101. Any corporation having the right of eminent domain and any partnership holding a certificate of convenience issued by the state corporation commission and having the right of eminent domain; shall exercise such right in the manner set forth in K.S.A. 26-501 to 26-516, inclusive et seq., and amendments thereto.

Sec. 2. K.S.A. 26-501b is hereby amended to read as follows: 26-501b. ~~On and after July 1, 2007,~~(a) The taking of private property by eminent domain for the purpose of selling, leasing; or otherwise transferring such property to any private entity is authorized if the taking is:

(a)(1) By the Kansas department of transportation or a municipality and the property is deemed excess real property that was taken lawfully and incidental to the acquisition of right-of-way for a public road, bridge or public improvement project including, but not limited to a public building, park, recreation facility, water supply project, wastewater and waste disposal project, storm water project and flood control and drainage project;

(b)(2) by any public utility, as defined in K.S.A. 66-104, and amendments thereto, gas gathering service, as defined in K.S.A. 55-1,101, and amendments thereto, ~~pipe-line pipeline~~ companies, railroads and all persons and associations of persons, whether incorporated or not, operating such agencies for public use in the conveyance of persons or property within this state, but only to the extent such property is used for the operation of facilities necessary for the

provision of services;

~~(e)~~(3) by any municipality when the private property owner has acquiesced in writing to the taking;

~~(d)~~(4) by any municipality for the purpose of acquiring property ~~which~~ that has defective or unusual conditions of title including, but not limited to, clouded or defective title or unknown ownership interests in the property;

~~(e)~~(5) by any municipality for the purpose of acquiring property ~~which~~ that is unsafe for occupation by humans under the building codes of the jurisdiction where the structure is situated;
or

~~(f)~~(6) expressly authorized by the legislature ~~on or after July 1, 2007~~; by enactment of law that identifies the specific tract or tracts to be taken. If the legislature authorizes eminent domain for private economic development purposes, the legislature shall consider requiring compensation of at least 200% of fair market value to property owners.

~~(g)~~(b) (1) No electric or transmission-only public utility holding a certificate of convenience and necessity issued by the state corporation commission shall exercise the power of eminent domain pursuant to K.S.A. 17-618 or 26-501 et seq., and amendments thereto, unless the board of county commissioners where real property is located that may be the subject of an eminent domain proceeding has adopted a resolution approving such taking by such public utility.

(2) This subsection shall not apply to the governing body of any city or the board of public utilities of any city owning or operating an electric utility.

(c) This section shall be a part of and supplemental to the eminent domain procedure act.

Sec. 3. K.S.A. 26-502 is hereby amended to read as follows: 26-502. (a) A petition shall

include allegations of:

- (1) The authority for and the purpose of the taking;
- (2) a description of each lot, parcel or tract of land and the nature of the interest to be taken;
- (3) ~~insofar as their~~ to the extent such interests are to be taken:
 - ~~(a)~~(A) The name of any owner and all lienholders of record; and
 - ~~(b)~~(B) the name of any party in possession; and
- (4) if required under K.S.A. 26-501b, and amendments thereto, the approval of such taking by the appropriate board of county commissioners.

(b) Such petition shall be verified by affidavit. Upon the filing of such petition the court by order shall fix the time when ~~the same will be taken up~~ such petition shall be heard. No defect in form ~~which~~ that does not impair substantial rights of the parties shall invalidate any proceeding.

Sec. 4. K.S.A. 26-516 is hereby amended to read as follows: 26-516. ~~This act~~The provisions of K.S.A. 26-501 through 26-519, and amendments thereto, shall be known and may be cited as the "eminent domain procedure act."";

On page 8, in line 3, after "K.S.A." by inserting "26-101, 26-501b, 26-502, 26-516,";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after the second semicolon by inserting "requiring approval of the board of county commissioners prior to the exercise of eminent domain by certain electric utilities;"; in line 11, after "K.S.A." by inserting "26-101, 26-501b, 26-502, 26-516,"

Senator _____