

Before the House Energy, Utilities, and Telecommunications Committee  
Presented by Zack Pistora, Kansas Sierra Club  
Opponent to SB 24  
March 16th, 2021



Chairman Seiwert and Honorable Members of the Committee,

Thank you for the opportunity to submit oppositional testimony on SB 24, dubbed the “Energy Choice Act”, which would prohibit municipalities from imposing any ordinances, codes, (and more) that ‘prohibits, discriminates against, restricts, limits...’ an end use customer’s use of natural gas utility service.

As a volunteer-based, nonpartisan, nonprofit organization dedicated to securing a healthy, equitable, and eco-friendly future for current and future generations, we support the opportunity for our Kansas municipalities to determine their energy future locally and transition away from the negative costs of fossil fuels.

**The recent “Deep Freeze” that hit the Midwest in Mid-February demonstrates that natural gas is neither reliable nor as affordable as once promised. With no cities banning natural gas service in the next decade, SB 24 is unnecessary and an inappropriate uniform policy that impairs a city’s adaptability to meet the challenges of tomorrow.**

Last month’s extreme cold temperatures caused a major disruption in the gas supply chain as well as gas plants, wells, and pipeline infrastructure across the Midwest, but most notably in Texas. Kansans were not immune to the hardship, experiencing low gas supply, freezing pipes, cold houses, and rolling blackouts. Worse more, now Kansas consumers and communities must pay back unimaginable utility bills, due to outrageous price spikes from gas. SB 24 locks Kansas communities into a utility service that may not necessarily suit a particular community’s interests. At a time when Kansas needs more flexibility and choice for communities to meet new and dire challenges, SB 24 does the opposite.

**Absent a demonstrated conflict involving patchwork regulation, SB 24 is premature and clearly disrespects the spirit of Home Rule and the powers prescribed to cities in the Kansas Constitution.**

Article 12, Section 5(b) stipulates that “*Cities are hereby empowered to determine their local affairs and government...*” and Section 5(d) reiterates that “*Powers and authority granted cities pursuant to this section shall be liberally construed for the purpose of giving to cities the largest measure of self-government.*”

Sixty years ago, Kansas lawmakers felt compelled to ensure our communities could be wholly governed at the nearest proximity – by those most trusted and accountable to their livelihood – the municipal level. Our towns and cities, each unique to the identity and sentiment of its people, holds the responsibility of being situated closest to popular will of the community.

Therefore, when the occasion arises when municipal leaders are urged by the popular demand of its community to determine an energy future in line with shared values, it is most appropriate for those leaders and that community to have self-determination and autonomy of those decisions, not by State legislators who represent different communities. SB 24 erodes that autonomy.

**Perhaps discrimination of energy types would be unfair if energy types were equivalent. However, more Kansans are realizing that some energy types have disproportionate costs, especially for Kansas.**

Every energy source has their unique set of pros and cons. Some energy sources cause more pollution and are negative health impacts than others, have higher retail costs, are more explosive, more extractive to utilize, cause radioactivity, are limited as a resource locally, and more. Clean, renewable energy solutions, like that of wind and solar have positive advantages, especially for Kansans, because these energy types are plentiful in our State, can create new jobs, lessen water dependence and greenhouse gas emissions, and provide a long-lasting, affordable energy resource that hold promise for bringing down residential electric prices.

**Cities should be able to determine what energy sources work best for their community, especially when it could spell cost-of-service advantages for their residents.**

Recent analysis by the Rocky Mountain Institute, a prominent independent energy research organization, concluded in their 2020 follow-up to their “*Economics of Electrifying Buildings*”<sup>1</sup> that new all-electric single-family homes has a lower net present value cost, and advantageous or equivalent annual savings compared to having both gas and electric hookups in each of the seven cities it evaluated.<sup>2</sup> Cities should be able to realize these cost-savings for their residents, especially when it comes to investments or subsidies that a city may need to provide for energy infrastructure in their territory.

**In sum, the ‘Energy Choice Act’ does not sound like it gives much choice to our local communities and their elected leaders who want to move past the negative costs of fossil fuels.**

It would be shortsighted and irresponsible for the State Legislature to preemptively interfere with local governments’ energy plans, especially when using Kansas-based, pollution-free energy resources like wind, solar, energy storage, and efficiency can create jobs, improve health and social equity outcomes, and save residents a lot of money. Legislators should not be doing the bidding of for-profit, monopoly utilities to obstruct community-led, democratic efforts aimed at reducing household costs and actualizing real leadership to help our society and the environment.

For those reasons, the Kansas Sierra Club respectfully asks the committee to oppose SB 24.

**That said, KS Sierra Club would support the included amendment to help SB 24 be less harmful to city-wide energy efficiency and conservation efforts. We would also encourage adding a sunset.**

Sincerely,

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*The Sierra Club is the largest grassroots environmental organization dedicated to enjoying, exploring, and protecting our great outdoors. The Kansas Chapter represents our state's strongest grassroots voice on environmental matters for more than forty years.*

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<sup>1</sup> [The Economics of Electrifying Buildings - Rocky Mountain Institute \(rmi.org\)](https://www.rmi.org/insights/economics-of-electrifying-buildings)

<sup>2</sup> [All-Electric New Homes: A Win for the Climate and the Economy - Rocky Mountain Institute \(rmi.org\)](https://www.rmi.org/insights/all-electric-new-homes-a-win-for-the-climate-and-the-economy)

As Amended by Senate Committee

Session of 2021

SENATE BILL NO. 24

By Committee on Utilities

1-13

1 AN ACT concerning municipalities; prohibiting any requirements that  
2 impact a customer's use of energy; relating to public-utilities natural  
3 gas utility service; creating the Kansas energy choice act.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) As used in this section:

7 (1) "Municipality" means any county, city, township or other political  
8 or taxing subdivision thereof, or any board, bureau, commission,  
9 committee, department, division or other agency thereof.

10 (2) "Public-Utility service" means any the retail provision of natural  
11 gas-or-electric-public-utility-as-defined-in-K.S.A.-66-104-and-amendments  
12 thereto.

13 (b) A municipality shall not impose any ordinance, resolution, code,  
14 rule, provision, standard, permit, plan or any other binding action that  
15 prohibits, discriminates against, restricts, limits, impairs, ~~or has the effect~~  
16 ~~thereof~~; an end use customer's use of a public utility-based upon the source  
17 ~~of energy to be delivered to such customer service.~~

18 (c) *This section shall not be construed to restrict the ability of a*  
19 *municipality to limit an end use customer's use of a utility service if the*  
20 *end use customer is such municipality.*

21 (d) This section shall be known and may be cited as the Kansas  
22 energy choice act.

23 Sec. 2. This act shall take effect and be in force from and after its  
24 publication in the statute-book Kansas register.

Delete comma after "prohibits"; add "or unreasonably"

Delete

(d) Nothing in this act shall infringe any municipality from setting new performance standards for efficiency, emissions, and health and safety as it relates to energy use in new or existing buildings.