

## HOUSE Substitute for SENATE BILL No. 327

By Committee on Energy and Utilities

2-13

10 AN ACT concerning energy; relating to conservation and electric gen-  
11 eration, transmission and efficiency and air emissions; amending  
12 K.S.A. 65-3008b and 66-104d and K.S.A. 2007 Supp. 65-3005, 65-  
13 3008a and 66-1,184 and repealing the existing sections.

14

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

16 New Section 1. As used in sections 1 through 6, and amendments  
17 thereto:

18 (a) "ASHRAE" means American society of heating, refrigerating and  
19 air-conditioning engineers, Inc. standard 90.1-2004.

20 (b) "Energy star" means the joint program of the United States en-  
21 vironmental protection agency and the United States department of en-  
22 ergy which labels certain products that meet energy efficiency standards  
23 adopted for such products.

24 (c) "IECC" means the 2006 international energy conservation code.

25 (d) "New state building" means any building or structure which is  
26 constructed by the state or any agency of the state and the construction  
27 of which commences on or after July 1, 2009.

28 New Sec. 2. The secretary of administration shall adopt rules and  
29 regulations that require that the average fuel economy standard for state-  
30 owned motor vehicles purchased during calendar year 2010 and there-  
31 after shall not be less than 10% higher than the average fuel economy  
32 standard of state-owned motor vehicles purchased during calendar year  
33 2007 if the projected cost savings for the useful life of such vehicles is  
34 equal to or greater than the additional cost compared to functionally  
35 equivalent vehicles of lower efficiency. The head of each state agency  
36 shall provide information to and cooperate with the secretary of admin-  
37 istration for the purposes of implementing and administering this section  
38 and the rules and regulations adopted by the secretary of administration.

39 New Sec. 3. The secretary of administration shall adopt rules and  
40 regulations for state agencies for the purchase of products and equipment,  
41 including, but not limited to, appliances, lighting fixtures and bulbs, and  
42 computers, which meet energy efficiency guidelines which are not less  
43 than the guidelines adopted for such products to qualify as an energy star

1 product if the projected cost savings for the useful life of such products  
2 and equipment is equal to or greater than the additional cost compared  
3 to functionally equivalent such products and equipment of lower  
4 efficiency.

5 New Sec. 4. (a) The department of administration shall collect data  
6 on energy consumption and costs for all state-owned and leased real prop-  
7 erty and the secretary of administration shall submit a written report to  
8 the legislature on or before the first day of the 2009 regular session of  
9 the legislature and on or before the first day of each ensuing regular  
10 session of the legislature identifying state-owned or leased real property  
11 locations in which an excessive amount of energy is being used in ac-  
12 cordance with rules and regulations adopted by the secretary of admin-  
13 istration concerning energy efficiency performance standards for state-  
14 owned or leased real property.

15 (b) The secretary of administration shall not approve a new lease or  
16 a renewal or extension of an existing lease of non-state owned real prop-  
17 erty unless the lessor has submitted an energy audit for such real property  
18 that is the subject of such lease. The secretary of administration shall  
19 adopt rules and regulations establishing energy efficiency performance  
20 standards which shall apply to leased space and improvements which the  
21 lessor shall be required to address based on such energy audit.

22 New Sec. 5. (a) Within the limitations of appropriations therefor, the  
23 Kansas energy office of the state corporation commission shall develop  
24 and increase the participation of school districts and local governments  
25 in the facilities conservation improvements program (FCIP) pursuant to  
26 K.S.A. 75-37,125, and amendments thereto.

27 (b) The state corporation commission shall strongly encourage state  
28 agencies which operate and maintain state-owned buildings that are not  
29 participating in the FCIP to participate in the FCIP pursuant to K.S.A.  
30 75-37,125, and amendments thereto, on or before December 1, 2010.

31 New Sec. 6. (a) The secretary of administration shall adopt rules and  
32 regulations prescribing energy efficiency performance standards requir-  
33 ing that all new construction and, to the extent possible, renovated state-  
34 owned buildings, be designed and constructed to achieve energy con-  
35 sumption levels that are at least 10% below the levels established under  
36 the ASHRAE standard or the IECC, as appropriate, if such levels of  
37 energy consumption are life-cycle cost-effective for such buildings and  
38 also recommending that new and, to the extent possible, renovated school  
39 and municipal buildings meet the same requirements.

40 ~~New Sec. 7. (a) There is hereby established the Kansas energy sci-~~  
41 ~~ence and technology commission. The commission shall be made up of~~  
42 ~~the following 12 members:~~

43 ~~—(1) Chairperson of the house committee on energy and utilities, or~~

1 ~~its successor;~~  
2 ~~—(2) chairperson of the senate committee on utilities, or its successor;~~  
3 ~~—(3) director of the division of environment in the Kansas department~~  
4 ~~of health and environment;~~  
5 ~~—(4) executive director of the Kansas health policy authority;~~  
6 ~~—(5) a person knowledgeable in national and global greenhouse gas~~  
7 ~~regulations and practices, appointed by the governor;~~  
8 ~~—(6) a research scientist in climatology, appointed by the governor;~~  
9 ~~—(7) a research scientist in climatology, appointed by the speaker of~~  
10 ~~the house of representatives;~~  
11 ~~—(8) a research scientist or engineer knowledgeable in bio-mass and~~  
12 ~~agricultural waste to energy, appointed by the speaker of the house of~~  
13 ~~representatives;~~  
14 ~~—(9) a research scientist knowledgeable in the production of fossil~~  
15 ~~fuels, appointed by the minority leader of the house of representatives;~~  
16 ~~—(10) an engineer knowledgeable in fossil fuel and nuclear electric~~  
17 ~~generation technologies, appointed by the president of the senate;~~  
18 ~~—(11) an engineer knowledgeable in electric generation from renew-~~  
19 ~~able resources, appointed by the president of the senate, and~~  
20 ~~—(12) a person knowledgeable in energy conservation technologies, ap-~~  
21 ~~pointed by the minority leader of the senate;~~  
22 ~~—(b) The director of the division of environment in the Kansas de-~~  
23 ~~partment of health and environment shall call the first meeting of the~~  
24 ~~commission, at which members shall choose a chairperson and vice chair-~~  
25 ~~person of the commission. The commission shall meet at least four times~~  
26 ~~a year on call of the chairperson of the commission, and additional meet-~~  
27 ~~ings as deemed necessary. A majority of the members of the commission~~  
28 ~~or their designees shall constitute a quorum for the exercise of powers~~  
29 ~~conferred upon the commission;~~  
30 ~~—(c) The commission is hereby granted such specific powers as are~~  
31 ~~necessary to carry out the functions enumerated in this section. The com-~~  
32 ~~mission shall have a mission to:~~  
33 ~~—(1) Investigate and research scientifically derived literature on public~~  
34 ~~health impacts of greenhouse gases and particulates emitted from all nat-~~  
35 ~~ural and man-made sources and the technological ability to capture or~~  
36 ~~reduce such emissions. Based on this, the commission shall recommend~~  
37 ~~to the governor and legislature emission limits for primary man-made~~  
38 ~~emissions by type of emitting source. Such recommendations shall be~~  
39 ~~based on a consensus of the main-stream scientific community and shall~~  
40 ~~note the cost-benefit ratio of limiting or capturing such emissions, and~~  
41 ~~shall recognize the technological feasibility of capturing or significantly~~  
42 ~~reducing such emissions and the cost to consumers of the recommended~~  
43 ~~actions and the cost to consumers if such actions are not taken.~~

- 1 ~~—(2) Develop strategies to maximize productive use of the existing re-~~  
2 ~~sources in Kansas, including water, coal, oil, natural gas, methane, wind,~~  
3 ~~solar, municipal and other waste, agricultural waste, bio-mass crops and~~  
4 ~~such other energy resources as shall be identified.~~
- 5 ~~—(3) Identify emerging technologies and technological opportunities~~  
6 ~~to sustain or increase production and make better use of existing and~~  
7 ~~potential resources, and recommend state investments in specific re-~~  
8 ~~search projects. Development of sustainable policies shall include con-~~  
9 ~~servation, enhanced production technologies and other strategies.~~
- 10 ~~—(4) Recommend reallocation of existing state budget resources, real-~~  
11 ~~location of existing state budget resources and permanent funding sources~~  
12 ~~for energy sustainability research.~~
- 13 ~~—(5) Review and recommend policies to address human health risks~~  
14 ~~associated with energy production based on main-stream medical~~  
15 ~~research.~~
- 16 ~~—(d) The commission shall submit annual written reports of the activ-~~  
17 ~~ities and recommendations of the commission to the house committee~~  
18 ~~on energy and utilities, the senate committee on utilities and the governor~~  
19 ~~on or before the first day of the legislative session.~~
- 20 ~~—(e) The commission may receive and expend moneys appropriated to~~  
21 ~~the commission from the public service regulation fund created by K.S.A.~~  
22 ~~66-1a01, and amendments thereto, and moneys received from any other~~  
23 ~~source, whether public or private, to further the purposes of this section.~~
- 24 ~~—(f) Commission members shall be paid compensation, subsistence al-~~  
25 ~~lowances, mileage and other expenses as provided by K.S.A. 75-3223, and~~  
26 ~~amendments thereto, for each day of actual attendance at any meeting of~~  
27 ~~the commission or any subcommittee meeting approved by the~~  
28 ~~commission.~~
- 29 ~~—(g) The state corporation commission, the Kansas department of~~  
30 ~~health and environment, the Kansas geological survey, the Kansas biolog-~~  
31 ~~ical survey and each other state agency shall provide assistance to the~~  
32 ~~commission as may be requested by the commission. The staff of the~~  
33 ~~office of the revisor of statutes and the legislative research department~~  
34 ~~shall provide such assistance as may be requested by the commission and~~  
35 ~~authorized by the legislative coordinating council.~~
- 36 ~~—New Sec. 8. The Kansas electric transmission authority shall report~~  
37 ~~annually to the legislature and the governor on:~~
- 38 ~~—(a) Actions of the federal and regional transmission regulatory agen-~~  
39 ~~cies regarding electric generation and transmission;~~
- 40 ~~—(b) economic impact of generation, transmission and distribution of~~  
41 ~~electricity on community economic development and on electric rates for~~  
42 ~~customer classes;~~
- 43 ~~—(c) adequacy of the state's utilities to generate electricity in light of~~

~~current and future needs of the state, region and nation;~~  
~~(d) the effectiveness and impact of energy conservation programs on~~  
~~the need for expanding electric generation capacity in Kansas;~~  
~~(e) effectiveness of state incentives for the development of renewable~~  
~~generation, including, but not limited to, solar, wind, waste to energy and~~  
~~small hydro; and~~  
~~(f) such other matters as a majority of the authority's members be-~~  
~~lieve appropriate.~~

New Sec. ~~9.~~ **[7.]** (a) As used in this section, “affected facility” means a fossil-fuel-fired steam electricity generating unit **[on which construc-**  
**tion commenced after January 1, 2008,]** of more than 250 million British thermal units per hour heat input other than:

- (1) A facility owned or operated by the federal government; or
  - (2) a facility located on tribal lands.
- (b) Affected facilities shall engage in carbon dioxide capture using best ~~technological practices~~ **[available control technology]**.

New Sec. ~~10.~~ **[8.]** (a) By the year ~~2010 an amount equal to not less~~  
~~than 10% of the nameplate electricity generating capacity of each electric~~  
~~public utility, electric cooperative utility or municipal electric utility shall~~  
~~be from renewable resources and by the year 2025 an amount equal to~~  
~~not less than 25% of such generating capacity of each such utility shall~~  
~~be from renewable resources.~~

~~(b) The state corporation commission shall allow an electric public~~  
~~utility which complies with the provisions of this section an additional~~  
~~return of 1% of the utility's reasonable and prudent costs and investments~~  
~~to comply with this section. [2012 the average annual operating ca-~~  
~~capacity of renewable electric generation facilities of each electric~~  
~~public utility or electric cooperative utility shall equal not less than~~  
~~5% of the average annual operating capacity of all electric gen-~~  
~~eration facilities of such utility. By the year 2020 the average an-~~  
~~annual operating capacity of renewable electric generation facilities~~  
~~of each electric public utility or electric cooperative utility shall~~  
~~equal not less than 10% of the average annual operating capacity~~  
~~of all electric generation facilities of such utility.~~

**[(b) As used in this section, “renewable electric generation fa-**  
**cilities” means facilities generating electricity utilizing renewable**  
**energy resources or technologies, as defined in K.S.A. 79-201, and**  
**amendments thereto.]**

New Sec. ~~11.~~ **[9.]** Sections ~~11 through 26~~ **[10 through 25]**, and amendments thereto, shall be known and may be cited as the net metering and easy connection act.

New Sec. ~~12.~~ **[10.]** As used in the net metering and easy connection act:

1 (a) “Avoided fuel cost” means the current average cost of fuel for the  
2 entity generating electricity, as defined by the governing body with juris-  
3 diction over any municipal electric utility, electric cooperative utility or  
4 electric public utility.

5 **[(b) “Best available control technology” means an emissions lim-**  
6 **itation, including a visible emission standard, based on the maxi-**  
7 **imum degree of reduction for each pollutant subject to regulation**  
8 **under this act which would be emitted from any proposed major**  
9 **stationary source or major modification which the administrator,**  
10 **on a case-by-case basis, taking into account energy, environmental**  
11 **and economic impacts and other costs, determines is achievable**  
12 **for such source or modification through application of production**  
13 **processes or available methods, systems and techniques, including**  
14 **fuel cleaning or treatment or innovative fuel combustion tech-**  
15 **niques for control of such pollutant. In no event shall application**  
16 **of best available control technology result in emissions of any pol-**  
17 **lutant which would exceed the emissions allowed by any applicable**  
18 **standard under 40 C.F.R. parts 60 and 61. If the administrator**  
19 **determines that technological or economic limitations on the ap-**  
20 **plication of measurement methodology to a particular emissions**  
21 **unit would make the imposition of an emissions standard infeas-**  
22 **ible, a design, equipment, work practice, operational standard or**  
23 **combination thereof, may be prescribed instead to satisfy the re-**  
24 **quirement for the application of best available control technology.**  
25 **Such standard shall, to the degree possible, set forth the emissions**  
26 **reduction achievable by implementation of such design, equip-**  
27 **ment, work practice or operation, and shall provide for compliance**  
28 **by means which achieve equivalent results.]**

29 ~~[(b)]~~ [(c)] “Commission” means the state corporation commission.

30 ~~[(c)]~~ [(d)] “Customer-generator” means the owner or operator of a  
31 qualified electric energy generation unit which:

32 (1) Is powered by solar thermal sources or photovoltaic cells and  
33 panels;

34 (2) has an electrical generating system with a capacity of not more  
35 than 100 kilowatts;

36 (3) is located on a premises owned, operated, leased or otherwise  
37 controlled by the customer-generator;

38 (4) is interconnected and operates in parallel phase and synchroni-  
39 zation with a retail electric supplier and has been approved by such retail  
40 electric supplier;

41 (5) is intended primarily to offset part or all of the customer-gener-  
42 ator’s own electrical energy requirements;

43 (6) meets all applicable safety, performance, interconnection and re-

1 liability standards established by the national electrical code, the national  
2 electrical safety code, the institute of electrical and electronics engineers,  
3 underwriters laboratories, the federal energy regulatory commission and  
4 any local governing authorities; and

5 (7) contains a mechanism that automatically disables the unit and  
6 interrupts the flow of electricity back onto the supplier's electricity lines  
7 in the event that service to the customer-generator is interrupted.

8 ~~(d)~~ [(e)] "Net metering" means using metering equipment sufficient  
9 to measure the difference between the electrical energy supplied to a  
10 customer-generator by a retail electric supplier and the electrical energy  
11 supplied by the customer-generator to the retail electric supplier over the  
12 applicable billing period.

13 ~~(e)~~ [(f)] "Retail electric supplier" means any municipal electric utility,  
14 electric cooperative utility or electric public utility which provides retail  
15 electric service in this state.

16 New Sec. ~~13~~ [11.] A retail electric supplier shall:

17 (a) Make net metering available to customer-generators on a first-  
18 come, first-served basis, subject to the following: (1) A supplier shall not  
19 be required to make net metering available in a calendar year if total  
20 rated generating capacity of all applications for interconnection already  
21 approved by the supplier in the calendar year equals or exceeds 1% of  
22 the supplier's single-hour peak load for the previous calendar year; and  
23 (2) a supplier shall not be required to make net metering available to a  
24 customer-generator if the total rated generating capacity of net metering  
25 systems equals; (A) 5% of the supplier's single-hour peak load during the  
26 previous year; or (B) such higher percentage as specified by the commis-  
27 sion, for a public utility, or the governing body, for any other utility, once  
28 the total rated generating capacity of net metering systems has reach 5%  
29 of the supplier's single-hour peak load during the previous year;

30 (b) offer to the customer-generator a tariff or contract that is identical  
31 in electrical energy rates, rate structure and monthly charges to the con-  
32 tract or tariff that the customer would be assigned if the customer were  
33 not an eligible customer-generator but shall not charge the customer-  
34 generator any additional standby, capacity, interconnection or other fee  
35 or charge that would not otherwise be charged if the customer were not  
36 an eligible customer-generator; and

37 (c) disclose annually the availability of the net metering program to  
38 each of its customers with the method and manner of disclosure being at  
39 the discretion of the supplier.

40 New Sec. ~~14~~ [12.] A customer-generator's facility shall be equipped  
41 with sufficient metering equipment that can measure the net amount of  
42 electrical energy produced or consumed by the customer-generator. If  
43 the customer-generator's existing meter equipment does not meet these

1 requirements or if it is necessary for the electric supplier to install addi-  
2 tional distribution equipment to accommodate the customer-generator's  
3 facility, the customer-generator shall reimburse the retail electric supplier  
4 for the costs to purchase and install the necessary additional equipment.  
5 At the request of the customer-generator, such costs may be initially paid  
6 for by the retail electric supplier and any amount equal to not more than  
7 the total costs plus a reasonable interest charge may be recovered from  
8 the customer-generator over the course of not more than 12 billing cycles.  
9 Any subsequent meter testing, maintenance or meter equipment change  
10 necessitated by the customer-generator shall be paid for by the customer-  
11 generator.

12 New Sec. ~~15~~ [13.] Consistent with the provisions of the net meter-  
13 ing and easy connection act, the net electrical energy measurement shall  
14 be calculated in the following manner:

15 (a) For a customer-generator, a retail electric supplier shall measure  
16 the net electrical energy produced or consumed during the billing period  
17 in accordance with normal metering practices for customers in the same  
18 rate class, by employing a single, bidirectional meter that measures the  
19 amount of electrical energy produced and consumed, by employing mul-  
20 tiple meters that separately measure the customer-generator's consump-  
21 tion and production of electricity or by employing an alternative  
22 technology.

23 (b) If the electricity supplied by the supplier exceeds the electricity  
24 generated by the customer-generator during a billing period, the cus-  
25 tomer-generator shall be billed for the net electricity supplied by the  
26 supplier in accordance with normal practices for customers in the same  
27 rate class.

28 (c) If the electricity generated by the customer-generator exceeds the  
29 electricity supplied by the supplier during a billing period, the customer-  
30 generator shall be billed for the appropriate customer charges for that  
31 billing period in accordance with section ~~13~~ [12], and amendments  
32 thereto, and shall be credited an amount at least equal to 150% of the  
33 avoided fuel cost of the excess kilowatt-hours generated during the billing  
34 period, with this credit applied to the following billing period.

35 (d) Any credits granted pursuant to this section shall expire without  
36 any compensation at the earlier of either 12 months after their issuance  
37 or when the customer-generator disconnects service or terminates the  
38 net metering relationship with the supplier.

39 (e) For any electric cooperative utility or municipal electric utility,  
40 upon agreement of the wholesale generator supplying electric energy to  
41 the retail electric supplier, at the option of the retail electric supplier, the  
42 credit to the customer-generator may be provided by the wholesale  
43 generator.



1     New Sec. ~~16~~ [14.] (a) Each qualified electric energy generation unit  
2     used by a customer-generator shall meet all applicable safety, perform-  
3     ance, interconnection and reliability standards established by any local  
4     code authorities, the national electrical code, the national electrical safety  
5     code, the institute of electrical and electronics engineers and underwriters  
6     laboratories for distributed generation. No supplier shall impose any fee,  
7     charge or other requirement not specifically authorized by the net me-  
8     tering and easy connection act or the rules and regulations promulgated  
9     under such act unless the fee, charge or other requirement would apply  
10    to similarly situated customers who are not customer-generators, except  
11    that a retail electric supplier may require that a customer-generator's  
12    system contain a switch, circuit breaker, fuse or other easily accessible  
13    device or feature located in immediate proximity to the customer-gen-  
14    erator's metering equipment that would allow a utility worker the ability  
15    to manually and instantly disconnect the unit from the utility's electric  
16    distribution system.

17    (b) For systems of 10 kilowatts or less, a customer-generator whose  
18    system meets the standards specified by subsection (a) shall not be re-  
19    quired to install additional controls, perform or pay for additional tests or  
20    distribution equipment or purchase additional liability insurance beyond  
21    what is required under subsection (a) and section ~~14~~ [13], and amend-  
22    ments thereto.

23    (c) For customer-generator systems of greater than 10 kilowatts, the  
24    commission for public utilities and the governing body for other utilities,  
25    by rule or equivalent formal action by each respective governing body,  
26    shall:

27    (1) Set forth safety, performance and reliability standards and  
28    requirements; and

29    (2) establish the qualifications for exemption from a requirement to  
30    install additional controls, perform or pay for additional tests or distri-  
31    bution equipment or purchase additional liability insurance.

32    New Sec. ~~17~~ [15.] (a) Applications by a customer-generator for in-  
33    terconnection of the qualified generation unit to the distribution system  
34    shall be accompanied by the plan for the customer-generator's electrical  
35    generating system, including, but not limited to, a wiring diagram and  
36    specifications for the generating unit, and shall be reviewed and re-  
37    sponded to by the retail electric supplier within 30 days after receipt for  
38    systems of 10 kilowatts or less and within 90 days after receipt for all  
39    other systems. Prior to the interconnection of the qualified generation  
40    unit to the supplier's system, the customer-generator will furnish the re-  
41    tail electric supplier a certification from a qualified professional electri-  
42    cian or engineer that the installation meets the requirements of subsec-  
43    tion (a) of section ~~16~~ [15], and amendments thereto. If the application

1 for interconnection is approved by the retail electric supplier and the  
2 customer-generator does not complete the interconnection within one  
3 year after receipt of notice of the approval, the approval shall expire and  
4 the customer-generator shall be responsible for filing a new application.

5 (b) Upon the change in ownership of a qualified electric energy gen-  
6 eration unit, the new customer-generator shall be responsible for filing a  
7 new application under this section.

8 New Sec. ~~18.~~ **[16.]** Each retail electric supplier regulated by the  
9 commission shall submit an annual net metering report to the commission  
10 and each other retail electric supplier shall submit the same report to its  
11 respective governing body. For data collection purposes only, non-regu-  
12 lated electric suppliers shall submit the same report to the commission.  
13 The report shall include the following information for the previous cal-  
14 endar year: The total number of customer-generator facilities, the total  
15 estimated generating capacity of its net-metered customer-generators and  
16 the total estimated net kilowatt-hours received from customer-generators.  
17 The supplier shall make such report available to any consumer of the  
18 supplier upon request.

19 New Sec. ~~19.~~ **[17.]** Within nine months after the effective date of  
20 the net metering and easy connection act, the commission shall adopt  
21 rules and regulations necessary for the administration of such act for  
22 electric public utilities, which shall include rules and regulations ensuring  
23 that simple contracts will be used for interconnection and net metering.  
24 For systems of 10 kilowatts or less, the application process shall use an  
25 all-in-one document that includes a simple interconnection request, sim-  
26 ple procedures and a brief set of terms and conditions.

27 New Sec. ~~20.~~ **[18.]** Within nine months after the effective date of  
28 the net metering and easy connection act, the governing body of an elec-  
29 tric cooperative utility or electric municipal utility shall adopt policies  
30 establishing a simple contract to be used for interconnection and net  
31 metering. For systems of 10 kilowatts or less, the application process shall  
32 use an all-in-one document that includes a simple interconnection re-  
33 quest, simple procedures and a brief set of terms and conditions.

34 New Sec. ~~21.~~ **[19.]** For any cause of action relating to any damages  
35 to property or person caused by the generation unit of a customer-gen-  
36 erator or the interconnection thereof, the retail electric supplier shall have  
37 no liability absent clear and convincing evidence of fault on the part of  
38 the supplier.

39 New Sec. ~~22.~~ **[20.]** The estimated generating capacity of all net me-  
40 tering systems operating under the provisions of the net metering and  
41 easy connection act shall count towards the respective retail electric sup-  
42 plier's accomplishment of any renewable energy portfolio target or man-  
43 date adopted by the Kansas legislature.

1 New Sec. ~~23~~ [21.] Any costs incurred under the net metering and  
2 easy connection act by a retail electric supplier shall be recoverable in  
3 the utility's rate structure.

4 New Sec. ~~24~~ [22] No consumer shall connect or operate an electric  
5 generation unit in parallel phase and synchronization with any retail elec-  
6 tric supplier without written approval by such supplier that all of the  
7 requirements under subsection (a) of section ~~17~~ [16], and amendments  
8 thereto, have been met. For a consumer who violates this provision, a  
9 supplier may immediately and without notice disconnect the electric fa-  
10 cilities of such consumer and terminate such consumer's electric service.

11 New Sec. ~~25~~ [23.] The manufacturer of any electric generation unit  
12 used by a customer-generator may be held liable for any damages to  
13 property or person caused by a defect in the electric generation unit of  
14 a customer-generator.

15 New Sec. ~~26~~ [24.] The seller, installer or manufacturer of any elec-  
16 tric generation unit who knowingly misrepresents the safety aspects of an  
17 electric generation unit may be held liable for any damages to property  
18 or person caused by the electric generation unit of a customer-generator.

19 Sec. ~~27~~ [25.] K.S.A. 2007 Supp. 66-1,184 is hereby amended to read  
20 as follows: 66-1,184. (a) Except as provided in subsection (b), every public  
21 utility which provides retail electric services in this state shall enter into  
22 a contract for parallel generation service with any person who is a cus-  
23 tomer of such utility, upon request of such customer, whereby such cus-  
24 tomer may attach or connect to the utility's delivery and metering system  
25 an apparatus or device for the purpose of feeding excess electrical power  
26 which is generated by such customer's energy producing system into the  
27 utility's system. No such apparatus or device shall either cause damage  
28 to the public utility's system or equipment or present an undue hazard  
29 to utility personnel. Every such contract shall include, but need not be  
30 limited to, provisions relating to fair and equitable compensation on such  
31 customer's monthly bill for energy supplied to the utility by such  
32 customer.

33 (b) (1) For purposes of this subsection:

34 (A) "Utility" means an electric public utility, as defined by K.S.A. 66-  
35 101a, and amendments thereto, any cooperative, as defined by K.S.A. 17-  
36 4603, and amendments thereto, or a nonstock member-owned electric  
37 cooperative corporation incorporated in this state, or a municipally owned  
38 or operated electric utility;

39 (B) "school" means Cloud county community college and Dodge City  
40 community college.

41 (2) Every utility which provides retail electric services in this state  
42 shall enter into a contract for parallel generation service with any person  
43 who is a customer of such utility, if such customer is a residential customer

1 of the utility and owns a renewable generator with a capacity of 25 kilo-  
2 watts or less, or is a commercial customer of the utility and owns a re-  
3 newable generator with a capacity of 200 kilowatts or less or is a school  
4 and owns a renewable generator with a capacity of 1.5 megawatts or less.  
5 Such generator shall be appropriately sized for such customer's antici-  
6 pated electric load. A commercial customer who uses the operation of a  
7 renewable generator in connection with irrigation pumps shall not request  
8 more than 10 irrigation pumps connected to renewable generators be  
9 attached or connected to the utility's system. At the customer's delivery  
10 point on the customer's side of the retail meter such customer may attach  
11 or connect to the utility's delivery and metering system an apparatus or  
12 device for the purpose of feeding excess electrical power which is gen-  
13 erated by such customer's energy producing system into the utility's sys-  
14 tem. No such apparatus or device shall either cause damage to the utility's  
15 system or equipment or present an undue hazard to utility personnel.  
16 Every such contract shall include, but need not be limited to, provisions  
17 relating to fair and equitable compensation for energy supplied to the  
18 utility by such customer. Such compensation shall be not less than 100%  
19 of the utility's monthly system average cost of energy per kilowatt hour  
20 except that in the case of renewable generators with a capacity of 200  
21 kilowatts or less, such compensation shall be not less than 150% of the  
22 utility's monthly system average cost of energy per kilowatt hour. A utility  
23 may credit such compensation to the customer's account or pay such  
24 compensation to the customer at least annually or when the total com-  
25 pensation due equals \$25 or more.

26 (3) *A customer-generator, as defined by section ~~42~~[11], and amend-*  
27 *ments thereto, shall have the option of entering into a contract pursuant*  
28 *to this subsection (b) or utilizing the net metering and easy connection*  
29 *act. The customer-generator shall exercise the option in writing, filed with*  
30 *the utility and shall not be entitled to change the option once it is filed.*

31 (c) The following terms and conditions shall apply to contracts en-  
32 tered into under subsection (a) or (b):

33 (1) The utility will supply, own, and maintain all necessary meters  
34 and associated equipment utilized for billing. In addition, and for the  
35 purposes of monitoring customer generation and load, the utility may  
36 install at its expense, load research metering. The customer shall supply,  
37 at no expense to the utility, a suitable location for meters and associated  
38 equipment used for billing and for load research;

39 (2) for the purposes of insuring the safety and quality of utility system  
40 power, the utility shall have the right to require the customer, at certain  
41 times and as electrical operating conditions warrant, to limit the produc-  
42 tion of electrical energy from the generating facility to an amount no  
43 greater than the load at the customer's facility of which the generating

1 facility is a part;

2 (3) the customer shall furnish, install, operate, and maintain in good  
3 order and repair and without cost to the utility, such relays, locks and  
4 seals, breakers, automatic synchronizer, and other control and protective  
5 apparatus as shall be designated by the utility as being required as suitable  
6 for the operation of the generator in parallel with the utility's system. In  
7 any case where the customer and the utility cannot agree to terms and  
8 conditions of any such contract, the state corporation commission shall  
9 establish the terms and conditions for such contract. In addition, the  
10 utility may install, own, and maintain a disconnecting device located near  
11 the electric meter or meters. Interconnection facilities between the cus-  
12 tomer's and the utility's equipment shall be accessible at all reasonable  
13 times to utility personnel. Upon notification by the customer of the cus-  
14 tomer's intent to construct and install parallel generation, the utility shall  
15 provide the customer a written estimate of all costs that will be incurred  
16 by the utility and billed to the customer to accommodate the intercon-  
17 nection. The customer may be required to reimburse the utility for any  
18 equipment or facilities required as a result of the installation by the cus-  
19 tomer of generation in parallel with the utility's service. The customer  
20 shall notify the utility prior to the initial energizing and start-up testing  
21 of the customer-owned generator, and the utility shall have the right to  
22 have a representative present at such test;

23 (4) the utility may require a special agreement for conditions related  
24 to technical and safety aspects of parallel generation; and

25 (5) the utility may limit the number and size of renewable generators  
26 to be connected to the utility's system due to the capacity of the distri-  
27 bution line to which such renewable generator would be connected, and  
28 in no case shall the utility be obligated to purchase an amount greater  
29 than 4% of such utility's peak power requirements.

30 (d) Service under any contract entered into under subsection (a) or  
31 (b) shall be subject to either the utility's rules and regulations on file with  
32 the state corporation commission, which shall include a standard inter-  
33 connection process and requirements for such utility's system, or the cur-  
34 rent federal energy regulatory commission interconnection procedures  
35 and regulations.

36 (e) In any case where the owner of the renewable generator and the  
37 utility cannot agree to terms and conditions of any contract provided for  
38 by this section, the state corporation commission shall establish the terms  
39 and conditions for such contract.

40 (f) The governing body of any school desiring to proceed under this  
41 section shall, prior to taking any action permitted by this section, make a  
42 finding that either: (1) Net energy cost savings will accrue to the school  
43 from such renewable generation over a 20-year period; or (2) that such

1 renewable generation is a science project being conducted for educational  
2 purposes and that such project may not recoup the expenses of the project  
3 through energy cost savings. Any school proceeding under this section  
4 may contract or enter into a finance, pledge, loan or lease-purchase agree-  
5 ment with the Kansas development finance authority as a means of fi-  
6 nancing the cost of such renewable generation.

7 (g) For the purpose of meeting the governor's stated goal of produc-  
8 ing 10% of the state's electricity by wind power by 2010 and 20% by 2020,  
9 the parallel generation of electricity provided for in this section shall be  
10 included as part of the state's energy generation by wind power.

11 Sec. ~~28.~~ **[26.]** K.S.A. 2007 Supp. 65-3005 is hereby amended to read  
12 as follows: 65-3005. (a) The secretary shall have the power to:

13 ~~(a)~~ (1) Adopt, amend and repeal rules and regulations implementing  
14 and consistent with this act.

15 ~~(b)~~ (2) Hold hearings relating to any aspect of or matter in the ad-  
16 ministration of this act concerning air quality control, and in connection  
17 therewith, compel the attendance of witnesses and the production of  
18 evidence.

19 ~~(c)~~ (3) Issue such orders, permits and approvals as may be necessary  
20 to effectuate the purposes of this act and enforce the same by all appro-  
21 priate administrative and judicial proceedings.

22 ~~(d)~~ (4) Require access to records relating to emissions which cause  
23 or contribute to air pollution.

24 ~~(e)~~ (5) Prepare and develop a comprehensive plan or plans for the  
25 prevention, abatement and control of air pollution originating in Kansas  
26 that affects air quality in Kansas or in other states or both.

27 ~~(f)~~ (6) Adopt rules and regulations governing such public notification  
28 and comment procedures as authorized by this act.

29 ~~(g)~~ (7) Encourage voluntary cooperation by persons or affected  
30 groups to achieve the purposes of this act.

31 ~~(h)~~ ~~(1)~~ (8) (A) Encourage local units of government to handle air  
32 pollution problems within their respective jurisdictions and on a coop-  
33 erative basis; ~~(2)~~ (B) provide technical and consultative assistance there-  
34 for; and ~~(3)~~ (C) enter into agreements with local units of government to  
35 administer all or part of the provisions of the Kansas air quality act in the  
36 units' respective jurisdictions.

37 ~~(i)~~ (9) Encourage and conduct studies, investigations and research  
38 relating to air contamination and air pollution and their causes, effects,  
39 prevention, abatement and control.

40 ~~(j)~~ (10) Encourage air contaminant emission sources to voluntarily  
41 implement strategies, including the development and use of innovative  
42 technologies, market-based principles and other private initiatives to re-  
43 duce or prevent pollution.

1     ~~(4)~~ (11) Determine by means of field studies and sampling the degree  
2 of air contamination and air pollution in the state and the several parts  
3 thereof.

4     ~~(4)~~ (12) Establish ambient air quality standards for the state as a whole  
5 or for any part thereof.

6     ~~(m)~~ (13) Collect and disseminate information and conduct educa-  
7 tional and training programs relating to air contamination and air  
8 pollution.

9     ~~(n)~~ (14) Advise, consult and cooperate with other agencies of the  
10 state, local governments, industries, other states, interstate or interlocal  
11 agencies, and the federal government, and with interested persons or  
12 groups.

13     ~~(o)~~ (15) Accept, receive and administer grants or other funds or gifts  
14 from public and private entities, including the federal government, for  
15 the purpose of carrying out any of the functions of this act. Such funds  
16 received by the secretary pursuant to this section shall be deposited in  
17 the state treasury to the account of the department of health and  
18 environment.

19     ~~(p)~~ (16) Enter into contracts and agreements with other state agen-  
20 cies or subdivisions, local governments, other states, interstate agencies,  
21 the federal government or its agencies or private entities as is necessary  
22 to accomplish the purposes of the Kansas air quality act.

23     ~~(q)~~ (17) Conduct or participate in intrastate or interstate emissions  
24 trading programs or other programs that demonstrate equivalent air qual-  
25 ity benefits for the prevention, abatement and control of air pollution in  
26 Kansas or in other states or both.

27     ~~(r)~~ (18) Prepare and adopt a regional haze plan as may be necessary  
28 to prevent, abate and control air pollution originating in Kansas that af-  
29 fects air quality in Kansas or in other states or both. Any regional haze  
30 plan prepared by the secretary shall be no more stringent than is required  
31 by 42 U.S.C. 7491.

32     ~~(s)~~ (19) Participate in the activities of any visibility transport com-  
33 mission established under 42 U.S.C. 7492. The secretary shall report to  
34 the governor and the legislature on the activities of any such visibility  
35 transport commission annually.

36     **[(b) It is the policy of this state to prevent the deterioration of**  
37 **air quality in accordance with the following:]**

38     ~~(b)~~ (1) *The secretary shall not in the exercise of powers and duties,*  
39 *except as provided below, [promulgate any rule and regulation, or]*  
40 *issue any order or take any other action under any provision of the Kansas*  
41 *air quality act or other provision of law, that is more stringent, restrictive*  
42 *or expansive than required by the federal clean air act (42 U.S.C. 7401*  
43 *et seq.) or any rule and regulation adopted by the United States environ-*

1 *mental protection agency under ~~such act~~ [the federal clean air act, as*  
2 *amended]. If the secretary determines that a more stringent, restrictive*  
3 *or expansive rule and regulation is necessary, the secretary may imple-*  
4 *ment the rule and regulation only ~~upon its adoption in accordance with~~*  
5 *~~the rules and regulations filing act. Nothing~~ [after approval by an act*  
6 *of the legislature; provided however, nothing] herein shall preclude*  
7 *the secretary and applicant or permittee from concurring with a more*  
8 *stringent, restrictive or expansive condition in a permit to construct or*  
9 *operate a stationary source.*

10 (2) *The restrictions of the secretary's powers herein shall not apply*  
11 *to: (A) Actions by the secretary to prevent designation of an area as a*  
12 *nonattainment area by the United States environmental protection*  
13 *agency; or (B) an implementation plan developed by the secretary to bring*  
14 *a nonattainment area into compliance or to maintain compliance as that*  
15 *plan is implemented within the nonattainment area.*

16 (3) *For any application for a permit required by federal or state law,*  
17 *the secretary shall not deny or delay the issuance of such permit when*  
18 *the requirements of this act have been met.*

19 (c) *In as much as K.S.A. 65-3012, and amendments thereto, does not*  
20 *now apply, nor has it ever been applicable, to the air quality permitting*  
21 *process, the secretary may not use the emergency powers granted by*  
22 *K.S.A. 65-3012, and amendments thereto, in the air quality permitting*  
23 *process, nor any powers or discretion under any other statute not strictly*  
24 *applicable to the air quality permitting process.*

25 (d) *Any action by the secretary on any application filed after January*  
26 *1, 2006, and before the effective date of this act, which seeks the issuance,*  
27 *modification, amendment, revision or renewal of any approval or permit,*  
28 *and which is still the subject of any administrative or judicial review*  
29 *proceedings, shall be reconsidered by the secretary upon the applicant's*  
30 *or permittee's timely written request, which shall be filed no later than*  
31 *60 days after the effective date of this act. Within 15 days after the ap-*  
32 *plicant or permittee files a written request pursuant hereto, the secretary*  
33 *shall reconsider the secretary's decision, agency action or order and shall*  
34 *determine in accordance with the provisions of this act, as amended,*  
35 *whether the issuance, modification, amendment, revision or renewal of*  
36 *any approval or permit requested by the permittee or applicant should*  
37 *be issued, modified, amended, revised or renewed. If the applicant or*  
38 *permittee is aggrieved by the secretary's determination hereunder, the*  
39 *applicant or permittee shall be immediately entitled to judicial review of*  
40 *such agency action by filing a petition for judicial review in the court of*  
41 *appeals within 30 days from the date of the secretary's determination. If*  
42 *the secretary fails to act within the 15 days, the applicant or permittee*  
43 *immediately shall be entitled to seek a writ of mandamus compelling the*



1 *secretary to act by filing for such writ in the court of appeals. Such pro-*  
2 *ceedings shall be conducted in accordance with K.S.A. 77-601 et seq., and*  
3 *amendments thereto, however the applicant or permittee shall not be re-*  
4 *quired to exhaust any other or additional administrative remedies avail-*  
5 *able within the agency notwithstanding any other provision of law.*

6 Sec. ~~29~~. [27.] K.S.A. 2007 Supp. 65-3008a is hereby amended to  
7 read as follows: 65-3008a. (a) No permit shall be issued, modified, re-  
8 newed or reopened without first providing the public an opportunity to  
9 comment and request a public hearing on the proposed permit action.  
10 The request for a public hearing on the issuance of a permit shall set  
11 forth the basis for the request and a public hearing shall be held if, in the  
12 judgment of the secretary, there is sufficient reason.

13 (b) The secretary shall affirm, modify or reverse the decision on such  
14 permit after the public comment period or public hearing, *and shall af-*  
15 *firm the issuance of any permit the terms and conditions of which comply*  
16 *with all requirements established by rules and regulations promulgated*  
17 *pursuant to the Kansas air quality act.* Any person who participated in  
18 the public comment process or the public hearing who otherwise would  
19 have standing under K.S.A. 77-611, and amendments thereto, shall have  
20 standing to obtain judicial review of the secretary's final action on the  
21 permit pursuant to the act for judicial review and civil enforcement of  
22 agency actions in the court of appeals. Any such person other than the  
23 applicant for or holder of the permit shall not be required to have ex-  
24 hausted administrative remedies in order to be entitled to review. The  
25 court of appeals shall have original jurisdiction to review any such final  
26 agency action. The record before the court of appeals shall be confined  
27 to the agency record for judicial review and consist of the documentation  
28 submitted to or developed by the secretary in making the final permit  
29 decision, including the permit application and any addenda or amend-  
30 ments thereto, the permit summary, the draft permit, all written com-  
31 ments properly submitted to the secretary, all testimony presented at any  
32 public hearing held on the permit application, all responses by the ap-  
33 plicant or permit holder to any written comments or testimony, the sec-  
34 retary's response to the public comments and testimony and the final  
35 permit.

36 (c) When determined appropriate by the secretary, the procedures  
37 set out in subsection (a) may be required prior to the issuance, modifi-  
38 cation, renewal or reopening of an approval.

39 Sec. ~~30~~. [28.] K.S.A. 65-3008b is hereby amended to read as follows:  
40 65-3008b. (a) The secretary may suspend or revoke an approval or a per-  
41 mit if the permittee has violated any provision of the approval or the  
42 permit, any provision of this act or any rule and regulation adopted under  
43 this act and applicable to the permitted source.

1 (b) As applicable to the source for which the approval or permit is  
2 sought, the secretary may deny an approval or permit, or a renewal  
3 thereof, if the applicant fails to: (1) Submit a complete application; or (2)  
4 submit an application fee.

5 (c) The secretary may deny a permit for any proposed new stationary  
6 source if the owner or operator of such a source fails to demonstrate to  
7 the satisfaction of the secretary that any other stationary source owned  
8 or operated by such person, or by any entity controlling, controlled by or  
9 under common control with such person, in this state is in compliance,  
10 or meeting a schedule for compliance, with all applicable emission limi-  
11 tations and standards under this act and the federal clean air act, and  
12 amendments thereto.

13 (d) The secretary may modify or reopen an approval or a permit for  
14 cause. The secretary shall reopen a permit whenever requirements under  
15 this act become applicable to a permitted source and three or more years  
16 remain on the original term of the permit. Any permit revision incorpo-  
17 rating a requirement adopted by the secretary shall be effective as soon  
18 as practicable, but not later than 18 months after the promulgation of the  
19 requirement by the United States environmental protection agency.

20 (e) Within 15 days after the issuance of a notice of intent to take any  
21 action authorized by subsection (a), (b), (c) or (d), or within 15 days after  
22 the secretary's written decision to affirm, modify or reverse a permit de-  
23 cision pursuant to subsection (b) of K.S.A. 65-3008a, the permittee may  
24 file a request for a hearing with the secretary. Each such notice of intent  
25 shall specify the provision of this act or rule and regulation allegedly  
26 violated, the facts constituting the alleged violation and the secretary's  
27 intended action. Each notice of intent or written decision to affirm, mod-  
28 ify or reverse a permit decision shall state the permittee's right to request  
29 a hearing. Such hearing shall be conducted in accordance with the Kansas  
30 administrative procedure act.

31 (f) The filing of a request by the permittee for an approval or permit  
32 modification, revocation or amendment, or the filing by the permittee of  
33 a notification of planned changes or anticipated noncompliance, does not  
34 stay any approval or permit condition.

35 ~~(g) No permit shall be issued, modified, amended, revised or re-~~  
36 ~~newed unless the United States environmental protection agency has cer-~~  
37 ~~tified that such permit complies with the requirements of the federal~~  
38 ~~clean air act, except that a permit may be issued if the United States~~  
39 ~~environmental protection agency has not notified the secretary of the~~  
40 ~~United States environmental protection agency's decision within 45 days~~  
41 ~~after receipt of the proposed permit by such agency. For any operating~~  
42 ~~permit issued in accordance with title V of the federal clean air act, a~~  
43 ~~copy of a permit proposed to be issued and a copy of the application (and~~

1 *any application for a permit modification or renewal) or such portion*  
2 *thereof, including any compliance plan, shall be transmitted to the ad-*  
3 *ministrator of the United States environmental protection agency. Should*  
4 *the administrator of the United States environmental protection agency*  
5 *determine the proposed permit is not in compliance with the requirements*  
6 *of the federal clean air act, including the requirement of an applicable*  
7 *implementation plan, and within 45 days after receipt objects in writing*  
8 *to the issuance of the permit as not in compliance with such requirements,*  
9 *then in such event the secretary shall respond in writing to the adminis-*  
10 *trator. If the administrator of the United States environmental protection*  
11 *agency does not object in writing within 45 days after receipt of the pro-*  
12 *posed permit, the secretary shall issue or renew the permit as submitted*  
13 *to the United States environmental protection agency for review.*

14 (h) The secretary shall issue or deny the permit (including requests  
15 for modification or to reopen the permit):

16 (1) Within three years of the date the United States environmental  
17 protection agency approves the state permitting program pursuant to the  
18 provisions of the federal clean air act, as amended in November 1990,  
19 for permit applications submitted within the first full year after such date;

20 (2) pursuant to the time schedule provided by title IV (acid rain) of  
21 the 1990 amendments to the federal clean air act, for air contaminant  
22 emission sources subject to that title; or

23 (3) within 18 months after receiving a complete application, in all  
24 other cases.

25 (i) Failure of the secretary to issue or deny the permit, or grant or  
26 deny a request to modify or reopen the permit, within the period stated  
27 in subsection (h) shall not result in the default issuance of a permit, permit  
28 amendment, permit modification or permit renewal nor shall such failure  
29 result in any other entity assuming jurisdiction to act on the permit or  
30 the request.

31 Sec. ~~31~~ **[29.]** K.S.A. 66-104d is hereby amended to read as follows:  
32 66-104d. (a) As used in this section, “cooperative” means any ~~cooperative,~~  
33 ~~as defined by K.S.A. 17-4603, and amendments thereto, which has fewer~~  
34 ~~than 15,000 customers and which provides power principally at retail~~  
35 *corporation organized under the electric cooperative act, K.S.A. 17-4601*  
36 *et seq., and amendments thereto, or which becomes subject to the electric*  
37 *cooperative act in the manner therein provided; or any limited liability*  
38 *company or corporation providing electric service at wholesale in the state*  
39 *of Kansas that is owned by four or more electric cooperatives that provide*  
40 *retail service in the state of Kansas; or any customer-owned corporation*  
41 *formed prior to 2004.*

42 (b) Except as otherwise provided in subsection (f), a cooperative may  
43 elect to be exempt from the jurisdiction, regulation, supervision and con-

- 1 trol of the state corporation commission by complying with the provisions  
2 of subsection (c).
- 3 (c) To be exempt under subsection (b), a cooperative shall poll its  
4 members as follows:
- 5 (1) An election under this subsection may be called by the board of  
6 trustees or shall be called not less than 180 days after receipt of a valid  
7 petition signed by not less than 10% of the members of the cooperative.
- 8 (2) The proposition for deregulation shall be presented to a meeting  
9 of the members, the notice of which shall set forth the proposition for  
10 deregulation and the time and place of the meeting. Notice to the mem-  
11 bers shall be written and delivered not less than 21 nor more than 45  
12 days before the date of the meeting.
- 13 (3) If the cooperative mails information to its members regarding the  
14 proposition for deregulation other than notice of the election and the  
15 ballot, the cooperative shall also include in such mailing any information  
16 in opposition to the proposition that is submitted by petition signed by  
17 not less than 1% of the cooperative's members. All expenses incidental  
18 to mailing the additional information, including any additional postage  
19 required to mail such additional information, must be paid by the sig-  
20 natories to the petition.
- 21 (4) If the proposition for deregulation is approved by the affirmative  
22 vote of not less than a majority of the members voting on the proposition,  
23 the cooperative shall notify the state corporation commission in writing  
24 of the results within 10 days after the date of the election.
- 25 (5) Voting on the proposition for deregulation shall be by mail ballot.
- 26 (d) A cooperative exempt under this section may elect to terminate  
27 its exemption in the same manner as prescribed in subsection (c).
- 28 (e) An election under subsection (c) or (d) may be held not more  
29 often than once every two years.
- 30 (f) Nothing in this section shall be construed to affect the single cer-  
31 tified service territory of a cooperative or the authority of the state cor-  
32 poration commission, as otherwise provided by law, over a cooperative  
33 with regard to service territory;; charges, *fees or tariffs* for transmission  
34 services;; sales of power for resale, *other than sales between a cooperative,*  
35 *as defined in subsection (a), that does not provide retail electric service*  
36 *and an owner of such cooperative; and* wire stringing and transmission  
37 line siting, pursuant to K.S.A. 66-131, 66-183, 66-1,170 et seq. or 66-  
38 1,177 et seq., and amendments thereto.
- 39 (g) (1) Notwithstanding a cooperative's election to be exempt under  
40 this section, the commission shall investigate all rates, joint rates, tolls,  
41 charges and exactions, classifications and schedules of rates of such co-  
42 operative if there is filed with the commission, not more than one year  
43 after a change in such cooperative's rates, joint rates, tolls, charges and

1 exactions, classifications or schedules of rates, a petition, *in the case of a*  
2 *retail distribution cooperative*, signed by not less than 5% of all the co-  
3 operative's customers or 3% of the cooperative's customers from any one  
4 rate class, *or, in the case of a generation and transmission cooperative,*  
5 *not less than 20% of its members or 5% of the aggregate retail customers*  
6 *of its members*. If, after investigation, the commission finds that such  
7 rates, joint rates, tolls, charges or exactions, classifications or schedules of  
8 rates are unjust, unreasonable, unjustly discriminatory or unduly prefer-  
9 ential, the commission shall have the power to fix and order substituted  
10 therefor such rates, joint rates, tolls, charges and exactions, classifications  
11 or schedules of rates as are just and reasonable.

12 (2) The cooperative's rates, joint rates, tolls, charges and exactions,  
13 classifications or schedules of rates complained of shall remain in effect  
14 subject to change or refund pending the state corporation commission's  
15 investigation and final order.

16 (3) Any customer of a cooperative wishing to petition the commission  
17 pursuant to subsection (g)(1) may request from the cooperative the  
18 names, addresses and rate classifications of all the cooperative's customers  
19 or of the cooperative's customers from any one or more rate classes. The  
20 cooperative, within 21 days after receipt of the request, shall furnish to  
21 the customer the requested names, addresses and rate classifications and  
22 may require the customer to pay the reasonable costs thereof.

23 (h) (1) If a cooperative is exempt under this section, not less than 10  
24 days' notice of the time and place of any meeting of the board of trustees  
25 at which rate changes are to be discussed and voted on shall be given to  
26 all members of the cooperative and such meeting shall be open to all  
27 members.

28 (2) Violations of subsection (h)(1) shall be subject to civil penalties  
29 and enforcement in the same manner as provided by K.S.A. 75-4320 and  
30 75-4320a, and amendments thereto, for violations of K.S.A. 75-4317 et  
31 seq. and amendments thereto.

32 (i) (1) Any cooperative exempt under this section shall maintain a  
33 schedule of rates and charges at the cooperative headquarters and shall  
34 make copies of such schedule of rates and charges available to the general  
35 public during regular business hours.

36 (2) Any cooperative which fails, neglects or refuses to maintain such  
37 copies of schedule of rates and charges under this subsection shall be  
38 subject to a civil penalty of not more than \$500.

39 New Sec. ~~32~~ [30.] (a) For taxable years 2008, 2009 and 2010, there  
40 shall be allowed tax credits against the income tax liability imposed upon  
41 a taxpayer pursuant to the Kansas income tax act, in an amount equal to  
42 the following:

43 (1) For nonowner occupied single family dwellings and duplexes and

- 1 multiple family dwellings other than duplexes, \$100 per dwelling unit for
- 2 each six inches of ceiling insulation installed;
- 3 (2) for nonowner occupied single family dwellings, \$300 for a newly
- 4 installed heating, ventilation or air conditioning system which replaces an
- 5 existing system and meets one or more of the following criteria:
- 6 (A) Furnace or boiler must meet or exceed 92% AFUE;
- 7 (B) split systems must meet or exceed SEER 14, EER of 11.5;
- 8 (C) single package systems must meet or exceed SEER 14;
- 9 (D) air source heat pumps must meet or exceed HSPF 8, SEER 14
- 10 and EER of 11.5; and
- 11 (E) ground-source heat pumps must meet or exceed:
- 12 (i) Closed-loop systems—14.1 cooling EER and 3.3 heating coeffi-
- 13 cient of performance (COP);
- 14 (ii) open-loop systems—16.2 EER and 3.6 COP;
- 15 (iii) direct-expansion systems—15 EER and 3.5 COP; and
- 16 (iv) all ground-source heat pumps must include a desuperheater,
- 17 which preheats water for a water heater, or an integrated water heating
- 18 system; and
- 19 (3) for nonowner occupied multiple family dwellings, \$300 times the
- 20 number of dwelling units served by the system for a newly installed heat-
- 21 ing, ventilation or air conditioning system which replaces an existing sys-
- 22 tem, has a separate temperature control for each dwelling unit and meets
- 23 one or more of the following criteria:
- 24 (A) Furnace or boiler must meet or exceed 92% AFUE;
- 25 (B) split systems must meet or exceed SEER 14, EER of 11.5;
- 26 (C) single package systems must meet or exceed SEER 14;
- 27 (D) air source heat pumps must meet or exceed HSPF 8, SEER 14
- 28 and EER of 11.5; and
- 29 (E) ground-source heat pumps must meet or exceed:
- 30 (i) Closed-loop systems—14.1 cooling EER and 3.3 heating coeffi-
- 31 cient of performance (COP);
- 32 (ii) open-loop systems—16.2 EER and 3.6 COP;
- 33 (iii) direct-expansion systems—15 EER and 3.5 COP; and
- 34 (iv) all ground-source heat pumps must include a desuperheater,
- 35 which preheats water for a water heater, or an integrated water heating
- 36 system.
- 37 (b) If the amount of tax credits allowed pursuant to this section ex-
- 38 ceeds the taxpayer's income tax liability for the year in which the ex-
- 39 penditures were incurred, the amount thereof which exceeds such tax
- 40 liability may be carried over for deduction from the taxpayer's income tax
- 41 liability in the next succeeding taxable year or years until the total amount
- 42 of the tax credits have been deducted from tax liability, except that no
- 43 such tax credits shall be carried over for deduction after the fifth taxable

1 year succeeding the taxable year in which the expenditures are made.

2 (c) The taxpayer claiming a credit pursuant to this section shall pro-  
3 vide evidence of purchase and installation of the item or items for which  
4 the credit is claimed as required by rules and regulations of the secretary  
5 of revenue.

6 (d) The secretary of revenue shall adopt rules and regulations to im-  
7 plement the provisions of this section.

8 (e) The secretary of revenue shall submit a report to the legislature  
9 regarding utilization of credits claimed pursuant to this section, for pur-  
10 poses of evaluation of the program. Such report shall be due on or before  
11 the first day of the 2010 legislative session.

12 New Sec. ~~32~~ [31.] (a) In addition to the income tax credit allowed  
13 pursuant to section 31, and amendments thereto, for taxable years 2008,  
14 2009 and 2010, a taxpayer shall be entitled to a deduction from Kansas  
15 adjusted gross income with respect to: (1) The amortization of the am-  
16 ortizable costs of a new heating, ventilation or air conditioning system  
17 based upon a period of five years; plus (2) the costs of installation of such  
18 new system spread over five years. For the first taxable year in which such  
19 new system is in use, such deduction shall be an amount equal to 60% of  
20 the amortizable costs of such new system plus 60% of the costs of instal-  
21 lation of such new system. For each of the next four taxable years, such  
22 deduction shall be an amount equal to 10% of the amortizable costs of  
23 such new system plus 10% of the costs of installation of such new system.

24 (b) The election of the taxpayer to claim the deduction allowed by  
25 subsection (a) shall be made by filing a statement of such election with  
26 the secretary of revenue in the manner and form and within the time  
27 prescribed by rules and regulations adopted by the secretary.

28 (c) The secretary of revenue shall adopt rules and regulations as  
29 deemed necessary to carry out the provisions of this section.

30 [New Sec. 32. (a) As used in this section:

31 [(1) "Affected unit" means any emissions unit which generates  
32 electricity in this state and combusts coal in an amount greater  
33 than 10% of its total heat input on a rolling 12-month basis and  
34 which is a new unit, or is an existing unit that requires a new con-  
35 struction permit pursuant to rules and regulations of the secretary.

36 [(2) "Inlet conditions" means the concentration of mercury in  
37 the flue gas exiting the combustion source prior to application of  
38 any air pollution control device.

39 [(3) "Mercury" means mercury and mercury compounds in ei-  
40 ther a gaseous or particulate form.

41 [(b) The secretary of health and environment shall adopt rules  
42 and regulations requiring affected units to achieve 80% or greater  
43 reduction of mercury from the measured inlet condition of the

1 **affected unit.**

2 **[(c) This section shall be part of and supplemental to the Kan-**  
3 **sas air quality act.]**

4 New Sec. ~~34~~ **[33.]** If any provision of this act or its application to  
5 any person or circumstance is held invalid, the invalidity shall not affect  
6 any other provision or application of the act which can be given effect  
7 without the invalid provision or application. To this end the provisions of  
8 this act are severable.

9 Sec. ~~35~~ **[34.]** K.S.A. 65-3008b and 66-104d and K.S.A. 2007 Supp.  
10 65-3005, 65-3008a and 66-1,184 are hereby repealed.

11 Sec. ~~36~~ **[35.]** This act shall take effect and be in force from and after  
12 its publication in the Kansas register.