

[As Amended by House Committee of the Whole]

Session of 2008

Substitute for HOUSE BILL No. 2014

By Committee on Energy and Utilities

2-13

10 AN ACT concerning energy; relating to conservation and efficiency; elec-
11 tric generation and transmission and air emissions; amending K.S.A.
12 19-101a, 55-1,117, 65-3012 and 66-104d and K.S.A. 2008 Supp. 65-
13 3005, 65-3008a, 66-1,184, 74-99d07 and 74-99d14 and repealing the
14 existing sections.

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

17 New Section 1. The secretary of administration shall adopt rules and
18 regulations that require that the average fuel economy standard for state-
19 owned motor vehicles purchased during fiscal year 2011 shall not be less
20 than 10% higher than the average fuel economy standard of state-owned
21 motor vehicles purchased during fiscal year 2008. The head of each state
22 agency shall provide information to and cooperate with the secretary of
23 administration for the purposes of implementing and administering this
24 section and the rules and regulations adopted by the secretary of
25 administration.

26 New Sec. 2. As used in sections 1 through 6, and amendments
27 thereto:

28 (a) "ASHRAE" means American society of heating, refrigerating and
29 air-conditioning engineers, inc. standard.

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

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

35 (d) "New construction" means any building or structure which is con-
36 structed by the state or any agency of the state and the construction of
37 which commences on or after July 1, 2010.

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

1 and equipment is equal to or greater than the additional cost compared
2 to functionally equivalent products and equipment of lower efficiency.

3 New Sec. 4. (a) The secretary of administration shall adopt rules and
4 regulations for state agencies for the conduct of an energy audit at least
5 every five years on all state-owned real property. On or before the first
6 day of the 2010 regular session of the legislature and on or before the
7 first day of each ensuing regular session of the legislature, the secretary
8 of administration shall submit to the legislature a written report identi-
9 fying state-owned real property locations in which an excessive amount
10 of energy is being used in accordance with rules and regulations adopted
11 by the secretary of administration concerning energy efficiency perform-
12 ance standards for state-owned real property.

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

20 New Sec. 5. (a) Within the limitations of appropriations therefor, the
21 ~~Kansas energy office~~ **[energy programs division]** of the state corpora-
22 tion commission shall develop and increase the participation of school
23 districts and local governments in the facility conservation improvement
24 program (FCIP) pursuant to K.S.A. 75-37,125, and amendments thereto.

25 (b) The state corporation commission shall strongly encourage state
26 agencies which operate and maintain state-owned buildings that are not
27 participating in the FCIP to participate in the FCIP pursuant to K.S.A.
28 75-37,125, and amendments thereto, on or before December 1, 2011.

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

38 Sec. 7. K.S.A. 55-1,117 is hereby amended to read as follows: 55-
39 1,117. (a) As used in this section, K.S.A. 65-171d and K.S.A. 55-1,118
40 through 55-1,122, and amendments thereto:

41 (1) "Company or operator" means any form of legal entity including,
42 but not limited to, a corporation, limited liability company and limited or
43 general partnerships.

1 (2) "Secretary" means the secretary of health and environment.

2 ~~(2)~~ (3) "Underground porosity storage" means the storage of hydro-
3 carbons in underground, porous and permeable geological strata which
4 have been converted to hydrocarbon storage.

5 (b) For the purposes of protecting the health, safety and property of
6 the people of the state, and preventing surface and subsurface water
7 pollution and soil pollution detrimental to public health or to the plant,
8 animal and aquatic life of the state, the secretary of health and environ-
9 ment shall adopt separate and specific rules and regulations establishing
10 requirements, procedures and standards for the following:

11 (1) Salt solution mining;

12 (2) the safe and secure underground storage of liquid petroleum gas
13 and hydrocarbons, other than natural gas in underground porosity stor-
14 age; and

15 (3) the safe and secure underground storage of natural gas in bedded
16 salt.

17 (c) Such rules and regulations shall include, but not be limited to:

18 (1) Site selection criteria;

19 (2) design and development criteria;

20 (3) operation criteria;

21 (4) casing requirements;

22 (5) monitoring and measurement requirements;

23 (6) safety requirements, including public notification;

24 (7) closure and abandonment requirements, including the financial
25 requirements of subsection (f); and

26 (8) long term monitoring.

27 (d) (1) The secretary may adopt rules and regulations establishing
28 fees for the following services:

29 (A) Permitting, monitoring and inspecting salt solution mining
30 operators;

31 (B) permitting, monitoring and inspecting underground storage of
32 liquid petroleum gas and hydrocarbons, other than natural gas in under-
33 ground porosity storage; and

34 (C) permitting, monitoring and inspecting underground storage of
35 natural gas in bedded salt.

36 (2) The fees collected under this section by the secretary shall be
37 remitted by the secretary to the state treasurer in accordance with the
38 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
39 each such remittance, the state treasurer shall deposit the entire amount
40 in the state treasury to the credit of the subsurface hydrocarbon storage
41 fund.

42 (e) The secretary or the secretary's duly authorized representative
43 may impose on any holder of a permit issued pursuant to this section such

1 requirements relating to inspecting, monitoring, investigating, recording
2 and reporting as the secretary or representative deems necessary to ad-
3 minister the provisions of this section and rules and regulations adopted
4 hereunder.

5 (f) Any company or operator receiving a permit under the provisions
6 of this act shall demonstrate annually to the department of health and
7 environment evidence, satisfactory to the department, that such permit
8 holders have financial ability to cover the cost of closure of such permitted
9 facility as required by the department.

10 (g) The secretary may enter into contracts for services from consult-
11 ants and other experts for the purposes of assisting in the drafting of rules
12 and regulations pursuant to this section.

13 (h) (1) For a period of two years from July 1, 2001, or until the rules
14 and regulations provided for in ~~paragraph (3) of subsection (a) (b)(3)~~ are
15 adopted, the injection of working natural gas into underground storage
16 in bedded salt is prohibited, except that cushion gas may be injected into
17 existing underground storage in bedded salt. Natural gas currently stored
18 in such underground storage may be extracted.

19 (2) Any existing underground storage of natural gas in bedded salt
20 shall comply with the rules and regulations adopted under this section
21 prior to the commencement of injection of working natural gas into such
22 underground storage.

23 (3) Rules and regulations adopted under ~~paragraph (3) of subsection~~
24 ~~(a) (b)(3)~~ shall be adopted on or before July 1, 2003.

25 (i) No hydrocarbon storage shall be allowed in any underground for-
26 mation if water within the formation contains less than 5,000 milligrams
27 per liter chlorides.

28 New Sec. 8. Sections 8 through 15, and amendments thereto, shall
29 be known and may be cited as the compressed air energy storage act.

30 New Sec. 9. As used in the compressed air energy storage act:

31 (a) "Commission" means the state corporation commission.

32 (b) "Department" means the department of health and environment.

33 New Sec. 10. (a) On or before July 1, 2010, the commission shall
34 establish rules and regulations establishing requirements, procedures and
35 standards for the safe and secure injection of compressed air into storage
36 wells, which shall include maintenance of underground storage of com-
37 pressed air. Such rules and regulations shall include, but not be limited
38 to:

- 39 (1) Site selection criteria;
- 40 (2) design and development criteria;
- 41 (3) operation criteria;
- 42 (4) casing requirements;
- 43 (5) monitoring and measurement requirements;

39 New Sec. 13. (a) The commission, upon a finding that a person has
40 violated any provision of section 10, and amendments thereto, or rules
41 and regulations adopted thereunder, may impose a penalty not to exceed
42 \$10,000 per violation which shall constitute an economic deterrent to the
43 violation for which it is assessed and, in the case of a continuing violation,

1 every day such violation continues shall be deemed a separate violation.

2 (b) No penalty shall be imposed pursuant to this section except after
3 an opportunity for hearing upon the written order of the commission to
4 the person who committed the violation. The order shall state the viola-
5 tion and the penalty to be imposed.

6 (c) Whenever the commission or the commission's duly authorized
7 representative find that the soil or waters of the state are not being pro-
8 tected from pollution resulting from the storage of compressed air, the
9 commission or the commission's duly authorized representative shall issue
10 an order prohibiting such storage. Any person aggrieved by such order
11 may request in writing, within 15 days after service of the order, a hearing
12 on the order. Upon receipt of a timely request, a hearing shall be con-
13 ducted in accordance with the provisions of the Kansas administrative
14 procedure act.

15 (d) Any action of the commission pursuant to this section is subject
16 to review in accordance with the act for judicial review and civil enforce-
17 ment of agency actions.

18 New Sec. 14. (a) In performing investigations or administrative func-
19 tions relating to prevention of pollution of the soil or waters of the state,
20 the commission or the commission's duly authorized representative may
21 enter any property or facility which is subject to the provisions of section
22 10, and amendments thereto, for the purpose of observing, monitoring,
23 collecting samples, examining records and facilities to determine compli-
24 ance or noncompliance with state laws and rules and regulations relating
25 to air pollution, water pollution, soil pollution or public health or safety.

26 (b) The representatives of the commission shall have the right of in-
27 gress and egress upon any lands to clean up pollution from the storage
28 of compressed air over which the commission has jurisdiction pursuant
29 to section 10, and amendments thereto. Such representatives shall have
30 the power to occupy such land if necessary to investigate and clean up
31 such pollution or to investigate and plug any such compressed air energy
32 storage well. Any representative entering upon any land to investigate and
33 clean up such pollution or to investigate and plug any such compressed
34 air energy storage well shall not be liable for any damages necessarily
35 resulting therefrom, except damages to growing crops, livestock or im-
36 provements on the land. Upon completion of activities on such land, such
37 representative shall restore the premises to the original contour and con-
38 dition as nearly as practicable.

39 New Sec. 15. (a) (1) There is hereby established in the state treasury
40 the compressed air energy storage fund. Such fund shall be administered
41 by the commission in accordance with the provisions of this section for
42 the purpose of administering the provisions of the compressed air energy
43 storage act.

(2) The commission shall remit to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, all moneys received by the commission for the purposes of the compressed air energy storage act. Upon receipt of the remittance the state treasurer shall deposit the entire amount in the state treasury and credit it to the fund. The commission is authorized to receive from any private or governmental source any funds made available for the purposes of the compressed air energy storage act.

(3) All expenditures from the compressed air energy storage fund shall be made in accordance with appropriation acts and upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson of the commission or a person designated by the chairperson.

(b) The commission is authorized to use moneys from the compressed air energy storage fund to pay the cost of:

(1) All activities related to permitting activities, including, but not limited to, development and issuance of permits, compliance monitoring, inspections, well closures, underground storage closure, long-term monitoring and enforcement actions;

(2) review and witnessing of test procedures;

(3) review and witnessing of routine workover or repair procedures;

(4) investigation of violations, complaints, pollution and events affecting public health;

(5) design and review of remedial action plans;

(6) contracting for services needed to supplement the commission's staff expertise in facility investigations;

(7) consultation needed concerning remedial action at a permitted facility;

(8) mitigation of adverse environmental impacts;

(9) emergency or long-term remedial activities;

(10) legal costs, including expert witnesses, incurred in administration of the provisions of the compressed air energy storage act; and

(11) costs of program administration.

(c) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the compressed air energy storage fund interest earnings based on:

(1) The average daily balance of moneys in the compressed air energy storage fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding months.

New Sec. 16. (a) Except as provided in subsection (b), the commission shall grant or deny a certificate of public convenience as required by K.S.A. 66-131, and amendments thereto, or amendments to a certificate

1 of public convenience, within 180 days of the receipt of the application
2 unless the time for such decision has been extended by the applicant in
3 writing.

4 (b) The time provisions of subsection (a) shall not apply to the con-
5 sideration to grant or deny certificates of public convenience concerning
6 cases involving acquisitions and mergers of utility companies.

7 Sec. 17. K.S.A. 2008 Supp. 74-99d07 is hereby amended to read as
8 follows: 74-99d07. (a) Except as otherwise provided by this act, the au-
9 thority shall have all the powers necessary to carry out the purposes and
10 provisions of this act, including, without limitation:

11 (1) Having the duties, privileges, immunities, rights, liabilities and
12 disabilities of a body corporate and a political instrumentality of the state;

13 (2) having perpetual existence and succession;

14 (3) adopting, having and using a seal and altering the same at its
15 pleasure;

16 (4) suing and being sued in its own name;

17 (5) adopting bylaws for the regulation of its affairs and the conduct
18 of its business;

19 (6) adopting such rules and regulations as the authority deems nec-
20 essary for the conduct of the business of the authority;

21 (7) employing consulting engineers, attorneys, accountants, construc-
22 tion and financial experts, superintendents, managers and such other em-
23 ployees and agents as the authority deems necessary and fixing the com-
24 pensation thereof;

25 (8) making and executing all contracts and agreements necessary or
26 incidental to the performance of the authority's duties and the execution
27 of the authority's powers under this act;

28 (9) receiving and accepting from any federal agency grants, or any
29 other form of assistance, for or in aid of the planning, financing, construc-
30 tion, development, acquisition or ownership of any property, structures,
31 equipment, facilities and works of public improvement necessary or use-
32 ful for the accomplishment of the purposes for which the authority was
33 created and receiving and accepting aid or contributions from any source
34 of either money, property, labor or other things of value, to be held, used
35 and applied only for the purposes for which such grants and contributions
36 may be made;

37 (10) borrowing funds to carry out the purposes of the authority and
38 mortgaging and pledging any lease or leases granted, assigned or sub-
39 leased by the authority;

40 (11) purchasing, leasing, trading, exchanging or otherwise acquiring,
41 maintaining, holding, improving, mortgaging, selling, leasing and dispos-
42 ing of personal property, whether tangible or intangible, and any interest
43 therein; and purchasing, leasing, trading, exchanging or otherwise ac-

1 quiring real property or any interest therein, and maintaining, holding,
2 improving, mortgaging, leasing and otherwise transferring such real prop-
3 erty, so long as such transactions do not conflict with the mission of the
4 authority as specified in this act.

(12) as provided by K.S.A. 2008 Supp. 74-99d09, and amendments thereto, incurring or assuming indebtedness and entering into contracts with the Kansas development finance authority, which is authorized to borrow money, issue bonds and provide financing for: (A) The construction, upgrading or repair of transmission facilities of the Kansas electric transmission authority or the acquisition of right-of-way for such facilities, or both, and any such bonds shall be payable from and be secured by the pledge of revenues derived from the operation of such electric transmission facilities; or (B) making loans to finance the construction, upgrading or repair of transmission facilities not owned by the Kansas electric transmission authority or the acquisition of right-of-way for such facilities, or both, upon such terms and conditions as required by the authority, including a requirement that any entity receiving a loan under this act shall maintain records and accounts relating to receipt and disbursements of loan proceeds, transportation costs and information on energy sales and deliveries and make the records available to the authority for inspection, and any such bonds shall be payable from and be secured by the pledge of revenues derived from the operation of such electric transmission facilities.

(13) depositing any moneys of the authority in any banking institution within or without the state or in any depository authorized to receive such deposits, one or more persons to act as custodians of the moneys of the authority, to give surety bonds in such amounts in form and for such purposes as the board requires;

(14) recovering its costs through tariffs of the southwest power pool regional transmission organization, or its successor, and, if all costs are not recovered through such tariffs, through assessments against all electric public utilities, electric municipal utilities and electric cooperative utilities receiving benefits of the construction or upgrade and having retail customers in this state. Each such utility's assessment shall be based on the benefits the utility receives from the construction or upgrade, as determined by the state corporation commission upon application by the authority. In determining allocation of benefits and costs to utilities, the commission may take into account funding and cost recovery mechanisms developed by regional transmission organizations and shall take into account financial payments by transmission users and approved by the federal energy regulatory commission or regional transmission organization. Each electric public utility shall recover any such assessed costs from the utility's customers in a manner approved by the commission and each

4 (15) participating in and coordinating with the planning activities of
5 the southwest power pool regional transmission organization, or its suc-
6 cessor, and adjoining regional transmission organizations, or their suc-
7 cessors; and

(17) establish and charge reasonable fees, rates, tariffs or other charges, unless costs are recoverable under paragraph (14), for the use of all facilities owned, financed or administered by it and for all services rendered by it.

(c) The authority shall continue until terminated by law. No such law terminating the authority shall take effect while the authority has bonds, debts or obligations outstanding unless adequate provision has been made for the payment or retirement of such bonds, debts or obligations. Upon dissolution of the authority, all property, funds and assets thereof shall be disposed of as provided by law.

(1) Plan, finance, construct, develop, acquire, own, dispose of, contract for maintenance of and contract with electric public utilities, electric cooperative utilities or electric municipal utilities for operation of transmission facilities of the authority and any real or personal property, structures, equipment or facilities necessary or useful for the accomplishment of the purposes for which the authority was created, including the obtaining of permits and the acquisition of rights of way; and

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1 (b) (1) Except as otherwise provided in this act, the authority shall
2 not exercise any of the rights or powers granted to it in this section, if
3 private entities are performing the acts, are constructing or have con-
4 structed the facilities or are providing the services contemplated by the
5 authority and such private entities are willing to finance and own new
6 infrastructure to meet an identified need and market.

7 (2) Prior to exercising any rights or powers granted to it in this sec-
8 tion, the authority shall publish once in the Kansas register, and once in
9 a newspaper and trade magazine in the area where the facilities or services
10 are contemplated, a notice describing the acts, facilities or services con-
11 templated by the authority and stating that private entities willing and
12 able to perform the acts, finance and own and construct the facilities or
13 provide the services described in the notice shall have a period of 90 days
14 after the date of publication of the notice in the Kansas register within
15 which to notify the authority of intention and ability to perform the acts,
16 finance and construct the facilities or provide the services described in
17 the notice. In the absence of notification by a private entity, the authority
18 may proceed to perform the acts, construct the facilities or provide the
19 services originally contemplated. If a private entity has given notice of
20 intention to perform the acts, finance and construct the facilities or pro-
21 vide the services contemplated by the authority, the authority may pro-
22 ceed to perform the acts, construct the facilities or provide the services
23 originally contemplated if the private entity fails to commence perform-
24 ance within 180 days after the date of notification of the authority of its
25 intention. Actions deemed to constitute commencement of performance
26 of the acts, construction of the facilities or provision of the services within
27 the required time shall include, but not be limited to, holding of public
28 meetings on siting of facilities, acquisition of land or commencement of
29 proceedings for condemnation of land, application to acquire any federal,
30 state, local or private permits, certificates or other authorizations or ap-
31 provals necessary to perform the acts, construct the facilities or provide
32 the services.

33 (3) Notwithstanding commencement of performance of the acts, con-
34 struction of the facilities or provision of the services by a private entity,
35 if the authority is not satisfied with subsequent progress in performance
36 of the acts, construction of the facilities or provision of the services, the
37 authority may again give notice as provided in subsection (b)(2) with re-
38 spect to completion of performance of the acts, construction of the facil-
39 ities or provision of the services. In the absence of notification by a private
40 entity willing and able to complete performance of the acts, construction
41 of the facilities or provision of the services, the authority may proceed to
42 complete performance. If a private entity has given notice of intention to
43 complete performance, the authority may proceed to perform the acts,

1 construct the facilities or provide the services if the private entity fails to
2 complete performance within 180 days after the date of notice by the
3 entity.

4 (c) The authority shall not operate or maintain transmission facilities.

5 (d) The authority shall exercise the rights and powers granted to it in
6 this act only with respect to transmission facilities which the southwest
7 power pool regional transmission organization, or its successor, has de-
8 termined are compatible with plans adopted by such organization and,
9 for electric transmission lines with an operating voltage of 60 k~~v~~ [kilo-
10 volts] or more, which have been approved by such organization.

11 Sec. 19. K.S.A. 66-104d is hereby amended to read as follows: 66-
12 104d. (a) As used in this section, "cooperative" means any cooperative;
13 as defined by K.S.A. 17-4603, and amendments thereto, which has fewer
14 than 15,000 customers and which provides power principally at retail
15 corporation organized under the electric cooperative act, K.S.A. 17-4601
16 et seq., and amendments thereto, or which becomes subject to the electric
17 cooperative act in the manner therein provided; or any limited liability
18 company or corporation providing electric service at wholesale in the state
19 of Kansas that is owned by four or more electric cooperatives that provide
20 retail service in the state of Kansas; or any member-owned corporation
21 formed prior to 2004.

22 (b) Except as otherwise provided in subsection (f), a cooperative may
23 elect to be exempt from the jurisdiction, regulation, supervision and con-
24 trol of the state corporation commission by complying with the provisions
25 of subsection (c).

26 (c) To be exempt under subsection (b), a cooperative shall poll its
27 members as follows:

28 (1) An election under this subsection may be called by the board of
29 trustees or shall be called not less than 180 days after receipt of a valid
30 petition signed by not less than 10% of the members of the cooperative.

31 (2) The proposition for deregulation shall be presented to a meeting
32 of the members, the notice of which shall set forth the proposition for
33 deregulation and the time and place of the meeting. Notice to the mem-
34 bers shall be written and delivered not less than 21 nor more than 45
35 days before the date of the meeting.

36 (3) If the cooperative mails information to its members regarding the
37 proposition for deregulation other than notice of the election and the
38 ballot, the cooperative shall also include in such mailing any information
39 in opposition to the proposition that is submitted by petition signed by
40 not less than 1% of the cooperative's members. All expenses incidental
41 to mailing the additional information, including any additional postage
42 required to mail such additional information, must be paid by the sig-
43 natories to the petition.

1 (4) If the proposition for deregulation is approved by the affirmative
2 vote of not less than a majority of the members voting on the proposition,
3 the cooperative shall notify the state corporation commission in writing
4 of the results within 10 days after the date of the election.

5 (5) Voting on the proposition for deregulation shall be by mail ballot.
6 (d) A cooperative exempt under this section may elect to terminate
7 its exemption in the same manner as prescribed in subsection (c).

8 (e) An election under subsection (c) or (d) may be held not more
9 often than once every two years.

10 (f) Nothing in this section shall be construed to affect the single cer-
11 tified service territory of a cooperative or the authority of the state cor-
12 poration commission, as otherwise provided by law, over a cooperative
13 with regard to service territory;; charges, fees or tariffs for transmission
14 services;; sales of power for resale, *other than sales between a cooperative,*
15 *as defined in subsection (a), that does not provide retail electric service*
16 *and an owner of such cooperative; and wire stringing and transmission*
17 *line siting, pursuant to K.S.A. 66-131, 66-183, 66-1,170 et seq. or 66-*
18 *1,177 et seq., and amendments thereto.*

19 (g) (1) Notwithstanding a cooperative's election to be exempt under
20 this section, the commission shall investigate all rates, joint rates, tolls,
21 charges and exactions, classifications and schedules of rates of such co-
22 operative if there is filed with the commission, not more than one year
23 after a change in such cooperative's rates, joint rates, tolls, charges and
24 exactions, classifications or schedules of rates, a petition, *in the case of a*
25 *retail distribution cooperative, signed by not less than 5% of all the co-*
26 *operative's customers or 3% of the cooperative's customers from any one*
27 *rate class, or, in the case of a generation and transmission cooperative,*
28 *not less than 20% of the generation and transmission cooperative's mem-*
29 *bers or 5% of the aggregate retail customers of such members.* If, after
30 investigation, the commission finds that such rates, joint rates, tolls,
31 charges or exactions, classifications or schedules of rates are unjust, un-
32 reasonable, unjustly discriminatory or unduly preferential, the commis-
33 sion shall have the power to fix and order substituted therefor such rates,
34 joint rates, tolls, charges and exactions, classifications or schedules of rates
35 as are just and reasonable.

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

40 (3) Any customer of a cooperative wishing to petition the commission
41 pursuant to subsection (g)(1) may request from the cooperative the
42 names, addresses and rate classifications of all the cooperative's customers
43 or of the cooperative's customers from any one or more rate classes. The

1 cooperative, within 21 days after receipt of the request, shall furnish to
2 the customer the requested names, addresses and rate classifications and
3 may require the customer to pay the reasonable costs thereof.

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

9 (2) Violations of subsection (h)(1) shall be subject to civil penalties
10 and enforcement in the same manner as provided by K.S.A. 75-4320 and
11 75-4320a, and amendments thereto, for violations of K.S.A. 75-4317 et
12 seq. and amendments thereto.

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

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

20 (j) *A cooperative that has elected to be exempt under the provisions*
21 *of subsection (b) shall include a provision in its notice to customers, either*
22 *before or after a rate change, of the customer's right to request the com-*
23 *mission to review the rate change, as allowed in subsection (g).*

24 New Sec. 20. Sections 20 through 26, and amendments thereto, shall
25 be known and may be cited as the renewable energy standards act.

26 New Sec. 21. As used in the renewable energy standards act:

27 (a) "Affected utility" means an electric public utility, as defined in
28 K.S.A. 66-101a, and amendments thereto, but does not include any por-
29 tion of any municipally owned or operated electric utility;

30 (b) "commission" means the state corporation commission;

31 (c) "not renewable electric generation facilities" means facilities gen-
32 erating electricity utilizing renewable energy resources or technologies
33 and the capacity of all net metering systems operating in the state;

34 (d) "net renewable generation capacity" means the gross hourly max-
35 imum output capability of a renewable energy resource when not limited
36 by ambient conditions, equipment, operating or regulatory restrictions
37 less auxiliary power requirements to operate the resource, and refers to
38 resources located in the state or resources serving ratepayers in the state,
39 regardless of the allocation of the resource for ratemaking purposes;

40 (e) "peak demand" means the one-hour maximum annual demand
41 imposed by the affected utility's retail load in the state;

42 (f) "renewable energy credit" means a credit representing energy
43 produced by renewable energy resources or technologies issued as part

1 of a program that has been approved by the state corporation commission;
2 and

3 (g) "renewable energy resources or technologies" shall have the
4 meaning provided in K.S.A. 17-4652, and amendments thereto, and also
5 means municipal or other solid waste and animal waste.

6 New Sec. 22. (a) The commission shall establish by rules and regu-
7 lations a portfolio requirement for all affected utilities to generate or
8 purchase electricity generated from renewable energy resources or pur-
9 chase renewable energy credits. Renewable energy credits may only be
10 used to meet a portion of portfolio requirements for the years 2010, 2016
11 and 2020, unless otherwise allowed by the commission. Such portfolio
12 requirement shall provide net renewable generation capacity that shall
13 constitute the following portion of each affected utility's peak demand:

14 (1) Not less than 10% of the affected utilities' peak demand for cal-
15 endar years 2010 through 2015, based on the average demand of the prior
16 three years of each year's requirement;

17 (2) not less than 15% of the affected utilities' peak demand for cal-
18 endar years 2016 through 2019, based on the average demand of the prior
19 three years of each year's requirements; and

20 (3) not less than 20% of the affected utilities' peak demand for each
21 calendar year beginning in 2020, based on the average demand of the
22 prior three years of each year's requirement.

23 (b) The portfolio requirements described in subsection (a) shall apply
24 to all power sold to Kansas retail consumers whether such power is self-
25 generated or purchased from another source in or outside of the state.
26 The capacity of all net metering systems interconnected with the affected
27 utilities under the net metering and easy connection act for renewable
28 generation shall count toward compliance. An affected utility may count
29 savings from energy efficiency programs toward up to 25% of the portfolio
30 requirements of this section. Savings from energy efficiency programs
31 shall be determined in accordance with rules and regulations established
32 by the commission and shall include savings at customer facilities and
33 savings by the utility in the generation and distribution of electricity from
34 the level of usage expected without the energy efficiency programs.

35 (c) Each megawatt of eligible capacity in Kansas shall count as 1.25
36 megawatts for purposes of compliance.

37 (d) The commission shall establish rules and regulations required in
38 this section within 240 days of the effective date of this act.

39 New Sec. 23. The commission shall allow affected utilities to recover
40 reasonable costs incurred to meet the new renewable energy resource
41 requirements required in the renewable energy standards act.

42 New Sec. 24. For each affected utility, the commission shall deter-
43 mine whether investment in renewable energy resources required to

1 meet the renewable portfolio requirement, as required by section 22, and
2 amendments thereto, causes the affected utility's total revenue require-
3 ment to increase one percent or greater. The revenue requirement impact
4 shall be determined net of new nonrenewable alternative sources of elec-
5 tricity supply reasonably available at the time of the determination. A
6 utility may delay compliance with any of the foregoing portfolio require-
7 ments if, and to the extent that, the commission determines that (1) firm
8 transmission is not available for a renewable generation resource and
9 there would be substantial benefit to the utility customers by delaying
10 compliance in order to obtain firm transmission from a renewable gen-
11 eration source which will not be available until a later calendar year or
12 (2) the cost of compliance would have an adverse impact on the credit
13 rating or liquidity of the utility.

14 New Sec. 25. (a) The commission shall establish rules and regula-
15 tions for the administration of the renewable energy standards act, in-
16 cluding reporting and enforcement mechanisms necessary to ensure that
17 each affected utility complies with this standard and other provisions gov-
18 erning the imposition of administrative penalties assessed after a hearing
19 held by the commission. Administrative penalties should be set at a level
20 that will promote compliance with the renewable energy standards act,
21 and shall not be limited to penalties set forth in K.S.A. 66-138 and 66-
22 177, and amendments thereto.

23 (b) For the calendar years 2010 and 2011, the commission is not
24 required to assess penalties if the affected utility can demonstrate it made
25 a good faith effort to comply with the portfolio standards requirement.
26 The commission shall exempt an affected utility from administrative pen-
27 alties for an individual compliance year if the utility demonstrates that
28 the revenue requirement impact described in section 24, and amend-
29 ments thereto, has been reached or exceeded and the utility has not
30 achieved full compliance with section 22, and amendments thereto. In
31 imposing penalties, the commission shall have discretion to consider mit-
32 igating circumstances. Under no circumstances shall the costs of admin-
33 istrative penalties be recovered from Kansas retail customers.

34 (c) The commission shall establish rules and regulations required in
35 this section within 240 days of the effective date of this act.

36 New Sec. 26. (a) The commission shall establish rules and regula-
37 tions for the administration of a certification process for use of renewable
38 energy resources not currently listed in the renewable energy standards
39 act for purposes of fulfilling the requirements of section 22, and amend-
40 ments thereto. Criteria for the certification process for renewable energy
41 generation facilities shall be determined by factors that include, but are
42 not limited to: Fuel type, technology and the environmental impacts of
43 the renewable energy generation facility. Renewable energy facilities shall

1 not cause undue or adverse air, water or land use impacts, including
2 impacts associated with the gathering of generation feedstocks.

3 (b) The commission shall establish rules and regulations required in
4 this section within 240 days of the effective date of this act.

5 New Sec. 27. Sections 27 through 43, and amendments thereto, shall
6 be known and may be cited as the net metering and easy connection act
7 for renewable generation.

8 New Sec. 28. As used in the net metering and easy connection act
9 for renewable generation:

10 (a) "Commission" means the state corporation commission.

11 (b) "Customer-generator" means the owner or operator of a qualified
12 electric energy generation unit which:

13 (1) Is powered by renewable energy resources and [or] technologies;

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

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

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

21 (5) is sized appropriately for the customer-generator's electrical load
22 and is intended primarily to offset part or all of the customer-generator's
23 own electrical energy requirements;

24 (6) meets all applicable safety, performance, interconnection and re-
25 liability standards established by the national electrical code, the national
26 electrical safety code, the institute of electrical and electronics engineers,
27 underwriters laboratories, the federal energy regulatory commission, the
28 connecting electric utility and any local governing authorities; and

29 (7) contains a mechanism accessible by electric utility personnel that
30 automatically disables the unit and interrupts the flow of electricity back
31 onto the supplier's electricity lines in the event that service to the cus-
32 tomer-generator is interrupted.

33 (c) "Net metering" means using metering equipment sufficient to
34 measure the difference between the electrical energy supplied to a cus-
35 tomer-generator by a retail electric supplier and the electrical energy
36 supplied by the customer-generator to the retail electric supplier over the
37 applicable billing period.

38 (d) "Retail electric supplier" means any electric municipal utility,
39 electric cooperative utility or electric public utility which provides retail
40 electric service in this state.

41 (e) "Renewable energy resources and [or] technologies" has the
42 meaning provided in K.S.A. 17-4652, and amendments thereto, and also
43 means municipal or other solid waste and animal waste.

1 (g) "Peak load" means the one-hour maximum annual demand im-
2 posed by the ~~affected utility's~~ [retail electric supplier's] retail load in
3 the state.

4 New Sec. 29. A retail electric supplier shall:

5 (a) Make net metering available to customer-generators on a first-
6 come, first-served basis, subject to the following: (1) A supplier shall not
7 be required to make net metering available in a calendar year if total
8 rated generating capacity of all applications for interconnection already
9 approved by the supplier in the calendar year equals or exceeds 1% of
10 the supplier's single-hour peak load for the previous calendar year; and
11 (2) a supplier shall not be required to make net metering available to a
12 customer-generator if the total rated generating capacity of net metering
13 systems equals 5% of the supplier's Kansas single-hour peak load during
14 the previous year; ~~higher percentage as specified by the commission, for~~
15 ~~a public utility, or the governing body, for any other utility, once the total~~
16 ~~rated generating capacity of net metering systems has reached 5% of the~~
17 ~~supplier's single-hour peak load during the previous year;~~

18 (b) offer to the customer-generator a rate schedule or contract that
19 is identical in electrical energy rates, rate structure and monthly charges
20 to the contract or rate schedule that the customer would be assigned if
21 the customer were not an eligible customer-generator but shall not charge
22 the customer-generator any additional standby, capacity, interconnection
23 or other fee or charge that would not otherwise be charged if the cus-
24 tomor were not an eligible customer-generator; and

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

28 New Sec. 30. A customer-generator's facility shall be equipped with
29 sufficient metering equipment that can measure the net amount of elec-
30 trical energy produced or consumed by the customer-generator. If the
31 existing meter equipment does not meet these requirements or if it is
32 necessary for the electric supplier to install additional distribution equip-
33 ment to accommodate the customer-generator's facility, the customer-
34 generator shall reimburse the retail electric supplier for the costs to pur-
35 chase and install the necessary additional equipment.

36 New Sec. 31. The utility will supply, own and maintain all necessary
37 meters and associated equipment utilized for billing. In addition, and for
38 the purposes of monitoring customer generation and load, the utility may
39 install at its expense, load research metering. The customer shall supply,
40 at no expense to the utility, a suitable location for meters and associated
41 equipment used for billing and for load research.

42 New Sec. 32. Consistent with the provisions of the net metering and
43 easy connection act for renewable generation, the net electrical energy

1 measurement shall be calculated in the following manner:

2 (a) For a customer-generator, a retail electric supplier shall measure
3 the net electrical energy produced or consumed during the billing period
4 in accordance with normal metering practices for customers in the same
5 rate class, by employing a single, bidirectional meter that measures the
6 amount of electrical energy produced and consumed, by employing mul-
7 tiple meters that separately measure the customer-generator's consump-
8 tion and production of electricity or by employing an alternative
9 technology.

10 (b) If the electricity supplied by the supplier exceeds the electricity
11 generated by the customer-generator during a billing period, the cus-
12 tomer-generator shall be billed for the net electricity supplied by the
13 supplier in accordance with normal practices for customers in the same
14 rate class.

15 (c) If the electricity generated by the customer-generator exceeds the
16 electricity supplied by the supplier during a billing period, the customer-
17 generator shall be billed for the appropriate customer charges or demand
18 charges, or both, for that billing period in accordance with section 29,
19 and amendments thereto, and the excess electricity shall be retained by
20 the supplier as a contribution to the fixed costs associated with owning
21 and maintaining the facilities required to provide electric service when
22 the customer-generator cannot meet its supply needs.

23 New Sec. 33. (a) Each qualified electric energy generation unit used
24 by a customer-generator shall meet all applicable safety, performance,
25 interconnection and reliability standards established by any local code
26 authorities, the national electrical code, the national electrical safety code,
27 the institute of electrical and electronics engineers and underwriters lab-
28 oratories for distributed generation. No supplier shall impose any fee,
29 charge or other requirement not specifically authorized by the net me-
30 tering and easy connection act for renewable generation or the rules and
31 regulations promulgated under such act unless the fee, charge or other
32 requirement would apply to similarly situated customers who are not
33 customer-generators, except that a retail electric supplier may require
34 that a customer-generator's system contain a switch, circuit breaker, fuse
35 or other easily accessible device or feature located in immediate proximity
36 to the customer-generator's metering equipment that would allow a utility
37 worker the ability to manually and instantly disconnect the unit from the
38 utility's electric distribution system. The customer-generator shall, at its
39 own expense, maintain in force general liability insurance without any
40 exclusion for liabilities related to the interconnection. The amount of such
41 insurance shall be sufficient to insure against all reasonably foreseeable
42 direct liabilities given the size and nature of the generating equipment
43 being interconnected, the interconnection itself and the characteristics of

1 the system to which the interconnection is made.

2 (b) For systems of 10 kilowatts or less, a customer-generator whose
3 system meets the standards specified by subsection (a) shall not be re-
4 quired to install additional controls, perform or pay for additional tests or
5 distribution equipment or purchase additional liability insurance beyond
6 what is required under subsection (a).

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

11 (1) Set forth safety, performance and reliability standards and insur-
12 ance requirements; and

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

16 New Sec. 34. (a) Applications by a customer-generator for intercon-
17 nection of the qualified generation unit to the distribution system shall
18 be accompanied by the plan for the customer-generator's electrical gener-
19 ating system, including, but not limited to, a wiring diagram and spec-
20 ifications for the generating unit, and shall be reviewed and responded
21 to by the retail electric supplier within 30 days after receipt for systems
22 of 10 kilowatts or less and within 90 days after receipt for all other systems.
23 Prior to the interconnection of the qualified generation unit to the sup-
24 plier's system, the customer-generator ~~will~~ [shall] furnish the retail elec-
25 tric supplier a certification from a qualified professional electrician or
26 engineer that the installation meets the requirements of subsection (a) of
27 section 33, and amendments thereto. If the application for interconnec-
28 tion is approved by the retail electric supplier and the customer-generator
29 does not complete the interconnection within one year after receipt of
30 notice of the approval, the approval shall expire and the customer-gen-
31 erator shall be responsible for filing a new application.

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

35 New Sec. 35. Each retail electric supplier regulated by the commis-
36 sion shall submit an annual net metering report to the commission and
37 each other retail electric supplier shall submit the same report to its re-
38 spective governing body. For data collection purposes only, non-regulated
39 electric suppliers shall submit the same report to the commission. The
40 report shall include the following information for the previous calendar
41 year: The total number of customer-generator facilities, the total esti-
42 mated generating capacity of its net-metered customer-generators and
43 the total estimated net kilowatt-hours received from customer-generators.

1 The supplier shall make such report available to any consumer of the
2 supplier upon request.

3 New Sec. 36. Within nine months after the effective date of the net
4 metering and easy connection act for renewable generation, the commis-
5 sion shall adopt rules and regulations necessary for the administration of
6 such act for electric public utilities, which shall include rules and regu-
7 lations ensuring that simple contracts will be used for interconnection
8 and net metering. For systems of 10 kilowatts or less, the application
9 process shall use an all-in-one document that includes a simple intercon-
10 nection request, simple procedures and a brief set of terms and
11 conditions.

12 New Sec. 37. Within nine months after the effective date of the net
13 metering and easy connection act for renewable generation, the governing
14 body of an electric cooperative utility or electric municipal utility shall
15 adopt policies establishing a simple contract to be used for interconnec-
16 tion and net metering. For systems of 10 kilowatts or less, the application
17 process shall use an all-in-one document that includes a simple intercon-
18 nection request, simple procedures and a brief set of terms and
19 conditions.

20 New Sec. 38. For any cause of action relating to any damages to
21 property or person caused by the generation unit of a customer-generator
22 or the interconnection thereof, the retail electric supplier shall have no
23 liability absent clear and convincing evidence of fault on the part of the
24 supplier.

25 New Sec. 39. The estimated generating capacity of all net metering
26 systems operating under the provisions of the net metering and easy con-
27 nection act for renewable generation shall count towards accomplishment
28 by the respective retail electric supplier, or the wholesale generator sup-
29 plying electric energy to the retail electric supplier, of any renewable
30 energy portfolio target or mandate adopted by the Kansas legislature.

31 New Sec. 40. Any costs incurred under the net metering and easy
32 connection act for renewable generation by a retail electric supplier shall
33 be recoverable in the utility's rate structure.

34 New Sec. 41. No consumer shall connect or operate an electric gen-
35 eration unit in parallel phase and synchronization with any retail electric
36 supplier without written approval by such supplier that all of the require-
37 ments under subsection (a) of section 34, and amendments thereto, have
38 been met. For a consumer who violates this provision, a supplier may
39 immediately and without notice disconnect the electric facilities of such
40 consumer and terminate such consumer's electric service.

41 New Sec. 42. The manufacturer of any electric generation unit used
42 by a customer-generator may be held liable for any damages to property
43 or person caused by a defect in the electric generation unit of a customer-

1 generator.

2 New Sec. 43. The seller, installer or manufacturer of any electric
3 generation unit who knowingly misrepresents the safety aspects of an
4 electric generation unit may be held liable for any damages to property
5 or person caused by the electric generation unit of a customer-generator.

6 [New Sec. 44. (a) On and after the effective date of this act,
7 any provision of a restrictive covenant which restricts or prohibits
8 the use of any solar panel, solar energy device or any other equip-
9 ment used for solar power installed on or adjacent to any residen-
10 tial dwelling is hereby declared to be against public policy and such
11 provision shall be void and unenforceable.

12 [(b) The provisions of this section shall apply to any restrictive
13 covenant in existence on the effective date of this act.

14 [New Sec. 45. (a) On and after the effective date of this act,
15 any provision of a city ordinance or county resolution which re-
16 stricts or prohibits the use of any solar panel, solar energy device
17 or any other equipment used for solar power installed on or ad-
18 jacent to buildings is hereby declared to be against public policy
19 and such provision shall be void and unenforceable.

20 [(b) The provisions of this section shall apply to any city ordi-
21 nance or county resolution in existence on the effective date of this
22 act.]

23 Sec. 44: [46.] K.S.A. 2008 Supp. 66-1,184 is hereby amended to read
24 as follows: 66-1,184. (a) Except as provided in subsection (b), every public
25 utility which provides retail electric services in this state shall enter into
26 a contract for parallel generation service with any person who is a cus-
27 tomer of such utility, upon request of such customer, whereby such cus-
28 tomer may attach or connect to the utility's delivery and metering system
29 an apparatus or device for the purpose of feeding excess electrical power
30 which is generated by such customer's energy producing system into the
31 utility's system. No such apparatus or device shall either cause damage
32 to the public utility's system or equipment or present an undue hazard
33 to utility personnel. Every such contract shall include, but need not be
34 limited to, provisions relating to fair and equitable compensation on such
35 customer's monthly bill for energy supplied to the utility by such
36 customer.

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

38 (A) "Utility" means an electric public utility, as defined by K.S.A. 66-
39 101a, and amendments thereto, any cooperative, as defined by K.S.A. 17-
40 4603, and amendments thereto, or a nonstock member-owned electric
41 cooperative corporation incorporated in this state, or a municipally owned
42 or operated electric utility;

43 (B) "school" means Cloud county community college and Dodge City

1 community college; and

2 (C) "avoided energy cost" means the current average cost of fuel and
3 purchased energy for the preceding month for the utility, or in the case
4 of a non-generating utility, for such utility's wholesale power supplier, as
5 defined by the governing body with jurisdiction over any electric munic-
6 ipal utility, electric cooperative utility or electric public utility.

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

35 (3) A customer-generator, as defined by section 28, and amendments
36 thereto, shall have the option of entering into a contract pursuant to this
37 subsection (b) or utilizing the net metering and easy connection act for
38 renewable generation. The customer-generator shall exercise the option
39 in writing, filed with the utility and shall not be entitled to change the
40 option once it is filed.

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

43 (1) The utility will supply, own, and maintain all necessary meters

1 and associated equipment utilized for billing. In addition, and for the
2 purposes of monitoring customer generation and load, the utility may
3 install at its expense, load research metering. The customer shall supply,
4 at no expense to the utility, a suitable location for motors and associated
5 equipment used for billing and for load research;

6 (2) for the purposes of insuring the safety and quality of utility system
7 power, the utility shall have the right to require the customer, at certain
8 times and as electrical operating conditions warrant, to limit the produc-
9 tion of electrical energy from the generating facility to an amount no
10 greater than the load at the customer's facility of which the generating
11 facility is a part;

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

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

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

40 (d) Service under any contract entered into under subsection (a) or
41 (h) shall be subject to either the utility's rules and regulations on file with
42 the state corporation commission, which shall include a standard inter-
43 connection process and requirements for such utility's system, or the cur-

1 rent federal energy regulatory commission interconnection procedures
2 and regulations.

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

7 (f) The governing body of any school desiring to proceed under this
8 section shall, prior to taking any action permitted by this section, make a
9 finding that either: (1) Net energy cost savings will accrue to the school
10 from such renewable generation over a 20-year period; or (2) that such
11 renewable generation is a science project being conducted for educational
12 purposes and that such project may not recoup the expenses of the project
13 through energy cost savings. Any school proceeding under this section
14 may contract or enter into a finance, pledge, loan or lease-purchase agree-
15 ment with the Kansas development finance authority as a means of fi-
16 nancing the cost of such renewable generation.

17 (g) For the purpose of meeting the governor's stated goal of produc-
18 ~~ing 10% of the state's electricity by wind power by 2010 and 20% by 2020;~~
19 ~~any renewable energy portfolio target or mandate adopted by the Kansas~~
20 ~~legislature,~~ the parallel generation of electricity provided for in this sec-
21 ~~tion shall be included as part of the state's renewable energy generation~~
22 ~~by wind power.~~

23 (h) *The provisions of the net metering and easy connection act for*
24 *renewable generation shall not preclude the state corporation commission*
25 *from approving net metering tariffs upon request of an electric utility for*
26 *other methods of renewable generation not prescribed in subsection (e)(1)*
27 *[(b)(1)] of section 28, and amendments thereto.*

28 Sec. 45. [47.] K.S.A. 19-101a is hereby amended to read as follows:
29 19-101a. (a) The board of county commissioners may transact all county
30 business and perform all powers of local legislation and administration it
31 deems appropriate, subject only to the following limitations, restrictions
32 or prohibitions:

33 (1) Counties shall be subject to all acts of the legislature which apply
34 uniformly to all counties.

35 (2) Counties may not affect the courts located therein.

36 (3) Counties shall be subject to acts of the legislature prescribing
37 limits of indebtedness.

38 (4) In the exercise of powers of local legislation and administration
39 authorized under provisions of this section, the home rule power con-
40 ferred on cities to determine their local affairs and government shall not
41 be superseded or impaired without the consent of the governing body of
42 each city within a county which may be affected.

43 (5) Counties may not legislate on social welfare administered under

1 state law enacted pursuant to or in conformity with public law No. 271—
2 74th congress, or amendments thereof.

3 (6) Counties shall be subject to all acts of the legislature concerning
4 elections, election commissioners and officers and their duties as such
5 officers and the election of county officers.

6 (7) Counties shall be subject to the limitations and prohibitions im-
7 posed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto,
8 prescribing limitations upon the levy of retailers' sales taxes by counties.

9 (8) Counties may not exempt from or effect changes in statutes made
10 nonuniform in application solely by reason of authorizing exceptions for
11 counties having adopted a charter for county government.

12 (9) No county may levy ad valorem taxes under the authority of this
13 section upon real property located within any redevelopment project area
14 established under the authority of K.S.A. 12-1772, and amendments
15 thereto, unless the resolution authorizing the same specifically authorized
16 a portion of the proceeds of such levy to be used to pay the principal of
17 and interest upon bonds issued by a city under the authority of K.S.A.
18 12-1774, and amendments thereto.

19 (10) Counties shall have no power under this section to exempt from
20 any statute authorizing or requiring the levy of taxes and providing sub-
21 stitute and additional provisions on the same subject, unless the resolution
22 authorizing the same specifically provides for a portion of the proceeds
23 of such levy to be used to pay a portion of the principal and interest on
24 bonds issued by cities under the authority of K.S.A. 12-1774, and amend-
25 ments thereto.

26 (11) Counties may not exempt from or effect changes in the provi-
27 sions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

28 (12) Except as otherwise specifically authorized by K.S.A. 12-1,101
29 through 12-1,109, and amendments thereto, counties may not levy and
30 collect taxes on incomes from whatever source derived.

31 (13) Counties may not exempt from or effect changes in K.S.A. 19-
32 430, and amendments thereto.

33 (14) Counties may not exempt from or effect changes in K.S.A. 19-
34 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

35 (15) Counties may not exempt from or effect changes in K.S.A. 19-
36 15,139, 19-15,140 and 19-15,141, and amendments thereto.

37 (16) Counties may not exempt from or effect changes in the provi-
38 sions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-
39 1226, and amendments thereto, or the provisions of K.S.A. 12-1260
40 through 12-1270 and 12-1276, and amendments thereto.

41 (17) Counties may not exempt from or effect changes in the provi-
42 sions of K.S.A. 19-211, and amendments thereto.

43 (18) Counties may not exempt from or effect changes in the provi-

- 1 sions of K.S.A. 19-4001 through 19-4015, and amendments thereto.
- 2 (19) Counties may not regulate the production or drilling of any oil
3 or gas well in any manner which would result in the duplication of reg-
4 ulation by the state corporation commission and the Kansas department
5 of health and environment pursuant to chapter 55 and chapter 65 of the
6 Kansas Statutes Annotated, and amendments thereto, and any rules and
7 regulations adopted pursuant thereto. Counties may not require any li-
8 cense or permit for the drilling or production of oil and gas wells. Counties
9 may not impose any fee or charge for the drilling or production of any
10 oil or gas well.
- 11 (20) Counties may not exempt from or effect changes in K.S.A. 79-
12 41a04, and amendments thereto.
- 13 (21) Counties may not exempt from or effect changes in K.S.A. 79-
14 1611, and amendments thereto.
- 15 (22) Counties may not exempt from or effect changes in K.S.A. 79-
16 1494, and amendments thereto.
- 17 (23) Counties may not exempt from or effect changes in subsection
18 (b) of K.S.A. 19-202, and amendments thereto.
- 19 (24) Counties may not exempt from or effect changes in subsection
20 (b) of K.S.A. 19-204, and amendments thereto.
- 21 (25) Counties may not levy or impose an excise, severance or any
22 other tax in the nature of an excise tax upon the physical severance and
23 production of any mineral or other material from the earth or water.
- 24 (26) Counties may not exempt from or effect changes in K.S.A. 79-
25 2017 or 79-2101, and amendments thereto.
- 26 (27) Counties may not exempt from or effect changes in K.S.A. 2-
27 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-
28 1,178 through 65-1,199, 65-3001 through 65-3028, and amendments
29 thereto.
- 30 (28) Counties may not exempt from or effect changes in K.S.A. 2007
31 Supp. 80-121, and amendments thereto.
- 32 (29) Counties may not exempt from or effect changes in K.S.A. 19-
33 228, and amendments thereto.
- 34 (30) Counties may not exempt from or effect changes in the wireless
35 enhanced 911 act, in the VoIP enhanced 911 act or in the provisions of
36 K.S.A. 12-5301 through 12-5308, and amendments thereto.
- 37 (31) Counties may not exempt from or effect changes in K.S.A. 2007
38 Supp. 26-601, and amendments thereto.
- 39 (32) (A) Counties may not exempt from or effect changes in the Kan-
40 sas liquor control act except as provided by paragraph (B).
- 41 (B) Counties may adopt resolutions which are not in conflict with the
42 Kansas liquor control act.
- 43 (33) (A) Counties may not exempt from or effect changes in the Kan-

1 sas cereal malt beverage act except as provided by paragraph (B).

2 (B) Counties may adopt resolutions which are not in conflict with the
3 Kansas cereal malt beverage act.

4 (34) Counties may not exempt from or effect changes in the Kansas
5 lottery act.

6 (35) Counties may not exempt from or effect changes in the Kansas
7 expanded lottery act.

8 (b) Counties shall apply the powers of local legislation granted in
9 subsection (a) by resolution of the board of county commissioners. If no
10 statutory authority exists for such local legislation other than that set forth
11 in subsection (a) and the local legislation proposed under the authority
12 of such subsection is not contrary to any act of the legislature, such local
13 legislation shall become effective upon passage of a resolution of the
14 board and publication in the official county newspaper. If the legislation
15 proposed by the board under authority of subsection (a) is contrary to an
16 act of the legislature which is applicable to the particular county but not
17 uniformly applicable to all counties, such legislation shall become effective
18 by passage of a charter resolution in the manner provided in K.S.A.
19 19-101b, and amendments thereto.

20 (c) Any resolution adopted by a county which conflicts with the re-
21 strictions in subsection (a) is null and void.

22 Sec. 46: [48.] K.S.A. 2008 Supp. 65-3005 is hereby amended to read
23 as follows: 65-3005. (a) The secretary shall have the power to:

24 (a) (1) Adopt, amend and repeal rules and regulations implementing
25 and consistent with this act.

26 (b) (2) Hold hearings relating to any aspect of or matter in the ad-
27 ministration of this act concerning air quality control, and in connection
28 therewith, compel the attendance of witnesses and the production of
29 evidence.

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

33 (d) (4) Require access to records relating to emissions which cause
34 or contribute to air pollution.

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

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

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

42 (h) (8) (A) Encourage local units of government to handle air
43 pollution problems within their respective jurisdictions and on a coop-

1 erative basis; ~~(2)~~ (B) provide technical and consultative assistance there-
2 for; and ~~(3)~~ (C) enter into agreements with local units of government to
3 administer all or part of the provisions of the Kansas air quality act in the
4 units' respective jurisdictions.

5 ~~(4)~~ (9) Encourage and conduct studies, investigations and research
6 relating to air contamination and air pollution and their causes, effects,
7 prevention, abatement and control.

8 ~~(5)~~ (10) Encourage air contaminant emission sources to voluntarily
9 implement strategies, including the development and use of innovative
10 technologies, market-based principles and other private initiatives to re-
11 duce or prevent pollution.

12 ~~(6)~~ (11) Determine by means of field studies and sampling the degree
13 of air contamination and air pollution in the state and the several parts
14 thereof.

15 ~~(7)~~ (12) Establish ambient air quality standards for the state as a whole
16 or for any part thereof.

17 ~~(8)~~ (13) Collect and disseminate information and conduct educa-
18 tional and training programs relating to air contamination and air
19 pollution.

20 ~~(9)~~ (14) Advise, consult and cooperate with other agencies of the
21 state, local governments, industries, other states, interstate or interlocal
22 agencies, and the federal government, and with interested persons or
23 groups.

24 ~~(10)~~ (15) Accept, receive and administer grants or other funds or gifts
25 from public and private entities, including the federal government, for
26 the purpose of carrying out any of the functions of this act. Such funds
27 received by the secretary pursuant to this section shall be deposited in
28 the state treasury to the account of the department of health and
29 environment.

30 ~~(11)~~ (16) Enter into contracts and agreements with other state agen-
31 cies or subdivisions, local governments, other states, interstate agencies,
32 the federal government or its agencies or private entities as is necessary
33 to accomplish the purposes of the Kansas air quality act.

34 ~~(12)~~ (17) Conduct or participate in intrastate or interstate emissions
35 trading programs or other programs that demonstrate equivalent air qual-
36 ity benefits for the prevention, abatement and control of air pollution in
37 Kansas or in other states or both.

38 ~~(13)~~ (18) Prepare and adopt a regional haze plan as may be necessary
39 to prevent, abate and control air pollution originating in Kansas that af-
40 fects air quality in Kansas or in other states or both. Any regional haze
41 plan prepared by the secretary shall be no more stringent than is required
42 by 42 U.S.C. 7491.

43 ~~(14)~~ (19) Participate in the activities of any visibility transport com-

1 mission established under 42 U.S.C. 7492. The secretary shall report to
2 the governor and the legislature on the activities of any such visibility
3 transport commission annually.

4 (b) It is a policy of the state to regulate the air quality of the state
5 and implement laws and regulations that are applied equally and uni-
6 formly throughout the state and consistent with those of the federal
7 government.

8 (1) The secretary shall have the authority to promulgate rules and
9 regulations to establish standards to ensure that the state is in compliance
10 with the provisions of the federal clean air act, as amended (42 U.S.C.
11 Section 7401 et seq.). The standards so established shall not be any more
12 stringent, restrictive or expansive than those required under the federal
13 clean air act, as amended, nor shall the rules and regulations be enforced
14 in any area of the state prior to the time required by the federal clean air
15 act. The restrictions of this section shall not apply to the parts of the state
16 implementation plan developed by the secretary to bring a nonattainment
17 area into compliance when needed to have a United States environmental
18 protection agency approved state implementation plan.

19 (2) For any application for a permit required by federal or state law,
20 the secretary shall not deny or delay the issuance of such permit when
21 the requirements of this act have been met.

22 (c) Any action by the secretary on any application filed after January
23 1, 2006, and before the effective date of this act, which seeks the issuance,
24 modification, amendment, revision or renewal of any approval or permit,
25 and which is still the subject of any administrative or judicial review
26 proceedings, shall be reconsidered by the secretary upon the applicant's
27 or permittee's timely written request, which shall be filed no later than
28 60 days after the effective date of this act. Within 15 days after the ap-
29 plicant or permittee files a written request pursuant hereto, the secretary
30 shall reconsider the secretary's decision, agency action or order and shall
31 determine in accordance with the provisions of this act, as amended,
32 whether the issuance, modification, amendment, revision or renewal of
33 any approval or permit requested by the applicant or permittee should
34 be issued, modified, amended, revised or renewed. If the applicant or
35 permittee is aggrieved by the secretary's determination hereunder, the
36 applicant or permittee shall be immediately entitled to judicial review of
37 such agency action by filing a petition for judicial review in the court of
38 appeals within 30 days from the date of the secretary's determination. If
39 the secretary fails to act within the 15 days, the applicant or permittee
40 immediately shall be entitled to seek a writ of mandamus compelling the
41 secretary to act by filing for such writ in the court of appeals. Such pro-
42 ceedings shall be conducted in accordance with K.S.A. 77-601 et seq., and
43 amendments thereto, however the applicant or permittee shall not be re-

1 *quired to exhaust any other or additional administrative remedies avail-*
2 *able within the agency notwithstanding any other provision of law.*

3 Sec. 47: [49.] K.S.A. 2008 Supp. 65-3008a is hereby amended to
4 read as follows: 65-3008a. (a) No permit shall be issued, modified, re-
5 newed or reopened without first providing the public an opportunity to
6 comment and request a public hearing on the proposed permit action.
7 The request for a public hearing on the issuance of a permit shall set
8 forth the basis for the request and a public hearing shall be held if, in the
9 judgment of the secretary, there is sufficient reason.

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

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

36 Sec. 48: [50.] K.S.A. 65-3012 is hereby amended to read as follows:

37 65-3012. (a) ~~Notwithstanding any other provision of this act, the secretary~~
38 ~~may take such action as may be necessary to protect the health of persons~~
39 ~~or the environment. (1) Upon receipt of information that the emission of~~
40 ~~emissions from an air pollution source or combination of air pollution~~
41 ~~sources presents a an imminent and substantial endangerment to the pub-~~
42 ~~lic health of persons or welfare or to the environment; or (2) for an im-~~
43 ~~minent or actual violation of this act, any rules and regulations adopted~~

1 under this act, any orders issued under this act or any permit conditions
2 required by this act.

3 ~~(b) The action the secretary may take under subsection (a) includes~~
4 ~~but is not limited to:~~

5 ~~(1) Issuing an order directing the owner or operator, or both, to take~~
6 ~~such steps as necessary to prevent the act or eliminate the practice. Such~~
7 ~~order may include, with respect to a facility or site, temporary cessation~~
8 ~~of operation.~~

9 ~~(2) Commencing, or for an imminent or actual violation of the Kansas~~
10 ~~air quality act, or any permit conditions required by such act, or any~~
11 ~~orders issued under such act or any permit issued under such act, the~~
12 ~~secretary may issue a temporary order not to exceed 72 hours in duration,~~
13 ~~directing the owner or operator, or both, to take such steps as necessary~~
14 ~~to prevent the act or eliminate the practice.~~

15 ~~(b) Upon issuance of the temporary order, the secretary may com-~~
16 ~~mence an action in the district court to enjoin acts or practices specified~~
17 ~~in subsection (a) or requesting or request the attorney general or appro-~~
18 ~~priate county or district attorney to commence an action to enjoin those~~
19 ~~acts or practices.~~

20 ~~(c) Upon a showing by the secretary that a person has engaged in~~
21 ~~those acts or practices resulting in a condition, or constituting a violation,~~
22 ~~described in subsection (a), a permanent or temporary injunction, re-~~
23 ~~straining order or other order may be granted by any court of competent~~
24 ~~jurisdiction. An action for injunction under this subsection shall have~~
25 ~~precedence over other cases in respect to order of trial.~~

26 ~~(3) Applying to the district court in the county in which an order of~~
27 ~~the secretary under subsection (b)(1) will take effect, in whole or in part,~~
28 ~~for an order of that court directing compliance with the order of the~~
29 ~~secretary. Failure to obey the court order shall be punishable as contempt~~
30 ~~of the court issuing the order. The application under this subsection for~~
31 ~~a court order shall have precedence over other cases in respect to order~~
32 ~~of trial.~~

33 ~~(c) In any civil action brought pursuant to this section in which a~~
34 ~~temporary restraining order or preliminary injunction is sought, it shall~~
35 ~~not be necessary to allege or prove at any stage of the proceeding that~~
36 ~~irreparable damage will occur should the temporary restraining order or~~
37 ~~preliminary injunction not be issued or that the remedy at law is inade-~~
38 ~~quate, and the temporary restraining order or preliminary injunction shall~~
39 ~~issue without such allegations and without such proof.~~

40 ~~(d) Any order of the secretary pursuant to subsection (b)(1) is subject~~
41 ~~to hearing and review in accordance with the Kansas administrative pro-~~
42 ~~cedure act.~~

43 ~~(d) A person aggrieved by an order of the secretary issued pursuant~~

1 to this section shall immediately be entitled to judicial review of the sec-
2 retary's action by filing a petition for judicial review pursuant to K.S.A.
3 77-601 et seq., and amendments thereto, however the aggrieved party
4 shall not be required to exhaust any other or additional administrative
5 remedies available within the agency notwithstanding any other provision
6 of law. A petition for review under this subsection shall have precedence
7 over other cases in respect to order of trial.

8 New Sec. 49: [51.] (a) Any electric public utility, as defined in K.S.A.
9 66-101a, and amendments thereto, which after the effective date of this
10 act is developing a new fossil fuel or nuclear baseload electricity gener-
11 ating facility in Kansas shall provide to any municipally owned or operated
12 electric utility in Kansas or Kansas corporation organized under the elec-
13 tric cooperative act, K.S.A. 17-4601 et seq., and amendments thereto, an
14 option to own or enter into a power purchase agreement to purchase, or
15 a combination thereof, up to 15% of the rated capacity of the facility or
16 200 megawatts of power, whichever is less, which is not presently dedi-
17 cated to Kansas consumers, from the new fossil fuel or nuclear baseload
18 electricity generating facility. The aggregate amount of purchased power
19 by all municipal utilities and cooperatives shall not exceed 200 megawatts.

20 (b) If the facility developer proceeds with construction of such gen-
21 erating facility, any municipally owned or operated electric utility in Kan-
22 sas or corporation organized under the electric cooperative act, K.S.A.
23 17-4601 et seq., and amendments thereto, shall have six months from the
24 date of issuance of the construction permit under the Kansas air quality
25 act for such generating facility or nine months from the effective date of
26 this act, whichever occurs first, to exercise the option by executing an
27 agreement to purchase an ownership interest in or to enter into a power
28 purchase agreement, or a combination thereof, for up to 15% of the rated
29 capacity of the facility or 200 megawatts of power, whichever is less, from
30 the facility developer upon the same terms and conditions as participants
31 in the facility other than the facility developer.

32 (c) If more than one municipally owned or operated electric utility
33 in Kansas or corporation organized under the electric cooperative act,
34 K.S.A. 17-4601 et seq., and amendments thereto, exercises the option in
35 this section, the available megawatts, in the absence of a mutual agree-
36 ment otherwise, shall be allocated equally among the municipal utilities
37 and cooperatives but no municipal utility or cooperative may exercise an
38 option for less than 25 megawatts.

39 New Sec. 50: [52.] (a) There is hereby established the Kansas energy
40 resources commission. The commission shall be made up of the following
41 members:

42 (1) Two members appointed by the speaker of the house of
43 representatives;

- 1 (2) two members appointed by the president of the senate;
- 2 (3) one member appointed by the minority leader of the house of
- 3 representatives;
- 4 (4) one member appointed by the minority leader of the senate; and
- 5 (5) one member appointed by the governor.

6 All appointments shall be from persons recognized for their breadth of
7 knowledge on energy issues and initiatives. All appointments shall be
8 residents of Kansas with expertise in the subject areas enumerated in
9 subsection (d) and with either terminal professional degrees or at least 5
10 years of professional experience in the appropriate field. Except as pro-
11 vided in subsection (b), members shall be appointed for a term of four
12 years and until a successor is appointed and qualifies. Nothing in this
13 section shall be construed as prohibiting the reappointment of members
14 to the commission.

15 (b) The appointing authorities indicated in subsection (a) shall make
16 initial appointments on or before August 1, 2009. The terms of these
17 initial appointments shall be as follows, as designated by the appointing
18 authority:

19 (1) One appointment by the speaker of the house of representatives
20 shall expire on June 30, 2010, and the other appointment shall expire on
21 June 30, 2013;

22 (2) one appointment by the president of the senate shall expire on
23 June 30, 2010, and the other appointment shall expire on June 30, 2013;

24 (3) one appointment by the minority leader of the house of repre-
25 sentatives shall expire on June 30, 2011;

26 (4) one appointment by the minority leader of the senate shall expire
27 on June 30, 2011; and

28 (5) one appointment by the governor shall expire on June 30, 2013.

29 (c) The member appointed by the speaker of the house of represen-
30 tatives whose term expires June 30, 2013 shall call the first meeting. The
31 members of the commission shall choose their own chairperson, vice-
32 chairperson and secretary-treasurer for the commission, who shall serve
33 for terms of two years and are eligible for re-election.

34 (d) The commission is hereby granted such specific powers as are
35 necessary to carry out the functions enumerated in this section. The com-
36 mission shall submit annual reports of the activities and recommendations
37 of the commission to the governor and the legislature. A preliminary
38 report shall be submitted on or before September 1, 2010. The commis-
39 sion shall:

- 40 (1) Develop strategies to maximize productive use of the existing re-
41 sources in Kansas, including, but not limited to: water, coal, oil, natural
42 gas, coal-bed methane, wind, solar, municipal and other waste, agricul-
43 tural ground, bio-mass and such other energy resources as shall be iden-

1 tified by the commission members as having economic value to the state;
2 (2) identify means of sustaining and, if possible, increasing production
3 and use of identified resources;

4 (3) identify emerging technologies and technological opportunities to
5 sustain or increase production and make better use of existing and po-
6 tential resources, and recommend state investments in specific research
7 projects. Development of sustainable policies shall include conservation,
8 enhanced production technologies and other strategies;

9 (4) investigate and research scientifically derived literature on public
10 health impacts of greenhouse gases and particulates emitted from all nat-
11 ural and man-made sources and the technological ability to capture or
12 reduce such emissions. Recommend emission limits for primary man-
13 made emissions by type of emitting source. Such recommendations shall
14 be based on a consensus of the main-stream scientific community and
15 regulatory recommendations and shall note the cost-benefit ratio of lim-
16 iting or capturing such gases and particulates. Recommendations shall
17 recognize the technological feasibility of capturing or significantly reduc-
18 ing such emissions and the cost to consumers of the recommended
19 actions;

20 (5) recommend reallocations of existing state budget resources;

21 (6) recommend permanent funding sources for energy sustainability
22 research; and

23 (7) pursue such other issues as the council members may deem
24 necessary.

25 (e) The commission shall hold meetings at least once in each quarter,
26 and additional meetings as deemed necessary. Meetings shall be called
27 and held at the discretion of the chairperson, or upon written request of
28 a majority of the members of the commission. A majority of the members
29 of the commission shall constitute a quorum for the exercise of powers
30 conferred upon the commission. Members of the commission attending
31 meetings of such commission, or subcommittee meetings thereof as au-
32 thorized by the commission, shall be paid subsistence allowances, mileage
33 and other expenses as provided in K.S.A. 75-3223, and amendments
34 thereto.

35 (f) In the event of a vacancy in the membership of the commission
36 by reason of expiration of any member's term of office, a successor of like
37 qualifications shall be appointed in the manner and for the term of office
38 prescribed herein. In the event of a vacancy in the membership of the
39 commission, before the expiration of the member's term, a successor of
40 like qualifications shall be appointed by the appointing authority for the
41 remainder of the unexpired term.

42 (g) The commission may receive and expend moneys appropriated to
43 the commission from the public service regulation fund and received from

1 any other source, whether public or private, to further the purposes of
2 this section.

3 (h) The staff of the office of the revisor of statutes, the legislative
4 research department and the division of legislative administrative services
5 shall provide such assistance as may be requested by the energy resources
6 commission and authorized by the legislative coordinating council. The
7 ~~Kansas~~ [state] corporation commission shall also provide such assistance
8 as may be requested.

9 Sec. ~~51~~. [53.] K.S.A. 19-101a, 55-1,117, 65-3012 and 66-104d and
10 K.S.A. 2008 Supp. 65-3005, 65-3008a, 66-1,184, 74-99d07 and 74-99d14
11 are hereby repealed.

12 Sec. ~~52~~. [54.] This act shall take effect and be in force from and after
13 its publication in the Kansas register.