

MINUTES OF THE HOUSE ENERGY AND UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9:15 A.M. on March 24, 2008 in Room 783 of the Docking State Office Building.

All members were present except:

Oletha Faust-Goudeau- excused  
Tom Sloan- excused  
Judy Morrison-excused

Committee staff present:

Mary Galligan, Kansas Legislative Research  
Carol Toland, Kansas Legislative Research  
Mary Torrence, Revisor's Office  
Melissa Doeblin, Revisor's Office  
Renaë Hansen, Committee Administrative Assistant

Conferees appearing before the committee:

There were no conferees appearing before the committee.

Others attending:

Twenty one including the attached list.

Action on:

**SB 586-Incentives to encourage development of nuclear power by utilities and authorizing recovery of certain costs.**

Representative Richard Proehl offered a proposed amendment (Attachment 1) to **SB 586**.

Representative Richard Proehl moved to amend SB 586 (Attachment 1), seconded by Representative Rob Olson. Motion Carried.

Representative Cindy Neighbor moved to pass SB 586 as amended favorable for passage, seconded by Representative Rob Olson. Motion Carried.

Representative Tom Hawk will carry **SB 586** on the House floor.

Action on:

**SB 148-KAN-ED act; department of corrections; department of health and environment.**

Representative Rob Olson moved that SB 148 be used as a vehicle to insert new language (Attachment 2), seconded by Representative Tom Moxley.

The Kansas Legislative Research department presented an explanation paper (Attachment 3), for the Proposed New Energy Bill. Mary Torrence, Revisors Office, explained the difference between this proposed substitute bill **SB 327**. She also noted that there were some technical changes in this proposed legislation and the language put into **SB 327**.

Questions were asked and comments made by Representatives: Annie Kuether, Dan Johnson, Josh Svaty, Vaughn Flora, Vern Swanson, Tom Hawk, Terry McLachlan, Rob Olson, Carl Holmes, Margaret Long, Forrest Knox, Don Myers, and Cindy Neighbor.

CONTINUATION SHEET

MINUTES OF THE House Energy and Utilities Committee at 9:15 A.M. on March 24, 2008 in Room 783 of the Docking State Office Building.

Many of the questions asked initially, concerned the new section on page 2 that dealt with the new wind energy tariff proposed. It was noted that state schools were still not put into this proposed bill. The committee discussed the portion of the bill that would change the regulatory responsibilities of the Secretary of Health and Environment. Additionally, the mitigation of CO<sub>2</sub> expulsion from the coal fired power plant was discussed. It was noted that passing guidance in CO<sub>2</sub> emitted would give the Secretary of Health and Environment a clearer direction in how to approve or disapprove air permits for coal plants in the future.

Mary Galligan, Research, also responded to some of the questions asked concerning the proposed language.

Representative Rob Olson closed on the motion noting the changes from **SB 327**.

Motion to amend **SB 148** with new language (Attachment 2), passed.

Representative Rob Olson moved that **HSub SB 148** pass out favorably, seconded by Representative Don Myers.

Discussion ensued between Representatives: Josh Svaty, Carl Holmes, Don Myers,

Motion Carried, 10-7.

Representative Carl Holmes will carry the bill on the House floor.

Representative Rob Olson spoke to the committee on the presentation that the committee would hear on March 25<sup>th</sup>, 2008.

The next meeting is scheduled for March 25, 2008.

The meeting was adjourned at 10:15 a.m.

# HOUSE ENERGY AND UTILITIES COMMITTEE GUEST LIST

DATE: March 24, 2008

NAME	REPRESENTING
Callie Coco	Kearney + Associates Inc.
MARK SCHREIBER	WESTAR
Paul SNIDER	KCP&L
Maril Harlett	CEP
John D. Pinegar	sunflower
Steve Miller	Sunflower
Wayne PENDORO	Sunflower
Mark CALCARO	Sunflower
Pete WAGES	KEPCO
<del>TOM DAY</del>	KCC
Kimberly Jean Sraty	KMU
Maree Carpenter	KS Chamber
Amy Blankenbiller	KS Chamber
Duane Simpson	KS Grain & Feed Assoc
Leslie Kaufman	KS Coop Council
LARRY BEES	MIDWEST ENERGY
Wes Asher	Aquila
Dave Holthaus	KCC

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

Section 1. K.S.A. 74-8941 is hereby amended to read as follows: 74-8941. (a) For the purpose of financing the construction, purchase and installation of pollution control devices at electric generation facilities and additions to electric generation facilities described in subsection ~~(b)(2)(D)~~ (b)(2)(C) of K.S.A. 66-128, and amendments thereto, the Kansas development finance authority is hereby authorized to issue revenue bonds in amounts sufficient to pay the costs of such construction, purchase and installation, including any required interest on the bonds during construction and installation, plus all amounts required for the costs of bond issuance and any required reserves on the bonds. The bonds, and interest thereon, issued pursuant to this section shall be payable from revenues derived from sales of generation from the electric generation facility. As used in this subsection, "pollution control devices" means any device or structure required to meet air emission or water discharge standards imposed by state or federal law.

(b) The provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, shall not prohibit the issuance of bonds by the Kansas development finance authority for the purposes of this section and any such issuance of bonds is exempt from the provisions of subsection (a) of K.S.A. 74-8905, and amendments thereto, which would operate to preclude such issuance.

(c) Revenue bonds, including refunding revenue bonds, issued hereunder shall not constitute an indebtedness of the state of Kansas, nor shall they constitute indebtedness within the meaning of any constitutional or statutory provision limiting the incurring of indebtedness.

(d) Revenue bonds, including refunding revenue bonds, issued hereunder and the income derived therefrom are and shall be



exempt from all state, county and municipal taxation in the state of Kansas, except Kansas estate taxes.

Sec. 2. K.S.A. 2007 Supp. 79-258 is hereby amended to read as follows: 79-258. The following described property, to the extent herein specified, shall be exempt from all property taxes levied under the laws of the state of Kansas:

(a) All electric generation facilities and additions to electric generation facilities described in subsection ~~(b)(2)(D)~~ (b)(2)(C) of K.S.A. 66-128, and amendments thereto.

(b) The provisions of subsection (a) shall apply: (1) Except as provided in paragraph (2), from and after commencement of construction of such property and for the 10 taxable years immediately following the taxable year in which construction of such property is completed; or (2) for a peak load plant, from and after commencement of construction of such peak load plant and for the four taxable years immediately following the taxable year in which construction of such property is completed.

(c) All pollution control devices purchased for or constructed or installed at electric generation facilities described in subsection ~~(b)(2)(D)~~ (b)(2)(C) of K.S.A. 66-128, and amendments thereto.

(d) The provisions of subsection (c) shall apply: (1) Except as provided in paragraph (2), from and after purchase or commencement of construction or installation of such property and for the 10 taxable years immediately following the taxable year in which such property is purchased or construction or installation of such property is completed; or (2) for a peak load plant, from and after purchase or commencement of construction or installation of such property and for the four taxable years immediately following the taxable year in which such property is purchased or construction or installation of such property is completed.

(e) As used in this section, "peak load plant" means an electric generation facility used during maximum load periods.

(f) The provisions of this section shall apply to all

taxable years commencing after December 31, 2000.

Sec. 3. K.S.A. 2007 Supp. 79-259 is hereby amended to read as follows: 79-259. The following described property, to the extent herein specified, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

(a) All electric transmission lines and appurtenances described in subsection ~~(b)(2)(E)~~ (b)(2)(D) of K.S.A. 66-128, and amendments thereto, and the right-of-way on which such lines are located.

(b) The provisions of this section shall apply to property the construction of which is completed after December 31, 2000, and for the 10 taxable years immediately following the taxable year in which construction of such property is completed.

(c) The provisions of this section shall apply to all taxable years commencing after December 31, 2000.

Sec. 4. K.S.A. 74-8941 and K.S.A. 2007 Supp. 79-258 and 79-259 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

## Proposed HOUSE Substitute for SENATE BILL NO. 148

## By Committee on Energy and Utilities

1 AN ACT concerning energy; relating to conservation and electric  
2 generation, transmission and efficiency and air emissions;  
3 amending K.S.A. 65-3008b, 65-3012 and 66-104d and K.S.A. 2007  
4 Supp. 65-3005, 65-3008a, 66-1,184 and 74-616 and repealing the  
5 existing sections.

6 Be it enacted by the Legislature of the State of Kansas:

7 New Section 1. (a) The owner or operator of a new pulverized  
8 coal electricity generating unit which is constructed in Kansas  
9 after the effective date of this act, has 1400 megawatts or more  
10 nameplate capacity and is co-located with an existing coal-fired  
11 electric generating unit in western Kansas that has greater than  
12 325 megawatts nameplate capacity shall, within five years after  
13 the date of commencement of commercial operation of the new unit  
14 reduce, or mitigate or offset, the annual release of carbon  
15 dioxide from the new unit to a level equal to not more than 70%  
16 of the statewide average annual carbon dioxide release rate of  
17 2,260 lbs/megawatt hours for all Kansas coal-fired electricity  
18 generation. For such purpose, all renewable resources commencing  
19 operation after January 1, 2000, that the owner or operator owns  
20 or energy from renewable resources that the owner or operator is  
21 under contract to purchase shall qualify for mitigation credit  
22 for meeting the required reduction levels. In addition, the owner  
23 or operator of the unit shall use reasonable efforts to promote,  
24 develop or participate in cost-effective local or regional  
25 environmental and energy technology projects that will or have  
26 the potential to reduce, utilize, displace or sequester carbon  
27 dioxide in addition to the required reduction or mitigation. The  
28 limitations under this subsection shall not be set forth in or a  
29 condition of any construction or operating permit issued under  
30 the Kansas air quality act.

31 (b) Any new pulverized coal electricity generating unit  
32 which is constructed in Kansas after the effective date of this  
33 act, has 1400 megawatts or more nameplate capacity and is  
34 co-located with an existing coal-fired electric generating unit  
35 in western Kansas that has greater than 325 megawatts nameplate

HOUSE ENERGY AND UTILITIES

DATE: 3/24/2008

ATTACHMENT 2-1

1 capacity shall meet the following emission limits: (1) Nitrogen  
2 oxides, an annual rate of 0.050 lbs/mmBtu; and (2) sulfur  
3 dioxide, an annual rate of 0.065 lbs/mmBtu for low-sulfur coal  
4 (coal having a scrubber inlet emission rate less than 0.9  
5 lb/mmBtu) or 0.085 lbs/mmBtu for high-sulfur coal (coal having a  
6 scrubber inlet emission rate equal to or greater than 0.9  
7 lb/mmBtu).

8 New Sec. 2. (a) As used in this section "public utility"  
9 means an electric public utility, as defined in K.S.A. 66-101a,  
10 and amendments thereto, but does not include any municipally  
11 owned or operated electric utility.

12 (b) Each public utility selling energy at retail shall, no  
13 later than July 1, 2009, develop and submit to the state  
14 corporation commission for approval a retail tariff providing for  
15 the purchase by the utility's retail customers of energy from a  
16 wind generation resource. Such wind generation resource shall be  
17 either owned by the public utility or owned by another generator  
18 from which the public utility or its member-owned wholesale  
19 provider purchases the energy. For those retail customers who  
20 elect to take service under the tariff, the public utility shall  
21 be allowed, in its discretion, to provide energy to the customer  
22 only when energy is available from the wind energy resource.

23 (c) Each public utility shall develop energy efficiency and  
24 load management programs which provide information, technical  
25 assistance and incentives to each type of customer and customer  
26 class to control energy use. No later than July 1, 2010, each  
27 public utility shall submit to the state corporation commission a  
28 report setting forth the elements of the utility's energy  
29 efficiency and load management programs.

30 (d) Each public utility shall develop, or work with regional  
31 or local organizations to develop, and implement a voluntary  
32 conservation program to assist businesses and institutions in:  
33 (1) Inventorying and assessing the emissions of greenhouse gases  
34 from purchased electricity, heat or steam and, where feasible,  
35 indirect emissions from activities of the business or

1 institution; and (2) developing methods and practices to reduce  
2 such emissions while taking into consideration the economic  
3 impact of such methods and practices.

4 New Sec. 3. As used in sections 3 through 7, and amendments  
5 thereto:

6 (a) "ASHRAE" means American society of heating,  
7 refrigerating and air-conditioning engineers, Inc. standard  
8 90.1-2004.

9 (b) "Energy star" means the joint program of the United  
10 States environmental protection agency and the United States  
11 department of energy which labels certain products that meet  
12 energy efficiency standards adopted for such products.

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

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

18 New Sec. 4. The secretary of administration shall adopt  
19 rules and regulations for state agencies for the purchase of  
20 products and equipment, including, but not limited to,  
21 appliances, lighting fixtures and bulbs, and computers, which  
22 meet energy efficiency guidelines which are not less than the  
23 guidelines adopted for such products to qualify as an energy star  
24 product if the projected cost savings for the useful life of such  
25 products and equipment is equal to or greater than the additional  
26 cost compared to functionally equivalent such products and  
27 equipment of lower efficiency.

28 New Sec. 5. (a) The department of administration shall  
29 collect data on energy consumption and costs for all state-owned  
30 and leased real property and the secretary of administration  
31 shall submit a written report to the legislature on or before the  
32 first day of the 2009 regular session of the legislature and on  
33 or before the first day of each ensuing regular session of the  
34 legislature identifying state-owned or leased real property  
35 locations in which an excessive amount of energy is being used in



1 accordance with rules and regulations adopted by the secretary of  
2 administration concerning energy efficiency performance standards  
3 for state-owned or leased real property.

4 (b) The secretary of administration shall not approve a new  
5 lease or a renewal or extension of an existing lease of non-state  
6 owned real property unless the lessor has submitted an energy  
7 audit for such real property that is the subject of such lease.  
8 The secretary of administration shall adopt rules and regulations  
9 establishing energy efficiency performance standards which shall  
10 apply to leased space and improvements which the lessor shall be  
11 required to address based on such energy audit.

12 New Sec. 6. (a) Within the limitations of appropriations  
13 therefor, the Kansas energy office of the state corporation  
14 commission shall develop and increase the participation of school  
15 districts and local governments in the facilities conservation  
16 improvements program (FCIP) pursuant to K.S.A. 75-37,125, and  
17 amendments thereto.

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

23 New Sec. 7. The secretary of administration shall adopt  
24 rules and regulations prescribing energy efficiency performance  
25 standards requiring that all new construction and, to the extent  
26 possible, renovated state-owned buildings, be designed and  
27 constructed to achieve energy consumption levels that are at  
28 least 10% below the levels established under the ASHRAE standard  
29 or the IECC, as appropriate, if such levels of energy consumption  
30 are life-cycle cost-effective for such buildings and also  
31 recommending that new and, to the extent possible, renovated  
32 school and municipal buildings meet the same requirements.

33 New Sec. 8. (a) There is hereby established the Kansas  
34 electric generation, science and technology commission. The  
35 commission shall be made up of the following 15 members:

1 (1) Chairperson of the house committee on energy and  
2 utilities, or the chairperson's appointee, to be appointed from  
3 the house committee on energy and utilities, or its successor,  
4 for the appointee's legislative term;

5 (2) vice-chairperson of the house committee on energy and  
6 utilities, or the vice-chairperson's appointee, to be appointed  
7 from the house committee on energy and utilities, or its  
8 successor, for the appointee's legislative term;

9 (3) ranking minority member of the house committee on energy  
10 and utilities, or the ranking minority member's appointee, to be  
11 appointed from the house committee on energy and utilities, or  
12 its successor, for the appointee's legislative term;

13 (4) chairperson of the senate committee on utilities, or the  
14 chairperson's appointee, to be appointed from the senate  
15 committee on utilities, or its successor, for the appointee's  
16 legislative term;

17 (5) vice-chairperson of the senate committee on utilities,  
18 or the vice-chairperson's appointee, to be appointed from the  
19 senate committee on utilities, or its successor, for the  
20 appointee's legislative term;

21 (6) ranking minority member of the senate committee on  
22 utilities, or the ranking minority member's appointee, to be  
23 appointed from the senate committee on utilities, or its  
24 successor, for the appointee's legislative term;

25 (7) chief of energy operations of the state corporation  
26 commission who shall serve as a nonvoting member of the  
27 commission;

28 (8) director of the division of environment in the Kansas  
29 department of health and environment who shall serve as a  
30 nonvoting member of the commission;

31 (9) one member appointed by the governor;

32 (10) two members appointed by the speaker of the house of  
33 representatives;

34 (11) one member appointed by the minority leader of the  
35 house of representatives;

1 (12) two members appointed by the president of the senate;  
2 and

3 (13) one member appointed by the minority leader of the  
4 senate.

5 (b) Appointments made in (a)(9) through (a)(13) shall have  
6 one of the following qualifications, but no more than two members  
7 appointed shall fall into any one qualification category:

8 (1) Expertise in global greenhouse gas regulation or  
9 practices or climatology;

10 (2) expertise in energy conservation;

11 (3) expertise in baseload generation and regulation; or

12 (4) expertise in renewable energy resources.

13 (c) The chairperson of the house committee on energy and  
14 utilities, or its successor, or the chairperson's appointee,  
15 shall call the first meeting, at which time the members shall  
16 elect the chairperson and vice-chairperson of the commission.  
17 The commission shall meet at least four times a year on call of  
18 the chairperson. A majority of the members of the commission or  
19 their appointees shall constitute a quorum for the exercise of  
20 powers conferred upon the commission.

21 (d) The commission is hereby granted such specific powers as  
22 are necessary to carry out the functions enumerated in this  
23 section. The commission shall examine issues related to electric  
24 service in this state, including, but not limited to:

25 (1) The actions of federal and regional entities regarding  
26 electric generation and transmission;

27 (2) the obligations of all entities that generate, transmit  
28 or distribute electricity;

29 (3) the economic impact of generation, transmission and  
30 distribution of electricity on community economic development and  
31 on electric rates for various classes of customers;

32 (4) the impact of electric generation and transmission on  
33 the state's environment and types of remediation that may be  
34 required to limit undesirable impacts;

35 (5) the social impact on Kansas residents of various methods

1 of generation and transmission of electricity;

2 (6) the impact on state and local tax revenues of the  
3 various means of generating and transmitting electricity;

4 (7) the adequacy of the state's capacity to generate  
5 electricity in light of current and future needs of the state,  
6 region and nation;

7 (8) the impact of conservation on the need for expansion of  
8 electric generation capacity in the short and long term;

9 (9) the fuel portfolio balance of the state's electric  
10 generation facilities;

11 (10) the effectiveness of existing incentives for renewable  
12 energy investment;

13 (11) other states' existing incentives for renewable energy  
14 investment; and

15 (12) the reports and recommendations of the electricity  
16 committee of the Kansas energy council.

17 (e) The commission shall submit a preliminary written report  
18 of the activities and recommendations of the commission to the  
19 house committee on energy and utilities and the senate committee  
20 on utilities on or before the first day of the 2009 regular  
21 session of the legislature and shall submit subsequent written  
22 reports on or before the first day of each subsequent regular  
23 session of the legislature. The commission shall submit a final  
24 written report of its activities and recommendations on or before  
25 the first day of the 2012 regular session of the legislature. The  
26 final written report of the commission shall include, but not be  
27 limited to, recommendations for:

28 (1) New incentives for development of a diversified  
29 electricity generation portfolio;

30 (2) an appropriate energy generation portfolio goal, or  
31 series of goals, taking into consideration regional and national  
32 markets;

33 (3) laws, rules and regulations, and policies needed to  
34 facilitate diversification of the electricity generation  
35 portfolio; and

1 (4) any additional studies related to the commission's  
2 charge that might appropriately be undertaken by the Kansas  
3 research universities.

4 (f) The commission may receive and expend moneys  
5 appropriated to the commission from the public service regulation  
6 fund created by K.S.A. 66-1a01, and amendments thereto, and  
7 moneys received from any other source, whether public or private,  
8 to further the purposes of this section.

9 (g) Commission members shall be paid compensation,  
10 subsistence allowances, mileage and other expenses as provided by  
11 K.S.A. 75-3223, and amendments thereto, for each day of actual  
12 attendance at any meeting of the commission or any subcommittee  
13 meeting approved by the commission.

14 (h) The state corporation commission shall provide  
15 assistance to the commission. Each other state agency shall  
16 provide assistance to the commission as may be requested by the  
17 commission.

18 (i) The provisions of this section shall expire on December  
19 31, 2011, unless extended by statute.

20 New Sec. 9. As used in this section:

21 (a) (1) "Affected facility" means a fossil-fuel-fired steam  
22 electricity generating unit commencing operation after January 1,  
23 2008, of more than 250 million British thermal units per hour of  
24 heat input other than:

25 (A) An affected facility owned or operated by the federal  
26 government; or

27 (B) an affected facility on tribal lands.

28 (2) "Best available control technology" means an emissions  
29 limitation, including a visible emission standard, based on the  
30 maximum degree of reduction for each pollutant subject to  
31 regulation under this section which would be emitted from any  
32 proposed major stationary source or major modification which the  
33 secretary, on a case-by-case basis, taking into account energy,  
34 environmental and economic impacts and other costs, determines is  
35 achievable for such source or modification through application of



1 production processes or available methods, systems and  
2 techniques, including fuel cleaning or treatment or innovative  
3 fuel combustion techniques for control of such pollutant. In no  
4 event shall application of best available control technology  
5 result in emissions of any pollutant which would exceed the  
6 emissions allowed by any applicable standard under 40 C.F.R.  
7 parts 60 and 61. If the secretary determines that technological  
8 or economic limitations on the application of measurement  
9 methodology to a particular emissions unit would make the  
10 imposition of an emissions standard infeasible, a design,  
11 equipment, work practice, operational standard or combination  
12 thereof, may be prescribed instead to satisfy the requirement for  
13 the application of best available control technology. Such  
14 standard shall, to the degree possible, set forth the emissions  
15 reduction achievable by implementation of such design, equipment,  
16 work practice or operation, and shall provide for compliance by  
17 means which achieve equivalent results.

18 (b) In the event rules and regulations regulating the  
19 emission of carbon dioxide from affected facilities are  
20 established in accordance with subsection (b)(1) of K.S.A.  
21 65-3005, and amendments thereto, the owner or operator of an  
22 affected facility shall engage in the capture or reduction of  
23 carbon dioxide using the best available control technology, or  
24 such other means or methodology proven to mitigate the emission  
25 of carbon dioxide from the affected facility. If best available  
26 control technology is applied, the owner or operator shall not be  
27 required to reapply best available control technology thereafter  
28 unless otherwise required because of a major modification to the  
29 affected facility. The issuance of any air permit shall not be  
30 delayed or deferred pending the establishment of any rules and  
31 regulations regulating carbon dioxide.

32 New Sec. 10. (a) (1) By the year 2012, for each public  
33 utility, the nameplate capacity of the renewable electric  
34 generation facilities included in the public utility's generation  
35 portfolio, whether owned by the public utility or contracted for

1 energy purchase by the public utility, shall be no less than 10%  
2 of the public utility's peak load, expressed in megawatts, in the  
3 state of Kansas, for a three-year average for the 2008, 2009 and  
4 2010 calendar years.

5 (2) By the year 2016, for each public utility, the nameplate  
6 capacity of the renewable electric generation facilities included  
7 in the public utility's generation portfolio, whether owned by  
8 the public utility or contracted for energy purchase by the  
9 public utility, shall be no less than 15% of the public utility's  
10 peak load, expressed in megawatts, in the state of Kansas, for a  
11 three-year average for the 2012, 2013 and 2014 calendar years.

12 (3) By the year 2020, for each public utility, the nameplate  
13 capacity of the renewable electric generation facilities included  
14 in the public utility's generation portfolio, whether owned by  
15 the public utility or contracted for energy purchase by the  
16 public utility, shall be no less than 20% of the public utility's  
17 peak load, expressed in megawatts, in the state of Kansas, for a  
18 three-year average for the 2016, 2017 and 2018 calendar years.

19 (b) The state corporation commission shall establish rules  
20 and regulations to govern reporting requirements and prevention  
21 of duplication of the application of the requirements of this  
22 section.

23 (c) As used in this section:

24 (1) "Public utility" means an electric public utility, as  
25 defined in K.S.A. 66-101a, and amendments thereto, but does not  
26 include any portion of any municipally owned or operated electric  
27 utility; and

28 (2) "renewable electric generation facilities" means  
29 facilities generating electricity utilizing renewable energy  
30 resources or technologies, as defined in K.S.A. 79-201, and  
31 amendments thereto, and the capacity of all net metering systems  
32 operating under the net metering and easy connection act.

33 New Sec. 11. Sections 11 through 27, and amendments thereto,  
34 shall be known and may be cited as the net metering and easy  
35 connection act.

1 New Sec. 12. As used in the net metering and easy connection  
2 act:

3 (a) "Avoided energy cost" means the current average cost of  
4 fuel and purchased energy for the preceding 12 months for the  
5 utility, or in the case of a non-generating utility, for such  
6 utility's wholesale power supplier, as defined by the governing  
7 body with jurisdiction over any municipal electric utility,  
8 electric cooperative utility or electric public utility.

9 (b) "Commission" means the state corporation commission.

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

12 (1) Is powered by solar thermal sources or photovoltaic  
13 cells and panels;

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

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

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

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

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

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

33 (d) "Net metering" means using metering equipment sufficient  
34 to measure the difference between the electrical energy supplied  
35 to a customer-generator by a retail electric supplier and the

1 electrical energy supplied by the customer-generator to the  
2 retail electric supplier over the applicable billing period.

3 (e) "Retail electric supplier" means any municipal electric  
4 utility, electric cooperative utility or electric public utility  
5 which provides retail electric service in this state.

6 New Sec. 13. A retail electric supplier shall:

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

23 (b) offer to the customer-generator a tariff or contract  
24 that is identical in electrical energy rates, rate structure and  
25 monthly charges to the contract or tariff that the customer would  
26 be assigned if the customer were not an eligible  
27 customer-generator but shall not charge the customer-generator  
28 any additional standby, capacity, interconnection or other fee or  
29 charge that would not otherwise be charged if the customer were  
30 not an eligible customer-generator; and

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

34 New Sec. 14. A customer-generator's facility shall be  
35 equipped with sufficient metering equipment that can measure the

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

16 New Sec. 15. The utility will supply, own and maintain all  
17 necessary meters and associated equipment utilized for billing.  
18 In addition, and for the purposes of monitoring customer  
19 generation and load, the utility may install at its expense, load  
20 research metering. The customer shall supply, at no expense to  
21 the utility, a suitable location for meters and associated  
22 equipment used for billing and for load research.

23 New Sec. 16. Consistent with the provisions of the net  
24 metering and easy connection act, the net electrical energy  
25 measurement shall be calculated in the following manner:

26 (a) For a customer-generator, a retail electric supplier  
27 shall measure the net electrical energy produced or consumed  
28 during the billing period in accordance with normal metering  
29 practices for customers in the same rate class, by employing a  
30 single, bidirectional meter that measures the amount of  
31 electrical energy produced and consumed, by employing multiple  
32 meters that separately measure the customer-generator's  
33 consumption and production of electricity or by employing an  
34 alternative technology.

35 (b) If the electricity supplied by the supplier exceeds the



1 electricity generated by the customer-generator during a billing  
2 period, the customer-generator shall be billed for the net  
3 electricity supplied by the supplier in accordance with normal  
4 practices for customers in the same rate class.

5 (c) If the electricity generated by the customer-generator  
6 exceeds the electricity supplied by the supplier during a billing  
7 period, the customer-generator shall be billed for the  
8 appropriate customer charges for that billing period in  
9 accordance with section 13, and amendments thereto, and shall be  
10 credited an amount at least equal to 150% of the avoided energy  
11 cost for the excess kilowatt-hours generated during the billing  
12 period, with this credit applied to the following billing period.

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

18 (e) For any electric cooperative utility or municipal  
19 electric utility, upon agreement of the wholesale generator  
20 supplying electric energy to the retail electric supplier, at the  
21 option of the retail electric supplier, the credit to the  
22 customer-generator may be provided by the wholesale generator.

23 New Sec. 17. (a) Each qualified electric energy generation  
24 unit used by a customer-generator shall meet all applicable  
25 safety, performance, interconnection and reliability standards  
26 established by any local code authorities, the national  
27 electrical code, the national electrical safety code, the  
28 institute of electrical and electronics engineers and  
29 underwriters laboratories for distributed generation. No supplier  
30 shall impose any fee, charge or other requirement not  
31 specifically authorized by the net metering and easy connection  
32 act or the rules and regulations promulgated under such act  
33 unless the fee, charge or other requirement would apply to  
34 similarly situated customers who are not customer-generators,  
35 except that a retail electric supplier may require that a

1 customer-generator's system contain a switch, circuit breaker,  
2 fuse or other easily accessible device or feature located in  
3 immediate proximity to the customer-generator's metering  
4 equipment that would allow a utility worker the ability to  
5 manually and instantly disconnect the unit from the utility's  
6 electric distribution system.

7 (b) For systems of 10 kilowatts or less, a  
8 customer-generator whose system meets the standards specified by  
9 subsection (a) shall not be required to install additional  
10 controls, perform or pay for additional tests or distribution  
11 equipment or purchase additional liability insurance beyond what  
12 is required under subsection (a) and section 14, and amendments  
13 thereto.

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

18 (1) Set forth safety, performance and reliability standards  
19 and requirements; and

20 (2) establish the qualifications for exemption from a  
21 requirement to install additional controls, perform or pay for  
22 additional tests or distribution equipment or purchase additional  
23 liability insurance.

24 New Sec. 18. (a) Applications by a customer-generator for  
25 interconnection of the qualified generation unit to the  
26 distribution system shall be accompanied by the plan for the  
27 customer-generator's electrical generating system, including, but  
28 not limited to, a wiring diagram and specifications for the  
29 generating unit, and shall be reviewed and responded to by the  
30 retail electric supplier within 30 days after receipt for systems  
31 of 10 kilowatts or less and within 90 days after receipt for all  
32 other systems. Prior to the interconnection of the qualified  
33 generation unit to the supplier's system, the customer-generator  
34 will furnish the retail electric supplier a certification from a  
35 qualified professional electrician or engineer that the

1 installation meets the requirements of subsection (a) of section  
2 17, and amendments thereto. If the application for  
3 interconnection is approved by the retail electric supplier and  
4 the customer-generator does not complete the interconnection  
5 within one year after receipt of notice of the approval, the  
6 approval shall expire and the customer-generator shall be  
7 responsible for filing a new application.

8 (b) Upon the change in ownership of a qualified electric  
9 energy generation unit, the new customer-generator shall be  
10 responsible for filing a new application under this section.

11 New Sec. 19. Each retail electric supplier regulated by the  
12 commission shall submit an annual net metering report to the  
13 commission and each other retail electric supplier shall submit  
14 the same report to its respective governing body. For data  
15 collection purposes only, non-regulated electric suppliers shall  
16 submit the same report to the commission. The report shall  
17 include the following information for the previous calendar year:  
18 The total number of customer-generator facilities, the total  
19 estimated generating capacity of its net-metered  
20 customer-generators and the total estimated net kilowatt-hours  
21 received from customer-generators. The supplier shall make such  
22 report available to any consumer of the supplier upon request.

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

32 New Sec. 21. Within nine months after the effective date of  
33 the net metering and easy connection act, the governing body of  
34 an electric cooperative utility or electric municipal utility  
35 shall adopt policies establishing a simple contract to be used

1 for interconnection and net metering. For systems of 10 kilowatts  
2 or less, the application process shall use an all-in-one document  
3 that includes a simple interconnection request, simple procedures  
4 and a brief set of terms and conditions.

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

10 New Sec. 23. The estimated generating capacity of all net  
11 metering systems operating under the provisions of the net  
12 metering and easy connection act shall count towards  
13 accomplishment by the respective retail electric supplier, or the  
14 wholesale generator supplying electric energy to the retail  
15 electric supplier, of any renewable energy portfolio target or  
16 mandate adopted by the Kansas legislature.

17 New Sec. 24. Any costs incurred under the net metering and  
18 easy connection act by a retail electric supplier shall be  
19 recoverable in the utility's rate structure.

20 New Sec. 25. No consumer shall connect or operate an  
21 electric generation unit in parallel phase and synchronization  
22 with any retail electric supplier without written approval by  
23 such supplier that all of the requirements under subsection (a)  
24 of section 18, and amendments thereto, have been met. For a  
25 consumer who violates this provision, a supplier may immediately  
26 and without notice disconnect the electric facilities of such  
27 consumer and terminate such consumer's electric service.

28 New Sec. 26. The manufacturer of any electric generation  
29 unit used by a customer-generator may be held liable for any  
30 damages to property or person caused by a defect in the electric  
31 generation unit of a customer-generator.

32 New Sec. 27. The seller, installer or manufacturer of any  
33 electric generation unit who knowingly misrepresents the safety  
34 aspects of an electric generation unit may be held liable for any  
35 damages to property or person caused by the electric generation

1 unit of a customer-generator.

2 Sec. 28. K.S.A. 2007 Supp. 66-1,184 is hereby amended to  
3 read as follows: 66-1,184. (a) Except as provided in subsection  
4 (b), every public utility which provides retail electric services  
5 in this state shall enter into a contract for parallel generation  
6 service with any person who is a customer of such utility, upon  
7 request of such customer, whereby such customer may attach or  
8 connect to the utility's delivery and metering system an  
9 apparatus or device for the purpose of feeding excess electrical  
10 power which is generated by such customer's energy producing  
11 system into the utility's system. No such apparatus or device  
12 shall either cause damage to the public utility's system or  
13 equipment or present an undue hazard to utility personnel. Every  
14 such contract shall include, but need not be limited to,  
15 provisions relating to fair and equitable compensation on such  
16 customer's monthly bill for energy supplied to the utility by  
17 such customer.

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

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

24 (B) "school" means Cloud county community college and Dodge  
25 City community college; and

26 (C) "avoided energy cost" means the average cost of fuel and  
27 purchased energy for the preceding 12 months for the utility, or  
28 in the case of a non-generating utility, such utility's wholesale  
29 power supplier, as defined by the governing body with  
30 jurisdiction over any electric cooperative utility or electric  
31 public utility.

32 (2) Every utility which provides retail electric services in  
33 this state shall enter into a contract for parallel generation  
34 service with any person who is a customer of such utility, if  
35 such customer is a residential customer of the utility and owns a



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

30 (3) A customer-generator, as defined by section 12, and  
31 amendments thereto, shall have the option of entering into a  
32 contract pursuant to this subsection (b) or utilizing the net  
33 metering and easy connection act. The customer-generator shall  
34 exercise the option in writing, filed with the utility and shall  
35 not be entitled to change the option once it is filed.

1 (c) The following terms and conditions shall apply to  
2 contracts entered into under subsection (a) or (b):

3 (1) The utility will supply, own, and maintain all necessary  
4 meters and associated equipment utilized for billing. In  
5 addition, and for the purposes of monitoring customer generation  
6 and load, the utility may install at its expense, load research  
7 metering. The customer shall supply, at no expense to the  
8 utility, a suitable location for meters and associated equipment  
9 used for billing and for load research;

10 (2) for the purposes of insuring the safety and quality of  
11 utility system power, the utility shall have the right to require  
12 the customer, at certain times and as electrical operating  
13 conditions warrant, to limit the production of electrical energy  
14 from the generating facility to an amount no greater than the  
15 load at the customer's facility of which the generating facility  
16 is a part;

17 (3) the customer shall furnish, install, operate, and  
18 maintain in good order and repair and without cost to the  
19 utility, such relays, locks and seals, breakers, automatic  
20 synchronizer, and other control and protective apparatus as shall  
21 be designated by the utility as being required as suitable for  
22 the operation of the generator in parallel with the utility's  
23 system. In any case where the customer and the utility cannot  
24 agree to terms and conditions of any such contract, the state  
25 corporation commission shall establish the terms and conditions  
26 for such contract. In addition, the utility may install, own, and  
27 maintain a disconnecting device located near the electric meter  
28 or meters. Interconnection facilities between the customer's and  
29 the utility's equipment shall be accessible at all reasonable  
30 times to utility personnel. Upon notification by the customer of  
31 the customer's intent to construct and install parallel  
32 generation, the utility shall provide the customer a written  
33 estimate of all costs that will be incurred by the utility and  
34 billed to the customer to accommodate the interconnection. The  
35 customer may be required to reimburse the utility for any

1 equipment or facilities required as a result of the installation  
2 by the customer of generation in parallel with the utility's  
3 service. The customer shall notify the utility prior to the  
4 initial energizing and start-up testing of the customer-owned  
5 generator, and the utility shall have the right to have a  
6 representative present at such test;

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

10 (5) the utility may limit the number and size of renewable  
11 generators to be connected to the utility's system due to the  
12 capacity of the distribution line to which such renewable  
13 generator would be connected, and in no case shall the utility be  
14 obligated to purchase an amount greater than 4% of such utility's  
15 peak power requirements.

16 (d) Service under any contract entered into under subsection  
17 (a) or (b) shall be subject to either the utility's rules and  
18 regulations on file with the state corporation commission, which  
19 shall include a standard interconnection process and requirements  
20 for such utility's system, or the current federal energy  
21 regulatory commission interconnection procedures and regulations.

22 (e) In any case where the owner of the renewable generator  
23 and the utility cannot agree to terms and conditions of any  
24 contract provided for by this section, the state corporation  
25 commission shall establish the terms and conditions for such  
26 contract.

27 (f) The governing body of any school desiring to proceed  
28 under this section shall, prior to taking any action permitted by  
29 this section, make a finding that either: (1) Net energy cost  
30 savings will accrue to the school from such renewable generation  
31 over a 20-year period; or (2) that such renewable generation is a  
32 science project being conducted for educational purposes and that  
33 such project may not recoup the expenses of the project through  
34 energy cost savings. Any school proceeding under this section may  
35 contract or enter into a finance, pledge, loan or lease-purchase

1 agreement with the Kansas development finance authority as a  
2 means of financing the cost of such renewable generation.

3 (g) For the purpose of meeting the ~~governor's-stated-goal-of~~  
4 ~~producing-10%-of-the-state's-electricity-by-wind--power--by--2010~~  
5 ~~and--20%--by--2020,~~ requirements of section 10, and amendments  
6 thereto, the parallel generation of electricity provided for in  
7 this section shall be included as part of the state's renewable  
8 energy generation ~~by-wind-power.~~

9 (h) The provisions of the net metering and easy connection  
10 act shall not preclude the state corporation commission from  
11 approving net metering tariffs upon request of an electric  
12 utility for other methods of renewable generation not prescribed  
13 in subsection (c)(1) of section 12, and amendments thereto.

14 Sec. 29. K.S.A. 2007 Supp. 65-3005 is hereby amended to read  
15 as follows: 65-3005. (a) The secretary shall have the power to:

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

18 (b) (2) Hold hearings relating to any aspect of or matter in  
19 the administration of this act concerning air quality control,  
20 and in connection therewith, compel the attendance of witnesses  
21 and the production of evidence.

22 (c) (3) Issue such orders, permits and approvals as may be  
23 necessary to effectuate the purposes of this act and enforce the  
24 same by all appropriate administrative and judicial proceedings.

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

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

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

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

35 (h)-(i) (8) (A) Encourage local units of government to

1 handle air pollution problems within their respective  
2 jurisdictions and on a cooperative basis; ~~(2)~~ (B) provide  
3 technical and consultative assistance therefor; and ~~(3)~~ (C) enter  
4 into agreements with local units of government to administer all  
5 or part of the provisions of the Kansas air quality act in the  
6 units' respective jurisdictions.

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

10 ~~(j)~~ (10) Encourage air contaminant emission sources to  
11 voluntarily implement strategies, including the development and  
12 use of innovative technologies, market-based principles and other  
13 private initiatives to reduce or prevent pollution.

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

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

19 ~~(m)~~ (13) Collect and disseminate information and conduct  
20 educational and training programs relating to air contamination  
21 and air pollution.

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

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

32 ~~(p)~~ (16) Enter into contracts and agreements with other  
33 state agencies or subdivisions, local governments, other states,  
34 interstate agencies, the federal government or its agencies or  
35 private entities as is necessary to accomplish the purposes of



1 the Kansas air quality act.

2 ~~(g)~~ (17) Conduct or participate in intrastate or interstate  
3 emissions trading programs or other programs that demonstrate  
4 equivalent air quality benefits for the prevention, abatement and  
5 control of air pollution in Kansas or in other states or both.

6 ~~(r)~~ (18) Prepare and adopt a regional haze plan as may be  
7 necessary to prevent, abate and control air pollution originating  
8 in Kansas that affects air quality in Kansas or in other states  
9 or both. Any regional haze plan prepared by the secretary shall  
10 be no more stringent than is required by 42 U.S.C. 7491.

11 ~~(s)~~ (19) Participate in the activities of any visibility  
12 transport commission established under 42 U.S.C. 7492. The  
13 secretary shall report to the governor and the legislature on the  
14 activities of any such visibility transport commission annually.

15 (b) It is the policy of this state to prevent the  
16 deterioration of air quality in accordance with the following:

17 (1) The secretary shall not in the exercise of powers and  
18 duties, except as provided below, promulgate any rule and  
19 regulation, or issue any order or take any other action under any  
20 provision of the Kansas air quality act or other provision of  
21 law, that is more stringent, restrictive or expansive than  
22 required by the federal clean air act (42 U.S.C. 7401 et seq.) or  
23 any rule and regulation adopted by the United States  
24 environmental protection agency under the federal clean air act,  
25 as amended. If the secretary determines that a more stringent,  
26 restrictive or expansive rule and regulation is necessary, the  
27 secretary may implement the rule and regulation only after  
28 approval by an act of the legislature. Nothing herein shall  
29 preclude the secretary and applicant or permittee from concurring  
30 with a more stringent, restrictive or expansive condition in a  
31 permit to construct or operate a stationary source.

32 (2) The restrictions of the secretary's powers herein shall  
33 not apply to: (A) Actions by the secretary to prevent designation  
34 of an area as a nonattainment area by the United States  
35 environmental protection agency; or (B) an implementation plan



1 developed by the secretary to bring a nonattainment area into  
2 compliance or to maintain compliance as that plan is implemented  
3 within the nonattainment area.

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

7 (c) In as much as K.S.A. 65-3012, and amendments thereto,  
8 does not now apply, nor has it ever been applicable, to the air  
9 quality permitting process, the secretary may not use the  
10 emergency powers granted by K.S.A. 65-3012, and amendments  
11 thereto, in the air quality permitting process, nor any powers or  
12 discretion under any other statute not strictly applicable to the  
13 air quality permitting process.

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

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

7 Sec. 30. K.S.A. 2007 Supp. 65-3008a is hereby amended to  
8 read as follows: 65-3008a. (a) No permit shall be issued,  
9 modified, renewed or reopened without first providing the public  
10 an opportunity to comment and request a public hearing on the  
11 proposed permit action. The request for a public hearing on the  
12 issuance of a permit shall set forth the basis for the request  
13 and a public hearing shall be held if, in the judgment of the  
14 secretary, there is sufficient reason.

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

1 submitted to the secretary, all testimony presented at any public  
2 hearing held on the permit application, all responses by the  
3 applicant or permit holder to any written comments or testimony,  
4 the secretary's response to the public comments and testimony and  
5 the final permit.

6 (c) When determined appropriate by the secretary, the  
7 procedures set out in subsection (a) may be required prior to the  
8 issuance, modification, renewal or reopening of an approval.

9 Sec. 31. K.S.A. 65-3008b is hereby amended to read as  
10 follows: 65-3008b. (a) The secretary may suspend or revoke an  
11 approval or a permit if the permittee has violated any provision  
12 of the approval or the permit, any provision of this act or any  
13 rule and regulation adopted under this act and applicable to the  
14 permitted source.

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

19 (c) The secretary may deny a permit for any proposed new  
20 stationary source if the owner or operator of such a source fails  
21 to demonstrate to the satisfaction of the secretary that any  
22 other stationary source owned or operated by such person, or by  
23 any entity controlling, controlled by or under common control  
24 with such person, in this state is in compliance, or meeting a  
25 schedule for compliance, with all applicable emission limitations  
26 and standards under this act and the federal clean air act, and  
27 amendments thereto.

28 (d) The secretary may modify or reopen an approval or a  
29 permit for cause. The secretary shall reopen a permit whenever  
30 requirements under this act become applicable to a permitted  
31 source and three or more years remain on the original term of the  
32 permit. Any permit revision incorporating a requirement adopted  
33 by the secretary shall be effective as soon as practicable, but  
34 not later than 18 months after the promulgation of the  
35 requirement by the United States environmental protection agency.

1 (e) Within 15 days after the issuance of a notice of intent  
2 to take any action authorized by subsection (a), (b), (c) or (d),  
3 or within 15 days after the secretary's written decision to  
4 affirm, modify or reverse a permit decision pursuant to  
5 subsection (b) of K.S.A. 65-3008a, the permittee may file a  
6 request for a hearing with the secretary. Each such notice of  
7 intent shall specify the provision of this act or rule and  
8 regulation allegedly violated, the facts constituting the alleged  
9 violation and the secretary's intended action. Each notice of  
10 intent or written decision to affirm, modify or reverse a permit  
11 decision shall state the permittee's right to request a hearing.  
12 Such hearing shall be conducted in accordance with the Kansas  
13 administrative procedure act.

14 (f) The filing of a request by the permittee for an approval  
15 or permit modification, revocation or amendment, or the filing by  
16 the permittee of a notification of planned changes or anticipated  
17 noncompliance, does not stay any approval or permit condition.

18 ~~(g) No permit shall be issued, modified, amended, revised or~~  
19 ~~renewed unless the United States environmental protection agency~~  
20 ~~has certified that such permit complies with the requirements of~~  
21 ~~the federal clean air act, except that a permit may be issued if~~  
22 ~~the United States environmental protection agency has not~~  
23 ~~notified the secretary of the United States environmental~~  
24 ~~protection agency's decision within 45 days after receipt of the~~  
25 ~~proposed permit by such agency.~~ For any operating permit issued  
26 in accordance with title V of the federal clean air act, a copy  
27 of a permit proposed to be issued and a copy of the application  
28 (and any application for a permit modification or renewal) or  
29 such portion thereof, including any compliance plan, shall be  
30 transmitted to the administrator of the United States  
31 environmental protection agency. Should the administrator of the  
32 United States environmental protection agency determine the  
33 proposed permit is not in compliance with the requirements of the  
34 federal clean air act, including the requirement of an applicable  
35 implementation plan, and within 45 days after receipt objects in

1 writing to the issuance of the permit as not in compliance with  
2 such requirements, then in such event the secretary shall respond  
3 in writing to the administrator. If the administrator of the  
4 United States environmental protection agency does not object in  
5 writing within 45 days after receipt of the proposed permit, the  
6 secretary shall issue, amend, revise or renew the permit  
7 consistent with the provisions of this act.

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

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

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

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

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

27 Sec. 32. K.S.A. 65-3012 is hereby amended to read as  
28 follows: 65-3012. (a) Notwithstanding any other provision of this  
29 act, the secretary may take such action against any existing  
30 source as may be necessary to protect the health of persons or  
31 the environment: (1) Upon receipt of information that the  
32 emission of air pollution presents a an imminent and substantial  
33 endangerment to the health of persons or to the environment; or  
34 (2) for an imminent or actual violation of this act, any rules  
35 and regulations adopted under this act, any orders issued under



1 this act or any permit conditions required by this act.

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

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

8 (2) Commencing an action to enjoin acts or practices  
9 specified in subsection (a) or requesting the attorney general or  
10 appropriate county or district attorney to commence an action to  
11 enjoin those acts or practices. Upon a showing by the secretary  
12 that a person has engaged in those acts or practices, a permanent  
13 or temporary injunction, restraining order or other order may be  
14 granted by any court of competent jurisdiction. An action for  
15 injunction under this subsection shall have precedence over other  
16 cases in respect to order of trial.

17 (3) Applying to the district court in the county in which an  
18 order of the secretary under subsection (b)(1) will take effect,  
19 in whole or in part, for an order of that court directing  
20 compliance with the order of the secretary. Failure to obey the  
21 court order shall be punishable as contempt of the court issuing  
22 the order. The application under this subsection for a court  
23 order shall have precedence over other cases in respect to order  
24 of trial.

25 (c) In any civil action brought pursuant to this section in  
26 which a temporary restraining order or preliminary injunction is  
27 sought, it shall not be necessary to allege or prove at any stage  
28 of the proceeding that irreparable damage will occur should the  
29 temporary restraining order or preliminary injunction not be  
30 issued or that the remedy at law is inadequate, and the temporary  
31 restraining order or preliminary injunction shall issue without  
32 such allegations and without such proof.

33 (d) Any order of the secretary pursuant to subsection (b)(1)  
34 is subject to hearing and review in accordance with the Kansas  
35 administrative procedure act.



1           Sec. 33. K.S.A. 66-104d is hereby amended to read as  
2 follows: 66-104d. (a) As used in this section, "cooperative"  
3 means any ~~cooperative, as defined by K.S.A. 17-4603, and~~  
4 ~~amendments thereto, which has fewer than 15,000 customers and~~  
5 ~~which provides power principally at retail~~ corporation organized  
6 under the electric cooperative act, K.S.A. 17-4601 et seq., and  
7 amendments thereto, or which becomes subject to the electric  
8 cooperative act in the manner therein provided; or any limited  
9 liability company or corporation providing electric service at  
10 wholesale in the state of Kansas that is owned by four or more  
11 electric cooperatives that provide retail service in the state of  
12 Kansas; or any customer-owned corporation formed prior to 2004.

13           (b) Except as otherwise provided in subsection (f), a  
14 cooperative may elect to be exempt from the jurisdiction,  
15 regulation, supervision and control of the state corporation  
16 commission by complying with the provisions of subsection (c).

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

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

23           (2) The proposition for deregulation shall be presented to a  
24 meeting of the members, the notice of which shall set forth the  
25 proposition for deregulation and the time and place of the  
26 meeting. Notice to the members shall be written and delivered not  
27 less than 21 nor more than 45 days before the date of the  
28 meeting.

29           (3) If the cooperative mails information to its members  
30 regarding the proposition for deregulation other than notice of  
31 the election and the ballot, the cooperative shall also include  
32 in such mailing any information in opposition to the proposition  
33 that is submitted by petition signed by not less than 1% of the  
34 cooperative's members. All expenses incidental to mailing the  
35 additional information, including any additional postage required

1 to mail such additional information, must be paid by the  
2 signatories to the petition.

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

8 (5) Voting on the proposition for deregulation shall be by  
9 mail ballot.

10 (d) A cooperative exempt under this section may elect to  
11 terminate its exemption in the same manner as prescribed in  
12 subsection (c).

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

15 (f) Nothing in this section shall be construed to affect the  
16 single certified service territory of a cooperative or the  
17 authority of the state corporation commission, as otherwise  
18 provided by law, over a cooperative with regard to service  
19 territory; charges, fees or tariffs for transmission services;  
20 sales of power for resale, other than sales between a  
21 cooperative, as defined in subsection (a), that does not provide  
22 retail electric service and an owner of such cooperative; and  
23 wire stringing and transmission line siting, pursuant to K.S.A.  
24 66-131, 66-183, 66-1,170 et seq. or 66-1,177 et seq., and  
25 amendments thereto.

26 (g) (1) Notwithstanding a cooperative's election to be  
27 exempt under this section, the commission shall investigate all  
28 rates, joint rates, tolls, charges and exactions, classifications  
29 and schedules of rates of such cooperative if there is filed with  
30 the commission, not more than one year after a change in such  
31 cooperative's rates, joint rates, tolls, charges and exactions,  
32 classifications or schedules of rates, a petition, in the case of  
33 a retail distribution cooperative, signed by not less than 5% of  
34 all the cooperative's customers or 3% of the cooperative's  
35 customers from any one rate class, or, in the case of a

1 generation and transmission cooperative, not less than 20% of its  
2 members or 5% of the aggregate retail customers of its members.

3 If, after investigation, the commission finds that such rates,  
4 joint rates, tolls, charges or exactions, classifications or  
5 schedules of rates are unjust, unreasonable, unjustly  
6 discriminatory or unduly preferential, the commission shall have  
7 the power to fix and order substituted therefor such rates, joint  
8 rates, tolls, charges and exactions, classifications or schedules  
9 of rates as are just and reasonable.

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

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

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

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

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

1 (2) Any cooperative which fails, neglects or refuses to  
2 maintain such copies of schedule of rates and charges under this  
3 subsection shall be subject to a civil penalty of not more than  
4 \$500.

5 New Sec. 34. (a) For taxable years 2008 and 2009, there  
6 shall be allowed tax credits against the income tax liability  
7 imposed upon a taxpayer pursuant to the Kansas income tax act, in  
8 an amount equal to the following:

9 (1) For nonowner occupied multiple family dwellings, \$100  
10 per dwelling unit located immediately below the attic space where  
11 sufficient ceiling insulation is installed to achieve an  
12 insulation value of R-52; and

13 (2) for nonowner occupied multiple family dwellings, \$300  
14 times the number of dwelling units served by the system for a  
15 newly installed heating and air conditioning system which  
16 replaces an existing system, has a separate temperature control  
17 for each dwelling unit and meets one or more of the following  
18 criteria:

19 (A) Furnace or boiler must meet or exceed 92% AFUE;

20 (B) split systems must meet or exceed SEER 14, EER of 11.5;

21 (C) single package systems must meet or exceed SEER 14;

22 (D) air source heat pumps must meet or exceed HSPF 8, SEER  
23 14 and EER of 11.5; and

24 (E) ground-source heat pumps must meet or exceed:

25 (i) Closed-loop systems--14.1 cooling EER and 3.3 heating  
26 coefficient of performance (COP);

27 (ii) open-loop systems--16.2 EER and 3.6 COP;

28 (iii) direct-expansion systems--15 EER and 3.5 COP; and

29 (iv) all ground-source heat pumps must include a  
30 desuperheater, which preheats water for a water heater, or an  
31 integrated water heating system.

32 (b) If the amount of tax credits allowed pursuant to this  
33 section exceeds the taxpayer's income tax liability for the year  
34 in which the expenditures were incurred, the amount thereof which  
35 exceeds such tax liability may be carried over for deduction from

1 the taxpayer's income tax liability in the next succeeding  
2 taxable year or years until the total amount of the tax credits  
3 have been deducted from tax liability, except that no such tax  
4 credits shall be carried over for deduction after the fifth  
5 taxable year succeeding the taxable year in which the  
6 expenditures are made.

7 (c) The taxpayer claiming a credit pursuant to this section  
8 shall provide evidence of purchase and installation of the item  
9 or items for which the credit is claimed as required by rules and  
10 regulations of the secretary of revenue.

11 (d) The secretary of revenue shall adopt rules and  
12 regulations to implement the provisions of this section.

13 (e) The secretary of revenue shall submit a report to the  
14 legislature regarding utilization of credits claimed pursuant to  
15 this section, for purposes of evaluation of the program. Such  
16 report shall be due on or before the first day of the 2010  
17 legislative session.

18 New Sec. 35. (a) In addition to the income tax credit  
19 allowed pursuant to section 34, and amendments thereto, for  
20 taxable years 2008 and 2009, a taxpayer shall be entitled to a  
21 deduction from Kansas adjusted gross income with respect to: (1)  
22 The amortization of the amortizable costs of a new heating and  
23 air conditioning system based upon a period of five years; plus  
24 (2) the costs of installation of such new system spread over five  
25 years. For the first taxable year in which such new system is in  
26 use, such deduction shall be an amount equal to 60% of the  
27 amortizable costs of such new system plus 60% of the costs of  
28 installation of such new system. For each of the next four  
29 taxable years, such deduction shall be an amount equal to 10% of  
30 the amortizable costs of such new system plus 10% of the costs of  
31 installation of such new system.

32 (b) The election of the taxpayer to claim the deduction  
33 allowed by subsection (a) shall be made by filing a statement of  
34 such election with the secretary of revenue in the manner and  
35 form and within the time prescribed by rules and regulations



1 adopted by the secretary.

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

5 New Sec. 36. (a) As used in this section:

6 (1) "Affected unit" means any emissions unit which: (A)  
7 Commenced operation on or after January 1, 2008; (B) generates  
8 electricity in this state; (C) combusts coal in an amount greater  
9 than 10% of its total heat input on a rolling 12-month basis; and  
10 (D) is a new unit.

11 (2) "Inlet conditions" means the concentration of mercury in  
12 the flue gas exiting the combustion source prior to application  
13 of any air pollution control device as determined using the coal  
14 analysis procedures established in the United States  
15 environmental protection agency's mercury information collection  
16 request, as amended.

17 (3) "Mercury" means mercury and mercury compounds in either  
18 a gaseous or particulate form.

19 (b) The secretary of health and environment shall adopt  
20 rules and regulations requiring affected units to achieve 80% or  
21 greater reduction of mercury from the calculated inlet condition  
22 of the affected unit.

23 (c) This section shall be part of and supplemental to the  
24 Kansas air quality act.

25 Sec. 37. K.S.A. 2007 Supp. 74-616 is hereby amended to read  
26 as follows: 74-616. In addition to other powers and duties  
27 provided by law, in administering the provisions of this act the  
28 state corporation commission shall:

29 (a) Adopt rules and regulations necessary for the  
30 administration of this act;

31 (b) develop a comprehensive state energy conservation plan  
32 and the procedures for implementing the plan according to federal  
33 requirements;

34 (c) allow, for commission approved energy efficiency,  
35 conservation and demand management programs, at the option of the

1 requesting utility, the capitalization and addition to rate base  
2 of investments in and expenditures for such approved programs;

3 (d) make requests for and accept funds and other assistance  
4 from federal agencies for energy conservation and other  
5 energy-related activities in this state, including, but not  
6 limited to, the state energy program;

7 ~~(d)~~ (e) administer federal energy conservation programs in  
8 this state; and

9 ~~(e)~~ (f) prepare an emergency management plan for natural gas  
10 and electric energy to be adopted during activation of emergency  
11 support function 12 of the Kansas response plan established under  
12 K.S.A. 48-920 et seq., and amendments thereto, which plan shall  
13 include the system of priorities for natural gas and electric  
14 energy allocation and curtailment of energy resources consumption  
15 established under K.S.A. 74-620, and amendments thereto.

16 New Sec. 38. If any provision of this act or its application  
17 to any person or circumstance is held invalid, the invalidity  
18 shall not affect any other provision or application of the act  
19 which can be given effect without the invalid provision or  
20 application. To this end the provisions of this act are  
21 severable.

22 Sec. 39. K.S.A. 65-3008b, 65-3012 and 66-104d and K.S.A.  
23 2007 Supp. 65-3005, 65-3008a, 66-1,184 and 74-616 are hereby  
24 repealed.

25 Sec. 40. This act shall take effect and be in force from and  
26 after its publication in the Kansas register.

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March 24, 2008

**Re:** Proposed New Energy Bill

## Summary

The bill would:

- Establish maximum carbon dioxide, nitrogen oxides, and sulfur dioxide emissions levels for the proposed Sunflower power plant expansion; and
- Require investor-owned and cooperative electric utilities to:
  - develop and submit to the Kansas Corporation Commission (KCC), by July 1, 2009, a retail tariff for electricity generated from wind;
  - develop an energy efficiency and load management program to provide information, technical assistance and incentives to customers; and
  - develop and implement a program to assist businesses and institutions with inventorying and assessing greenhouse gas emissions and developing means of reducing those emissions.

The bill would also:

- Establish energy efficiency standards for state buildings and equipment;
- Enact the Net Metering and Easy Connection Act;
- Provide tax incentives for energy efficiency improvements in residential rental property;
- Establish the Kansas Electric Generation Science and Technology Commission;
- Create a renewable resources requirement for electric utilities;
- Require certain electric generation facilities to utilize carbon dioxide capture or reduction technologies;
- Amend existing law regarding regulation of air quality and certain utilities; and
- Enact a provision requiring reduction of mercury emissions from certain electricity generating units.

## Brief of Bill

### Requirements for the Sunflower Expansion

The bill would require that within five years of the start of commercial operation of the proposed new units at the Sunflower plant near Holcomb, the annual release of carbon dioxide could not exceed 70 percent of the average annual carbon dioxide release rate for all coal fired electricity generation in the State. The average annual release rate for the purpose of the bill would be 2,260 lbs./megawatt hour. The maximum annual limit could be met by emissions reductions, mitigation or offsets. For purposes of the offset or mitigation, all renewable resources commencing operation

*ENERGY AND HOUSE UTILITIES*

DATE: 3/24/08

ATTACHMENT 3-1

reduce greenhouse gas emissions while considering the economic impact of the methods and practices.

### **Energy Efficiency for State Buildings and Equipment**

The bill would require:

- New, and to the extent possible renovated, state buildings to be designed to exceed by 10 percent specified national energy efficiency standards as prescribed in rules and regulations adopted by the Secretary of Administration. The Secretary of Administration also would be required to adopt rules and regulations recommending that new, and to the extent possible renovated, school and municipal buildings meet the same standards.
- New products and equipment such as appliances, light fixtures, and computers purchased by state agencies to be at least as energy efficient as similar products that qualify for the EnergyStar rating. The requirement would apply if projected savings for the useful life of the products and equipment is at least equal to the additional cost of functionally equivalent products and equipment of lower efficiency.
- New or extended state leases for real property and state-owned real property to meet energy efficiency standards. The Legislature would receive an annual report identifying state-owned and leased real property where an excessive amount of energy is used.
- The bill would task the Kansas Energy Office with increasing the participation of school districts, local governments, and state agencies in the Facilities Conservation Improvements Program administered by the Kansas Corporation Commission (KCC).

### **Kansas Electric Generation Science and Technology Commission**

The bill would create a 15-member Commission with the following membership:

- The chairpersons, vice-chairpersons, and ranking minority members of the House Committee on Energy and Utilities and the Senate Committee on Utilities, or their designees appointed from those committees;
- One member appointed by the Governor;
- Two members appointed by the President of the Senate;
- One member appointed by the Minority Leader of the Senate;
- Two members appointed by the Speaker of the House of Representatives;
- One member appointed by the Minority Leader of the House of Representatives;
- The chief of energy operations of the KCC, who would be a non-voting member; and
- The director of the division of environment at KDHE, who would be a non-voting member.

Members appointed by the Governor and the legislative leaders would have to possess expertise in:

- Global greenhouse gas regulation or practices or climatology;
- Energy conservation;

Renewable energy provided to a utility under the Net Metering and Easy Connection Act and the parallel generation statute would be counted toward the utility's renewable resource requirement. The Corporation Commission would be required to adopt rules and regulations to implement the renewable resources requirements.

Renewable resources for this requirement would include wind, solar, photovoltaic, biomass, hydropower, geothermal, and landfill gases.

### **The Net Metering and Easy Connection Act**

The bill would establish a net metering procedure for small solar electricity generating units that are interconnected with a retail electricity supplier. The Act specifically would permit the Corporation Commission to approve net metering tariffs for other methods of renewable generation if requested to do so by an electric utility.

Electric generation equipment covered by the act includes interconnected solar-powered units with maximum capacity of 100 kilowatts located on premises controlled by the customer, and used to offset all or part of the customer's electricity needs.

The bill would define net metering as the use of metering equipment to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by a customer-generator to the retail electric supplier.

Retail electricity suppliers would be required to make net metering available to customers up to a maximum of 5 percent of the supplier's Kansas single-hour peak load during the previous year, unless a higher amount is established by the KCC or the utility's governing body.

The utility would be required to supply, own and maintain meters and associated equipment utilized for billing. Utilities would be authorized to install, at the utility's expense, load research metering equipment in order to monitor customer generation and load. Customer-generators would be required to provide a suitable location for meters and associated equipment provided by the utility. The generation unit used by the customer-generator would have to contain a mechanism accessible by utility personnel that automatically stops the flow of electricity onto the supplier's lines in the event of a service interruption.

Customers would be billed for any electricity provided by the retail supplier in excess of the amount generated by the customer. Customers would receive credit applied to the succeeding billing period, at least equal to 150 percent of the avoided energy cost, for electricity generated in excess of that provided to the customer by the retail supplier.

Credits would expire without compensation either 12 months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier.

The existing parallel generation statute would be made a part of the Act and amended to provide customers with the option of using either the parallel generation provisions or the net metering provisions of the Act. The customer's decision would be recorded in writing and filed with the retail electricity supplier.



Tax credits would be created for the following improvements:

- \$100 per dwelling unit located immediately below the attic for installation of sufficient ceiling insulation to achieve an insulation value of R-52;
- \$300 per dwelling unit served by a replacement heating and air conditioning system for multi-family residences, if the new system meets the energy efficiency standards established by the bill, and if there are separate temperature controls in each unit.

If the amount of the tax credit exceeds the taxpayer's income tax liability for the year in which the expenditures were made, the excess amount of credit could be carried forward. The entire tax credit for expenditures made in a single year would have to be taken within five years of the expenditure.

The bill also would create an accelerated depreciation schedule for heating, ventilation, and air conditioning equipment described in the bill. Depreciation of the equipment would be taken over five years: 60 percent the first year; and ten percent each of the following four years.

The Department of Revenue would be required to report to the Legislature at the start of the 2010 Session regarding the number of taxpayers who claimed income tax credits created by the bill and the amount of those credits claimed.

### **Mercury Emissions Reductions**

The bill would require the Secretary of Health and Environment to adopt rules and regulations requiring certain coal-fired electricity generating units to reduce their mercury emissions by at least 80 percent. Generating units that would be affected by the provision are those that began operation after January 1, 2008, and that use coal to produce over 10 percent of their heat input.