

## MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Pat Apple at 1:30 p.m. on February 26, 2009, in Room 545-N of the Capitol.

All members were present except  
Senator Emler, excused  
Senator McGinn, excused

Committee staff present:

Mike Corrigan, Office of the Revisor of Statutes  
Melissa Doebelin, Office of the Revisor of Statutes  
Raney Gilliland, Kansas Legislative Research Department  
Cindy Lash, Kansas Legislative Research Department  
Ann McMorris, Committee Assistant

Conferees appearing before the committee: none

Others attending:  
See attached list.

Chair opened the meeting and continued discussion on:

**SB 265 - Energy conservation and electric generation, transmission and efficiency and air emissions.**

Chair continued discussion on **SB 265** and asked for an explanation of net metering and parallel generation which was provided by Phil Wages of KEPCO. He explained that net metering is figured at the end of the month and there is no pay until the consumption matching generation. With parallel generation, the consumer may use 50 mgw and produce 150 mgw and he is paid 150% for the mgw over 50 and pays for his consumption.

Mike Corrigan, Revisor's Office, explained the balloon of **SB 265** with amendments proposed by the electric cooperatives and provided an electric cooperative amendment explainer. (Attachment 1)

After considerable discussion on the various amendments,

Moved by Senator Taddiken, seconded by Senator Petersen, to adopt the electric cooperatives balloon of SB 265 minus the insurance language. Motion carried.

A proposed amendment on KCC findings to **SB 265** was distributed to the committee. (Attachment 2)

Moved by Senator Masterson, seconded by Senator Petersen, to adopt the proposed amendment regarding KCC making a finding. Motion carried.

Approval of Minutes

Moved by Senator Petersen, seconded by Senator Reitz, to approve the minutes of the Senate Utilities Committee meetings held on February 12, 17, 18, 19 and 24, 2009. Motion carried.

The Chair indicated possible action and discussion would continue on **SB 265** next week.

The next meeting is scheduled for March 2, 2009.

The meeting was adjourned at 2:30 p.m.

Respectfully submitted,

Ann McMorris  
Committee Assistant

Attachments - 2

GUEST LIST  
SENATE UTILITIES COMMITTEE  
FEBRUARY 26, 2009

NAME

COMPANY

Joan O. Pinegar Pinegar Smith & Assoc., Inc.

KEITH PANGBORN KEARNEY & ASSOC.

Lon Stanton NORTHERN NATURAL GAS Co.

Derde Hein Hein Law Firm

Mike Reacht KCPL

Terry Heidner K DOT

Tom DAY KCC

Wes Ashton Black Hills

Larry Berg Midwest

Scott Jones KCPL

Dave Halburan KEE

JOHN BOTTEWBERG WESTAR

Whitney Danna Empire

**SENATE BILL No. 265**

By Committee on Ways and Means

2-12

9 AN ACT concerning energy; relating to conservation and electric gen-  
10 eration, transmission and efficiency and air emissions; amending  
11 K.S.A. 19-101a and 65-3012 and K.S.A. 2008 Supp. 65-3005, 65-3008a  
12 and 66-1,184 and repealing the existing sections; also repealing K.S.A.  
13 19-101m.

14  
15 *Be it enacted by the Legislature of the State of Kansas:*

16 WHEREAS, The federal government is currently contemplating the  
17 regulation of certain emissions from stationary, mobile and area sources  
18 not currently regulated by the United States environmental protection  
19 agency, the form and requirements of which cannot be predicted at this  
20 time, but which could include cap and trade regulations, national energy  
21 taxes or a specific tax on one or more of such emissions that would pre-  
22 empt state-specific programs intended to reduce the emission of green-  
23 house gases and other emissions; and

24 WHEREAS, Any uncoordinated state regulatory initiative intended to  
25 regulate such emissions may be inconsistent with subsequent congres-  
26 sional determinations and with related federal legislation; and

27 WHEREAS, An individual Kansas response to the development of  
28 new regulatory programs intended to regulate emissions not currently  
29 regulated by the federal government is premature: Now, therefore,

30 New Section 1. As used in sections 1 through 5, and amendments  
31 thereto:

32 (a) "ASHRAE" means American society of heating, refrigerating and  
33 air-conditioning engineers, inc. standard 90.1-2004.

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

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

39 (d) "New state building" means any building or structure which is  
40 constructed by the state or any agency of the state and the construction  
41 of which commences on or after July 1, 2010.

42 New Sec. 2. The secretary of administration shall adopt rules and  
43 regulations for state agencies for the purchase of products and equipment,

1 including, but not limited to, appliances, lighting fixtures and bulbs, and  
2 computers, which meet energy efficiency guidelines which are not less  
3 than the guidelines adopted for such products to qualify as an energy star  
4 product if the projected cost savings for the useful life of such products  
5 and equipment is equal to or greater than the additional cost compared  
6 to functionally equivalent products and equipment of lower efficiency.

7 New Sec. 3. (a) The department of administration shall collect data  
8 on energy consumption and costs for all state-owned and leased real prop-  
9 erty and the secretary of administration shall submit a written report to  
10 the legislature on or before the first day of the 2010 regular session of  
11 the legislature and on or before the first day of each ensuing regular  
12 session of the legislature identifying state-owned or leased real property  
13 locations in which an excessive amount of energy is being used in ac-  
14 cordance with rules and regulations adopted by the secretary of admin-  
15 istration concerning energy efficiency performance standards for state-  
16 owned or leased real property.

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

24 New Sec. 4. (a) Within the limitations of appropriations therefor, the  
25 Kansas energy office of the state corporation commission shall develop  
26 and increase the participation of school districts and local governments  
27 in the facilities conservation improvements program (FCIP) pursuant to  
28 K.S.A. 75-37,125, and amendments thereto.

29 (b) The state corporation commission shall strongly encourage state  
30 agencies which operate and maintain state-owned buildings that are not  
31 participating in the FCIP to participate in the FCIP pursuant to K.S.A.  
32 75-37,125, and amendments thereto, on or before December 1, 2011.

33 New Sec. 5. The secretary of administration shall adopt rules and  
34 regulations prescribing energy efficiency performance standards requir-  
35 ing that all new construction and, to the extent possible, renovated state-  
36 owned buildings, be designed and constructed to achieve energy con-  
37 sumption levels that are at least 10% below the levels established under  
38 the ASHRAE standard or the IECC, as appropriate, if such levels of  
39 energy consumption are life-cycle cost-effective for such buildings and  
40 also recommend that new and, to the extent possible, renovated school  
41 and municipal buildings meet the same requirements.

42 New Sec. 6. (a) (1) By the year 2013, for each public utility, the  
43 nameplate capacity of the renewable electric generation facilities included



1 in the public utility's generation portfolio, whether owned by the public  
2 utility or contracted for energy purchase by the public utility, shall be no  
3 less than 10% of the public utility's peak load, expressed in megawatts,  
4 in the state of Kansas, for a three-year average for the 2009, 2010 and  
5 2011 calendar years.

6 (2) By the year 2017, for each public utility, the nameplate capacity  
7 of the renewable electric generation facilities included in the public util-  
8 ity's generation portfolio, whether owned by the public utility or con-  
9 tracted for energy purchase by the public utility, shall be no less than  
10 15% of the public utility's peak load, expressed in megawatts, in the state  
11 of Kansas, for a three-year average for the 2013, 2014 and 2015 calendar  
12 years.

13 (3) By the year 2021, for each public utility, the nameplate capacity  
14 of the renewable electric generation facilities included in the public util-  
15 ity's generation portfolio, whether owned by the public utility or con-  
16 tracted for energy purchase by the public utility, shall be no less than  
17 20% of the public utility's peak load, expressed in megawatts, in the state  
18 of Kansas, for a three-year average for the 2017, 2018 and 2019 calendar  
19 years.

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

23 (c) As used in this section:

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

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

32 New Sec. 7. Sections 7 through 23, and amendments thereto, shall  
33 be known and may be cited as the net metering and easy connection act.

34 New Sec. 8. As used in the net metering and easy connection act:

35 (a) "Avoided energy cost" means the current average cost of fuel and  
36 purchased energy for the preceding ~~12~~ months for the utility, or in the  
37 case of a non-generating utility, for such utility's wholesale power sup-  
38 plier, as defined by the governing body with jurisdiction over any munic-  
39 ipal electric utility, electric cooperative utility or electric public utility.

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

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

43 (1) Is powered by ~~solar thermal sources or photovoltaic cells and~~

Renewable energy  
resources as defined  
in K.S.A. 79-201

1 panels;  
2 (2) has an electrical generating system with a capacity of not more  
3 than 100 kilowatts;

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

is sized appropriately  
for the customer -  
generators electrical  
load and

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

9 (5) is intended primarily to offset part or all of the customer-gener-  
10 ator's own electrical energy requirements;

11 (6) meets all applicable safety, performance, interconnection and re-  
12 liability standards established by the national electrical code, the national  
13 electrical safety code, the institute of electrical and electronics engineers,  
14 underwriters laboratories, the federal energy regulatory commission and  
15 any local governing authorities; and

the connecting  
electric utility,

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

20 (d) "Net metering" means using metering equipment sufficient to  
21 measure the difference between the electrical energy supplied to a cus-  
22 tomer-generator by a retail electric supplier and the electrical energy  
23 supplied by the customer-generator to the retail electric supplier over the  
24 applicable billing period.

25 (e) "Retail electric supplier" means any municipal electric utility,  
26 electric cooperative utility or electric public utility which provides retail  
27 electric service in this state.

28 New Sec. 9. A retail electric supplier shall:

29 (a) Make net metering available to customer-generators on a first-  
30 come, first-served basis, subject to the following: (1) A supplier shall not  
31 be required to make net metering available in a calendar year if total  
32 rated generating capacity of all applications for interconnection already  
33 approved by the supplier in the calendar year equals or exceeds 1% of  
34 the supplier's single-hour peak load for the previous calendar year; and  
35 (2) a supplier shall not be required to make net metering available to a  
36 customer-generator if the total rated generating capacity of net metering  
37 systems equals: ~~(A) 5% of the supplier's Kansas single-hour peak load~~  
38 ~~during the previous year; or (B) such higher percentage as specified by~~  
39 ~~the commission, for a public utility, or the governing body, for any other~~  
40 ~~utility, once the total rated generating capacity of net metering systems~~  
41 ~~has reach 5% of the supplier's single-hour peak load during the previous~~  
42 ~~year;~~

rate schedule

43 (b) offer to the customer-generator a tariff or contract that is identical



rate schedule

1 in electrical energy rates, rate structure and monthly charges to the con-  
2 tract or tariff that the customer would be assigned if the customer were  
3 not an eligible customer-generator but shall not charge the customer-  
4 generator any additional standby, capacity, interconnection or other fee  
5 or charge that would not otherwise be charged if the customer were not  
6 an eligible customer-generator; and

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

10 New Sec. 10. A customer-generator's facility shall be equipped with  
11 sufficient metering equipment that can measure the net amount of elec-  
12 trical energy produced or consumed by the customer-generator. If the  
13 ~~customer-generator's~~ existing meter equipment does not meet these  
14 requirements or if it is necessary for the electric supplier to install addi-  
15 tional distribution equipment to accommodate the customer-generator's  
16 facility, the customer-generator shall reimburse the retail electric supplier  
17 for the costs to purchase and install the necessary additional equipment.  
18 ~~At the request of the customer-generator, such costs may be initially paid~~  
19 ~~for by the retail electric supplier and any amount equal to not more than~~  
20 ~~the total costs plus a reasonable interest charge may be recovered from~~  
21 ~~the customer-generator over the course of not more than 12 billing cycles.~~  
22 Any subsequent meter testing, maintenance or meter equipment change  
23 necessitated by the customer-generator shall be paid for by the customer-  
24 generator.

25 New Sec. 11. The utility will supply, own and maintain all necessary  
26 meters and associated equipment utilized for billing. In addition, and for  
27 the purposes of monitoring customer generation and load, the utility may  
28 install at its expense, load research metering. The customer shall supply,  
29 at no expense to the utility, a suitable location for meters and associated  
30 equipment used for billing and for load research.

31 New Sec. 12. Consistent with the provisions of the net metering and  
32 easy connection act, the net electrical energy measurement shall be cal-  
33 culated in the following manner:

34 (a) For a customer-generator, a retail electric supplier shall measure  
35 the net electrical energy produced or consumed during the billing period  
36 in accordance with normal metering practices for customers in the same  
37 rate class, by employing a single, bidirectional meter that measures the  
38 amount of electrical energy produced and consumed, by employing mul-  
39 tiple meters that separately measure the customer-generator's consump-  
40 tion and production of electricity or by employing an alternative  
41 technology.

42 (b) If the electricity supplied by the supplier exceeds the electricity  
43 generated by the customer-generator during a billing period, the cus-

1 tomer-generator shall be billed for the net electricity supplied by the  
2 supplier in accordance with normal practices for customers in the same  
3 rate class.

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

and/or demand

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

and the excess electricity shall be retained by the supplier as a contribution to the fixed costs associated with owning and maintaining the facilities required to provide electric services when the customer-generator cannot meet its supply needs.

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

20 New Sec. 13. (a) Each qualified electric energy generation unit used  
21 by a customer-generator shall meet all applicable safety, performance,  
22 interconnection and reliability standards established by any local code  
23 authorities, the national electrical code, the national electrical safety code,  
24 the institute of electrical and electronics engineers and underwriters lab-  
25 oratories for distributed generation. No supplier shall impose any fee,  
26 charge or other requirement not specifically authorized by the net me-  
27 tering and easy connection act or the rules and regulations promulgated  
28 under such act unless the fee, charge or other requirement would apply  
29 to similarly situated customers who are not customer-generators, except  
30 that a retail electric supplier may require that a customer-generator's  
31 system contain a switch, circuit breaker, fuse or other easily accessible  
32 device or feature located in immediate proximity to the customer-gen-  
33 erator's metering equipment that would allow a utility worker the ability  
34 to manually and instantly disconnect the unit from the utility's electric  
35 distribution system.

the customer-generator shall, at its own expense, maintain in force general liability insurance without any exclusion for liabilities related to the interconnection. The amount of such insurance shall be sufficient to insure against all reasonably foreseeable direct liabilities given the size and nature of the generating equipment being interconnected, the interconnection itself, and the characteristics of the system to which the interconnection is made.

of this section.

36 (b) For systems of 10 kilowatts or less, a customer-generator whose  
37 system meets the standards specified by subsection (a) shall not be re-  
38 quired to install additional controls, perform or pay for additional tests or  
39 distribution equipment or purchase additional liability insurance beyond  
40 what is required under subsection (a) and section 10, and amendments  
41 thereto.

42 (c) For customer-generator systems of greater than 10 kilowatts, the  
43 commission for public utilities and the governing body for other utilities,



insurance

1 by rule or equivalent formal action by each respective governing body,  
2 shall:

3 (1) Set forth safety, performance and reliability standards and  
4 requirements; and

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

8 New Sec. 14. (a) Applications by a customer-generator for intercon-  
9 nection of the qualified generation unit to the distribution system shall  
10 be accompanied by the plan for the customer-generator's electrical gen-  
11 erating system, including, but not limited to, a wiring diagram and spec-  
12 ifications for the generating unit, and shall be reviewed and responded  
13 to by the retail electric supplier within 30 days after receipt for systems  
14 of 10 kilowatts or less and within 90 days after receipt for all other systems.  
15 Prior to the interconnection of the qualified generation unit to the sup-  
16 plier's system, the customer-generator will furnish the retail electric sup-  
17 plier a certification from a qualified professional electrician or engineer  
18 that the installation meets the requirements of subsection (a) of section  
19 13, and amendments thereto. If the application for interconnection is  
20 approved by the retail electric supplier and the customer-generator does  
21 not complete the interconnection within one year after receipt of notice  
22 of the approval, the approval shall expire and the customer-generator shall  
23 be responsible for filing a new application.

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

27 New Sec. 15. Each retail electric supplier regulated by the commis-  
28 sion shall submit an annual net metering report to the commission and  
29 each other retail electric supplier shall submit the same report to its re-  
30 spective governing body. For data collection purposes only, non-regulated  
31 electric suppliers shall submit the same report to the commission. The  
32 report shall include the following information for the previous calendar  
33 year: The total number of customer-generator facilities, the total esti-  
34 mated generating capacity of its net-metered customer-generators and  
35 the total estimated net kilowatt-hours received from customer-generators.  
36 The supplier shall make such report available to any consumer of the  
37 supplier upon request.

38 New Sec. 16. Within nine months after the effective date of the net  
39 metering and easy connection act, the commission shall adopt rules and  
40 regulations necessary for the administration of such act for electric public  
41 utilities, which shall include rules and regulations ensuring that simple  
42 contracts will be used for interconnection and net metering. For systems  
43 of 10 kilowatts or less, the application process shall use an all-in-one

1-7

1 document that includes a simple interconnection request, simple proce-  
2 dures and a brief set of terms and conditions.

3 New Sec. 17. Within nine months after the effective date of the net  
4 metering and easy connection act, the governing body of an electric co-  
5 operative utility or electric municipal utility shall adopt policies establish-  
6 ing a simple contract to be used for interconnection and net metering.  
7 For systems of 10 kilowatts or less, the application process shall use an  
8 all-in-one document that includes a simple interconnection request, sim-  
9 ple procedures and a brief set of terms and conditions.

10 New Sec. 18. For any cause of action relating to any damages to  
11 property or person caused by the generation unit of a customer-generator  
12 or the interconnection thereof, the retail electric supplier shall have no  
13 liability absent clear and convincing evidence of fault on the part of the  
14 supplier.

15 New Sec. 19. The estimated generating capacity of all net metering  
16 systems operating under the provisions of the net metering and easy con-  
17 nection act shall count towards accomplishment by the respective retail  
18 electric supplier, or the wholesale generator supplying electric energy to  
19 the retail electric supplier, of any renewable energy portfolio target or  
20 mandate adopted by the Kansas legislature.

21 New Sec. 20. Any costs incurred under the net metering and easy  
22 connection act by a retail electric supplier shall be recoverable in the  
23 utility's rate structure.

24 New Sec. 21. No consumer shall connect or operate an electric gen-  
25 eration unit in parallel phase and synchronization with any retail electric  
26 supplier without written approval by such supplier that all of the require-  
27 ments under subsection (a) of section 14, and amendments thereto, have  
28 been met. For a consumer who violates this provision, a supplier may  
29 immediately and without notice disconnect the electric facilities of such  
30 consumer and terminate such consumer's electric service.

31 New Sec. 22. The manufacturer of any electric generation unit used  
32 by a customer-generator may be held liable for any damages to property  
33 or person caused by a defect in the electric generation unit of a customer-  
34 generator.

35 New Sec. 23. The seller, installer or manufacturer of any electric  
36 generation unit who knowingly misrepresents the safety aspects of an  
37 electric generation unit may be held liable for any damages to property  
38 or person caused by the electric generation unit of a customer-generator.

39 Sec. 24. K.S.A. 19-101a is hereby amended to read as follows: 19-  
40 101a. (a) The board of county commissioners may transact all county  
41 business and perform all powers of local legislation and administration it  
42 deems appropriate, subject only to the following limitations, restrictions  
43 or prohibitions:



- 1 (1) Counties shall be subject to all acts of the legislature which apply  
2 uniformly to all counties.
- 3 (2) Counties may not affect the courts located therein.
- 4 (3) Counties shall be subject to acts of the legislature prescribing  
5 limits of indebtedness.
- 6 (4) In the exercise of powers of local legislation and administration  
7 authorized under provisions of this section, the home rule power con-  
8 ferred on cities to determine their local affairs and government shall not  
9 be superseded or impaired without the consent of the governing body of  
10 each city within a county which may be affected.
- 11 (5) Counties may not legislate on social welfare administered under  
12 state law enacted pursuant to or in conformity with public law No. 271—  
13 74th congress, or amendments thereof.
- 14 (6) Counties shall be subject to all acts of the legislature concerning  
15 elections, election commissioners and officers and their duties as such  
16 officers and the election of county officers.
- 17 (7) Counties shall be subject to the limitations and prohibitions im-  
18 posed under K.S.A. 12-187 to 12-195, inclusive, and amendments thereto,  
19 prescribing limitations upon the levy of retailers' sales taxes by counties.
- 20 (8) Counties may not exempt from or effect changes in statutes made  
21 nonuniform in application solely by reason of authorizing exceptions for  
22 counties having adopted a charter for county government.
- 23 (9) No county may levy ad valorem taxes under the authority of this  
24 section upon real property located within any redevelopment project area  
25 established under the authority of K.S.A. 12-1772, and amendments  
26 thereto, unless the resolution authorizing the same specifically authorized  
27 a portion of the proceeds of such levy to be used to pay the principal of  
28 and interest upon bonds issued by a city under the authority of K.S.A.  
29 12-1774, and amendments thereto.
- 30 (10) Counties shall have no power under this section to exempt from  
31 any statute authorizing or requiring the levy of taxes and providing sub-  
32 stitute and additional provisions on the same subject, unless the resolution  
33 authorizing the same specifically provides for a portion of the proceeds  
34 of such levy to be used to pay a portion of the principal and interest on  
35 bonds issued by cities under the authority of K.S.A. 12-1774, and amend-  
36 ments thereto.
- 37 (11) Counties may not exempt from or effect changes in the provi-  
38 sions of K.S.A. 19-4601 through 19-4625, and amendments thereto.
- 39 (12) Except as otherwise specifically authorized by K.S.A. 12-1,101  
40 through 12-1,109, and amendments thereto, counties may not levy and  
41 collect taxes on incomes from whatever source derived.
- 42 (13) Counties may not exempt from or effect changes in K.S.A. 19-  
43 430, and amendments thereto.

- 1 (14) Counties may not exempt from or effect changes in K.S.A. 19-  
2 302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.
- 3 (15) Counties may not exempt from or effect changes in K.S.A. 19-  
4 15,139, 19-15,140 and 19-15,141, and amendments thereto.
- 5 (16) Counties may not exempt from or effect changes in the provi-  
6 sions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-  
7 1226, and amendments thereto, or the provisions of K.S.A. 12-1260  
8 through 12-1270 and 12-1276, and amendments thereto.
- 9 (17) Counties may not exempt from or effect changes in the provi-  
10 sions of K.S.A. 19-211, and amendments thereto.
- 11 (18) Counties may not exempt from or effect changes in the provi-  
12 sions of K.S.A. 19-4001 through 19-4015, and amendments thereto.
- 13 (19) Counties may not regulate the production or drilling of any oil  
14 or gas well in any manner which would result in the duplication of reg-  
15 ulation by the state corporation commission and the Kansas department  
16 of health and environment pursuant to chapter 55 and chapter 65 of the  
17 Kansas Statutes Annotated, and amendments thereto, and any rules and  
18 regulations adopted pursuant thereto. Counties may not require any li-  
19 cense or permit for the drilling or production of oil and gas wells. Counties  
20 may not impose any fee or charge for the drilling or production of any  
21 oil or gas well.
- 22 (20) Counties may not exempt from or effect changes in K.S.A. 79-  
23 41a04, and amendments thereto.
- 24 (21) Counties may not exempt from or effect changes in K.S.A. 79-  
25 1611, and amendments thereto.
- 26 (22) Counties may not exempt from or effect changes in K.S.A. 79-  
27 1494, and amendments thereto.
- 28 (23) Counties may not exempt from or effect changes in subsection  
29 (b) of K.S.A. 19-202, and amendments thereto.
- 30 (24) Counties may not exempt from or effect changes in subsection  
31 (b) of K.S.A. 19-204, and amendments thereto.
- 32 (25) Counties may not levy or impose an excise, severance or any  
33 other tax in the nature of an excise tax upon the physical severance and  
34 production of any mineral or other material from the earth or water.
- 35 (26) Counties may not exempt from or effect changes in K.S.A. 79-  
36 2017 or 79-2101, and amendments thereto.
- 37 (27) Counties may not exempt from or effect changes in K.S.A. 2-  
38 3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-  
39 3001 through 65-3028, 65-1,178 through 65-1,199, and amendments  
40 thereto.
- 41 (28) Counties may not exempt from or effect changes in K.S.A. 2007  
42 Supp. 80-121, and amendments thereto.
- 43 (29) Counties may not exempt from or effect changes in K.S.A. 19-

1 228, and amendments thereto.

2 (30) Counties may not exempt from or effect changes in the wireless  
3 enhanced 911 act, in the VoIP enhanced 911 act or in the provisions of  
4 K.S.A. 12-5301 through 12-5308, and amendments thereto.

5 (31) Counties may not exempt from or effect changes in K.S.A. 2007  
6 Supp. 26-601, and amendments thereto.

7 (32) (A) Counties may not exempt from or effect changes in the Kan-  
8 sas liquor control act except as provided by paragraph (B).

9 (B) Counties may adopt resolutions which are not in conflict with the  
10 Kansas liquor control act.

11 (33) (A) Counties may not exempt from or effect changes in the Kan-  
12 sas cereal malt beverage act except as provided by paragraph (B).

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

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

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

19 (36) *Counties may neither exempt from nor effect changes to the em-*  
20 *inent domain procedure act.*

21 (37) *Any county granted authority pursuant to the provisions of*  
22 *K.S.A. 19-5001 through 19-5005, and amendments thereto, shall be sub-*  
23 *ject to the limitations and prohibitions imposed under K.S.A. 19-5001*  
24 *through 19-5005, and amendments thereto.*

25 (38) *Except as otherwise specifically authorized by K.S.A. 19-5001*  
26 *through 19-5005, and amendments thereto, counties may not exercise any*  
27 *authority granted pursuant to K.S.A. 19-5001 through 19-5005, and*  
28 *amendments thereto, including the imposition or levy of any retailers'*  
29 *sales tax.*

30 (b) Counties shall apply the powers of local legislation granted in  
31 subsection (a) by resolution of the board of county commissioners. If no  
32 statutory authority exists for such local legislation other than that set forth  
33 in subsection (a) and the local legislation proposed under the authority  
34 of such subsection is not contrary to any act of the legislature, such local  
35 legislation shall become effective upon passage of a resolution of the  
36 board and publication in the official county newspaper. If the legislation  
37 proposed by the board under authority of subsection (a) is contrary to an  
38 act of the legislature which is applicable to the particular county but not  
39 uniformly applicable to all counties, such legislation shall become effec-  
40 tive by passage of a charter resolution in the manner provided in K.S.A.  
41 19-101b, and amendments thereto.

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

1 Sec. 25. K.S.A. 2008 Supp. 66-1,184 is hereby amended to read as  
2 follows: 66-1,184. (a) Except as provided in subsection (b), every public  
3 utility which provides retail electric services in this state shall enter into  
4 a contract for parallel generation service with any person who is a cus-  
5 tomer of such utility, upon request of such customer, whereby such cus-  
6 tomer may attach or connect to the utility's delivery and metering system  
7 an apparatus or device for the purpose of feeding excess electrical power  
8 which is generated by such customer's energy producing system into the  
9 utility's system. No such apparatus or device shall either cause damage  
10 to the public utility's system or equipment or present an undue hazard  
11 to utility personnel. Every such contract shall include, but need not be  
12 limited to, provisions relating to fair and equitable compensation on such  
13 customer's monthly bill for energy supplied to the utility by such  
14 customer.

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

16 (A) "Utility" means an electric public utility, as defined by K.S.A. 66-  
17 101a, and amendments thereto, any cooperative, as defined by K.S.A. 17-  
18 4603, and amendments thereto, or a nonstock member-owned electric  
19 cooperative corporation incorporated in this state, or a municipally owned  
20 or operated electric utility;

21 (B) "school" means Cloud county community college and Dodge City  
22 community college; and

23 (C) "*avoided energy cost*" means the average cost of fuel and pur-  
24 chased energy for the preceding ~~12 months~~ for the utility, or in the case  
25 of a non-generating utility, such utility's wholesale power supplier, as  
26 defined by the governing body with jurisdiction over any electric coop-  
27 erative utility or electric public utility.

28 (2) Every utility which provides retail electric services in this state  
29 shall enter into a contract for parallel generation service with any person  
30 who is a customer of such utility, if such customer is a residential customer  
31 of the utility and owns a renewable generator with a capacity of 25 kilo-  
32 watts or less, or is a commercial customer of the utility and owns a re-  
33 newable generator with a capacity of 200 kilowatts or less or is a school  
34 and owns a renewable generator with a capacity of 1.5 megawatts or less.  
35 Such generator shall be appropriately sized for such customer's antici-  
36 pated electric load. A commercial customer who uses the operation of a  
37 renewable generator in connection with irrigation pumps shall not request  
38 more than 10 irrigation pumps connected to renewable generators be  
39 attached or connected to the utility's system. At the customer's delivery  
40 point on the customer's side of the retail meter such customer may attach  
41 or connect to the utility's delivery and metering system an apparatus or  
42 device for the purpose of feeding excess electrical power which is gen-  
43 erated by such customer's energy producing system into the utility's sys-

1 tem. No such apparatus or device shall either cause damage to the utility's  
2 system or equipment or present an undue hazard to utility personnel.  
3 Every such contract shall include, but need not be limited to, provisions  
4 relating to fair and equitable compensation for energy supplied to the  
5 utility by such customer. Such compensation shall be not less than 100%  
6 of the ~~utility's monthly system average cost of energy per kilowatt hour~~  
7 *avoided energy cost* except that in the case of renewable generators with  
8 a capacity of 200 kilowatts or less, such compensation shall be not less  
9 than 150% of the ~~utility's monthly system average cost of energy per~~  
10 ~~kilowatt hour~~ *avoided energy cost*. A utility may credit such compensation  
11 to the customer's account or pay such compensation to the customer at  
12 least annually or when the total compensation due equals \$25 or more.

13 (3) *A customer-generator, as defined by section 8, and amendments*  
14 *thereto, shall have the option of entering into a contract pursuant to this*  
15 *subsection (b) or utilizing the net metering and easy connection act. The*  
16 *customer-generator shall exercise the option in writing, filed with the util-*  
17 *ity and shall not be entitled to change the option once it is filed.*

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

20 (1) The utility will supply, own, and maintain all necessary meters  
21 and associated equipment utilized for billing. In addition, and for the  
22 purposes of monitoring customer generation and load, the utility may  
23 install at its expense, load research metering. The customer shall supply,  
24 at no expense to the utility, a suitable location for meters and associated  
25 equipment used for billing and for load research;

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

32 (3) the customer shall furnish, install, operate, and maintain in good  
33 order and repair and without cost to the utility, such relays, locks and  
34 seals, breakers, automatic synchronizer, and other control and protective  
35 apparatus as shall be designated by the utility as being required as suitable  
36 for the operation of the generator in parallel with the utility's system. In  
37 any case where the customer and the utility cannot agree to terms and  
38 conditions of any such contract, the state corporation commission shall  
39 establish the terms and conditions for such contract. In addition, the  
40 utility may install, own, and maintain a disconnecting device located near  
41 the electric meter or meters. Interconnection facilities between the cus-  
42 tomer's and the utility's equipment shall be accessible at all reasonable  
43 times to utility personnel. Upon notification by the customer of the cus-

1 tomer's intent to construct and install parallel generation, the utility shall  
2 provide the customer a written estimate of all costs that will be incurred  
3 by the utility and billed to the customer to accommodate the intercon-  
4 nection. The customer may be required to reimburse the utility for any  
5 equipment or facilities required as a result of the installation by the cus-  
6 tomer of generation in parallel with the utility's service. The customer  
7 shall notify the utility prior to the initial energizing and start-up testing  
8 of the customer-owned generator, and the utility shall have the right to  
9 have a representative present at such test;

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

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

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

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

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

37 (g) For the purpose of meeting the ~~governor's stated goal of produc-~~  
38 ~~ing 10% of the state's electricity by wind power by 2010 and 20% by 2020,~~  
39 ~~requirements of section 6, and amendments thereto,~~ the parallel genera-  
40 tion of electricity provided for in this section shall be included as part of  
41 the state's *renewable* energy generation ~~by wind power.~~

42 (h) *The provisions of the net metering and easy connection act shall*  
43 *not preclude the state corporation commission from approving net me-*



1 *tering tariffs upon request of an electric utility for other methods of re-*  
2 *newable generation not prescribed in subsection (c)(1) of section 8, and*  
3 *amendments thereto.*

4 Sec. 26. K.S.A. 2008 Supp. 65-3005 is hereby amended to read as  
5 follows: 65-3005. (a)The secretary shall have the power to:

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

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

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

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

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

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

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

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

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

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

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

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

42 ~~(m)~~ (13) Collect and disseminate information and conduct educa-  
43 tional and training programs relating to air contamination and air

- 1 pollution.
- 2 ~~(n)~~ (14) Advise, consult and cooperate with other agencies of the  
3 state, local governments, industries, other states, interstate or interlocal  
4 agencies, and the federal government, and with interested persons or  
5 groups.
- 6 ~~(o)~~ (15) Accept, receive and administer grants or other funds or gifts  
7 from public and private entities, including the federal government, for  
8 the purpose of carrying out any of the functions of this act. Such funds  
9 received by the secretary pursuant to this section shall be deposited in  
10 the state treasury to the account of the department of health and  
11 environment.
- 12 ~~(p)~~ (16) Enter into contracts and agreements with other state agen-  
13 cies or subdivisions, local governments, other states, interstate agencies,  
14 the federal government or its agencies or private entities as is necessary  
15 to accomplish the purposes of the Kansas air quality act.
- 16 ~~(q)~~ (17) Conduct or participate in intrastate or interstate emissions  
17 trading programs or other programs that demonstrate equivalent air qual-  
18 ity benefits for the prevention, abatement and control of air pollution in  
19 Kansas or in other states or both.
- 20 ~~(r)~~ (18) Prepare and adopt a regional haze plan as may be necessary  
21 to prevent, abate and control air pollution originating in Kansas that af-  
22 fects air quality in Kansas or in other states or both. Any regional haze  
23 plan prepared by the secretary shall be no more stringent than is required  
24 by 42 U.S.C. 7491.
- 25 ~~(s)~~ (19) Participate in the activities of any visibility transport com-  
26 mission established under 42 U.S.C. 7492. The secretary shall report to  
27 the governor and the legislature on the activities of any such visibility  
28 transport commission annually.
- 29 *(b) It is a policy of the state to regulate the air quality of the state*  
30 *and implement laws and regulations that are applied equally and uni-*  
31 *formly throughout the state and consistent with those of the federal*  
32 *government.*
- 33 *(1) The secretary shall have the authority to promulgate rules and*  
34 *regulations to establish standards to ensure that the state is in compliance*  
35 *with the provisions of the federal clean air act, as amended (42 U.S.C.*  
36 *section 7401 et seq.). The standards so established shall not be any more*  
37 *stringent, restrictive or expansive than those required under the federal*  
38 *clean air act, as amended, nor shall the rules and regulations be enforced*  
39 *in any area of the state prior to the time required by the federal clean air*  
40 *act. The restrictions of this section shall not apply to the parts of the state*  
41 *implementation plan developed by the secretary to bring a nonattainment*  
42 *area into compliance when needed to have a United States environmental*  
43 *protection agency approved state implementation plan.*

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

4 (c) Any action by the secretary on any application filed after January  
5 1, 2006, and before the effective date of this act, which seeks the issuance,  
6 modification, amendment, revision or renewal of any approval or permit,  
7 and which is still the subject of any administrative or judicial review  
8 proceedings, shall be reconsidered by the secretary upon the applicant's  
9 or permittee's timely written request, which shall be filed no later than  
10 60 days after the effective date of this act. Within 15 days after the ap-  
11 plicant or permittee files a written request pursuant hereto, the secretary  
12 shall reconsider the secretary's decision, agency action or order and shall  
13 determine in accordance with the provisions of this act, as amended,  
14 whether the issuance, modification, amendment, revision or renewal of  
15 any approval or permit requested by the permittee or applicant should  
16 be issued, modified, amended, revised or renewed. If the applicant or  
17 permittee is aggrieved by the secretary's determination hereunder, the  
18 applicant or permittee shall be immediately entitled to judicial review of  
19 such agency action by filing a petition for judicial review in the court of  
20 appeals within 30 days from the date of the secretary's determination. If  
21 the secretary fails to act within the 15 days, the applicant or permittee  
22 immediately shall be entitled to seek a writ of mandamus compelling the  
23 secretary to act by filing for such writ in the court of appeals. Such pro-  
24 ceedings shall be conducted in accordance with K.S.A. 77-601 et seq., and  
25 amendments thereto, however the applicant or permittee shall not be re-  
26 quired to exhaust any other or additional administrative remedies avail-  
27 able within the agency notwithstanding any other provision of law.

28 Sec. 27. K.S.A. 2008 Supp. 65-3008a is hereby amended to read as  
29 follows: 65-3008a. (a) No permit shall be issued, modified, renewed or  
30 reopened without first providing the public an opportunity to comment  
31 and request a public hearing on the proposed permit action. The request  
32 for a public hearing on the issuance of a permit shall set forth the basis  
33 for the request and a public hearing shall be held if, in the judgment of  
34 the secretary, there is sufficient reason.

35 (b) The secretary shall affirm, modify or reverse the decision on such  
36 permit after the public comment period or public hearing, and shall af-  
37 firm the issuance of any permit the terms and conditions of which comply  
38 with all requirements established by rules and regulations promulgated  
39 pursuant to the Kansas air quality act. Any person who participated in  
40 the public comment process or the public hearing who otherwise would  
41 have standing under K.S.A. 77-611, and amendments thereto, shall have  
42 standing to obtain judicial review of the secretary's final action on the  
43 permit pursuant to the act for judicial review and civil enforcement of

1 agency actions in the court of appeals. Any such person other than the  
2 applicant for or holder of the permit shall not be required to have ex-  
3 hausted administrative remedies in order to be entitled to review. The  
4 court of appeals shall have original jurisdiction to review any such final  
5 agency action. The record before the court of appeals shall be confined  
6 to the agency record for judicial review and consist of the documentation  
7 submitted to or developed by the secretary in making the final permit  
8 decision, including the permit application and any addenda or amend-  
9 ments thereto, the permit summary, the draft permit, all written com-  
10 ments properly submitted to the secretary, all testimony presented at any  
11 public hearing held on the permit application, all responses by the ap-  
12 plicant or permit holder to any written comments or testimony, the se-  
13 cretary's response to the public comments and testimony and the final  
14 permit.

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

18 Sec. 28. K.S.A. 65-3012 is hereby amended to read as follows: 65-  
19 3012. (a) ~~Notwithstanding any other provision of this act, the secretary~~  
20 ~~may take such action as may be necessary to protect the health of persons~~  
21 ~~or the environment. (1) Upon receipt of information evidence that the~~  
22 ~~emission of emissions from an air pollution source or combination of air~~  
23 ~~pollution sources presents a: (1) An imminent and substantial endanger-~~  
24 ~~ment to the public health of persons or welfare or to the environment;~~  
25 ~~or (2) for an imminent or actual violation of this act, any rules and reg-~~  
26 ~~ulations adopted under this act, any orders issued under this act or any~~  
27 ~~permit conditions required by this act or any permit conditions required~~  
28 ~~by this act, the secretary may issue a temporary order not to exceed 72~~  
29 ~~hours in duration, directing the owner or operator, or both, to take such~~  
30 ~~steps as necessary to prevent the act or eliminate the practice.~~

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

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

37 ~~—(2) Commencing (b) Upon expiration of the temporary order, the~~  
38 ~~secretary may commence an action in the district court to enjoin acts or~~  
39 ~~practices specified in subsection (a) or requesting request the attorney~~  
40 ~~general or appropriate county or district attorney to commence an action~~  
41 ~~to enjoin those acts or practices.~~

42 (c) Upon a showing by the secretary that a person has engaged in  
43 those acts or practices *in violation of subsection (a)*, a permanent or tem-

1 porary injunction, restraining order or other order may be granted by any  
2 court of competent jurisdiction. An action for injunction under this sub-  
3 section shall have precedence over other cases in respect to order of trial.

4 ~~(3) Applying to the district court in the county in which an order of~~  
5 ~~the secretary under subsection (b)(1) will take effect, in whole or in part,~~  
6 ~~for an order of that court directing compliance with the order of the~~  
7 ~~secretary. Failure to obey the court order shall be punishable as contempt~~  
8 ~~of the court issuing the order. The application under this subsection for~~  
9 ~~a court order shall have precedence over other cases in respect to order~~  
10 ~~of trial.~~

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

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

21 *(d) The owner or operator, or both, aggrieved by an order of the*  
22 *secretary issued pursuant to this section shall be immediately entitled to*  
23 *judicial review of such agency action by filing a petition for judicial review*  
24 *in district court. The aggrieved party shall not be required to exhaust*  
25 *administrative remedies. A petition for review under this subsection shall*  
26 *have precedence over other cases in respect to order of trial.*

27 New Sec. 29. The provisions of sections 1 through 29, and amend-  
28 ments thereto, are declared to be severable and if any provision, word,  
29 phrase or clause of the act or the application thereof to any person shall  
30 be held invalid, such invalidity shall not affect the validity of the remaining  
31 portions of this act.

32 Sec. 30. K.S.A. 19-101a, 19-101m and 65-3012 and K.S.A. 2008  
33 Supp. 65-3005, 65-3008a and 66-1,184 are hereby repealed.

34 Sec. 31. This act shall take effect and be in force from and after its  
35 publication in the Kansas register.

MARY ANN TORRENCE, ATTORNEY  
REVISOR OF STATUTES  
JAMES A. WILSON III, ATTORNEY  
FIRST ASSISTANT REVISOR  
GORDON L. SELF, ATTORNEY  
FIRST ASSISTANT REVISOR



OFFICE OF REVISOR OF STATUTES  
KANSAS LEGISLATURE

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Kansas Commission on  
Interstate Cooperation  
Kansas Statutes Annotated  
Editing and Publication  
Legislative Information System

MEMORANDUM

TO: Senate Committee on Utilities  
FROM: Mike Corrigan, Assistant Revisor of Statutes  
DATE: February 26, 2009  
RE: Electric Cooperative Amendment Explainer

- (1) New Sec. 8. (a) Define “avoided energy cost” to mean the current average cost of fuel and purchased energy for the preceding month for a utility or for a non-generating utility’s wholesale power supplier. That term would replace the phrase “monthly system average cost of energy per kilowatt hour” as the basis for compensation for excess energy provided to utilities by net metering.
- (2) New Sec. 8 (c)(1) Renewable energy resources that could be used to generate electricity under the Act include wind, solar, photovoltaic, biomass, hydropower, geothermal, waste incineration and landfill gas resources or technologies.
- (3) New Sec. 8. (c)(5) Generating equipment would have to meet specifications established by the Act including being appropriately sized to the customer-generator’s electrical load and meeting specified safety, performance, interconnection



and reliability standards.

- (4) New Sec. 9. (a) Amends section concerning when supplier shall not be required to make net metering available to customer generator by striking (a)(2)(B).
  
- (5) New Sec. 12. (c) New language proposed to replace lines 8 through 19 on page 6.  
Excess electricity generated by the customer during a billing period would be retained by the supplier as a contribution to the fixed costs associated with owning and maintaining the facilities required to provide electric service to the customer.
  
- (6) New Sec. 13. (a) New language proposed.  
Customer-generators would be required to purchase and maintain in force general liability insurance that does not exclude liability for the net metering interconnection. The amount of insurance would have to be sufficient to insure against all reasonably foreseeable direct liabilities given the size and nature of the generating equipment and the interconnection.
  
- (7) New Sec. 25. (c) Define “avoided energy cost” to mean the current average cost of fuel and purchased energy for the preceding month for a utility or for a non-generating utility’s wholesale power supplier. That term would replace the phrase “monthly system average cost of energy per kilowatt hour” as the basis for compensation for excess energy provided to utilities by parallel generators.

**SENATE BILL No. 265**

By Committee on Ways and Means

2-12

Proposed  
Amendment

Senate Utilities Committee  
February 26, 2009  
Attachment 2-1

9 AN ACT concerning energy; relating to conservation and electric gen-  
10 eration, transmission and efficiency and air emissions; amending  
11 K.S.A. 19-101a and 65-3012 and K.S.A. 2008 Supp. 65-3005, 65-3008a  
12 and 66-1,184 and repealing the existing sections; also repealing K.S.A.  
13 19-101m.

14  
15 *Be it enacted by the Legislature of the State of Kansas:*

16 WHEREAS, The federal government is currently contemplating the  
17 regulation of certain emissions from stationary, mobile and area sources  
18 not currently regulated by the United States environmental protection  
19 agency, the form and requirements of which cannot be predicted at this  
20 time, but which could include cap and trade regulations, national energy  
21 taxes or a specific tax on one or more of such emissions that would pre-  
22 empt state-specific programs intended to reduce the emission of green-  
23 house gases and other emissions; and

24 WHEREAS, Any uncoordinated state regulatory initiative intended to  
25 regulate such emissions may be inconsistent with subsequent congress-  
26 sional determinations and with related federal legislation; and

27 WHEREAS, An individual Kansas response to the development of  
28 new regulatory programs intended to regulate emissions not currently  
29 regulated by the federal government is premature: Now, therefore,

30 New Section 1. As used in sections 1 through 5, and amendments  
31 thereto:

32 (a) "ASHRAE" means American society of heating, refrigerating and  
33 air-conditioning engineers, inc. standard 90.1-2004.

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

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

39 (d) "New state building" means any building or structure which is  
40 constructed by the state or any agency of the state and the construction  
41 of which commences on or after July 1, 2010.

42 New Sec. 2. The secretary of administration shall adopt rules and  
43 regulations for state agencies for the purchase of products and equipment,

1 including, but not limited to, appliances, lighting fixtures and bulbs, and  
2 computers, which meet energy efficiency guidelines which are not less  
3 than the guidelines adopted for such products to qualify as an energy star  
4 product if the projected cost savings for the useful life of such products  
5 and equipment is equal to or greater than the additional cost compared  
6 to functionally equivalent products and equipment of lower efficiency.

7 New Sec. 3. (a) The department of administration shall collect data  
8 on energy consumption and costs for all state-owned and leased real prop-  
9 erty and the secretary of administration shall submit a written report to  
10 the legislature on or before the first day of the 2010 regular session of  
11 the legislature and on or before the first day of each ensuing regular  
12 session of the legislature identifying state-owned or leased real property  
13 locations in which an excessive amount of energy is being used in ac-  
14 cordance with rules and regulations adopted by the secretary of admin-  
15 istration concerning energy efficiency performance standards for state-  
16 owned or leased real property.

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

24 New Sec. 4. (a) Within the limitations of appropriations therefor, the  
25 Kansas energy office of the state corporation commission shall develop  
26 and increase the participation of school districts and local governments  
27 in the facilities conservation improvements program (FCIP) pursuant to  
28 K.S.A. 75-37,125, and amendments thereto.

29 (b) The state corporation commission shall strongly encourage state  
30 agencies which operate and maintain state-owned buildings that are not  
31 participating in the FCIP to participate in the FCIP pursuant to K.S.A.  
32 75-37,125, and amendments thereto, on or before December 1, 2011.

33 New Sec. 5. The secretary of administration shall adopt rules and  
34 regulations prescribing energy efficiency performance standards requir-  
35 ing that all new construction and, to the extent possible, renovated state-  
36 owned buildings, be designed and constructed to achieve energy con-  
37 sumption levels that are at least 10% below the levels established under  
38 the ASHRAE standard or the IECC, as appropriate, if such levels of  
39 energy consumption are life-cycle cost-effective for such buildings and  
40 also recommend that new and, to the extent possible, renovated school  
41 and municipal buildings meet the same requirements.

42 New Sec. 6. (a) (1) By the year 2013, for each public utility, the  
43 nameplate capacity of the renewable electric generation facilities included

1. in the public utility's generation portfolio, whether owned by the public utility or contracted for energy purchase by the public utility, shall be no less than 10% of the public utility's peak load, expressed in megawatts, in the state of Kansas, for a three-year average for the 2009, 2010 and 2011 calendar years.

(2) By the year 2017, for each public utility, the nameplate capacity of the renewable electric generation facilities included in the public utility's generation portfolio, whether owned by the public utility or contracted for energy purchase by the public utility, shall be no less than 15% of the public utility's peak load, expressed in megawatts, in the state of Kansas, for a three-year average for the 2013, 2014 and 2015 calendar years.

Subject to the provisions of subsection (c), by

(3) By the year 2021, for each public utility, the nameplate capacity of the renewable electric generation facilities included in the public utility's generation portfolio, whether owned by the public utility or contracted for energy purchase by the public utility, shall be no less than 20% of the public utility's peak load, expressed in megawatts, in the state of Kansas, for a three-year average for the 2017, 2018 and 2019 calendar years.

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

(c) The provisions of paragraph (3) of subsection (a) shall not apply until the state corporation commission makes a finding that sufficient transmission facilities exist in the state to justify a public utility to make reasonable and prudent expenditures to comply with the provisions of paragraph (3) of subsection (a).

(d)

(e) As used in this section:

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

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

New Sec. 7. Sections 7 through 23, and amendments thereto, shall be known and may be cited as the net metering and easy connection act.

New Sec. 8. As used in the net metering and easy connection act:

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

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

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

(1) Is powered by solar thermal sources or photovoltaic cells and