Approved: May 8, 2009
Date

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Pat Apple at 1:00 p.m. on May 6, 2009, in Room 545-N of the Capitol.

All members were present except
Senator Masterson, excused

Committee staff present:
Mike Corrigan, Office of the Revisor of Statutes
Melissa Doeblin, 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:

Others attending:
See attached list.

Chairperson Apple reviewed the actions that have been taken by the Governor and Sunflower Electric Power Corporation in reaching agreement on a comprehensive energy settlement agreement.

The following information was distributed to the committee:

1. Comprehensive Energy Settlement Bullet Points (Attachment 1)
2. Governor's Press Release of May 4, 2009 (Attachment 2)
3. Settlement Agreement executed May 3, 2009 by Gov. Parkinson & L. Earl Watkins, Sunflower Electric Power Corporation (Attachment 3)
4. Jeff Glendenning, The Kansas Chamber (Attachment 4)
5. Allie Devine, Kansas Livestock Association (Attachment 5)
6. Draft 9rs1138 of **Senate Bill 339** by Committee on Federal & State Affairs (Attachment 6)

Briefing on Comprehensive Energy Settlement Agreement

Sally Howard, chief counsel of the Governor's Office, provided an explanation of the comprehensive energy settlement. Governor Parkinson had contacted the officials of Sunflower Electric Power Corporation to discuss the possibility of moving forward on the Holcomb Power Plant and this agreement was reached.

In response to a question from the Committee, the Governor's Chief Counsel Sally Howard stated that the term "net renewable generation capability" was used in Section 2 of the bill instead of the term "nameplate capacity" in order to use a metric that would be consistent for all types of renewable generation. Ms. Howard said use of this term was not expected to substantially change the amount of renewable generation required under the Act. Mark Calcara, Vice-President and General Counsel for Sunflower Electric Power Corporation, agreed with that assessment of the language.

Earl Watkins, President, Sunflower Electric Power Corporation, provided information on the modifications to Holcomb Unit 1 and the additional conditions placed on Sunflower within two years of commercial operation of Holcomb Unit 2. (Attachment 7)

Cindy Lash, Kansas Legislative Research, had prepared a 13- page comparison of 2009 **Sub. HB 2014, Senate Sub for Sub HB 2014 and SB 339.** Extensive review of the various provisions of these bills was held. (Attachment 8)

The committee recessed at 3:30 p.m. until after adjournment of the Senate session at 4:00 p.m.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

Minutes of the Senate Utilities Committee at 1:00 p.m. on May 6, 2009, in Room 545-N of the Capitol.

On reconvening the Chair opened for discussion and possible action on:

SB 339 - Energy conservation and electric generation, transmission, efficiency and air emissions.

Moved by Senator Taddiken, seconded by Senator Petersen, to remove the contents of **SB 265** and insert the language from **SB 339.** Motion carried.

Moved by Senator Lee, seconded by Senator Petersen, to make technical corrections in **SB 265** by inserting the correct name of Sunflower Electric Power Corporation and clarifying the definition of hydropower in the RPS to ensure that it covered KEPCO. Motion carried.

Moved by Senator Petersen, seconded by Senator Taddiken, in **SB 265** delete the word "located" on page 1, New Sec. 2 c which would read "renewable energy resource ~~located~~ over a four-hour..." Motion carried

Moved by Senator Lee, seconded by Senator Reitz, in **SB 265** on page 6 first paragraph delete the language "including impacts associated with the gathering of generation feedstocks." and change the comma to a period after the word "impacts." Motion carried.

Moved by Senator Francisco, seconded by Senator Reitz, in **SB 265** amend the statutes regarding electric cooperatives to clarify that all cooperatives are subject to the RPS. Motion carried.

Moved by Senator Francisco, seconded by Senator McGinn, in **SB 265** in the definition of renewable resources to change the language "clean and untreated wood, such as pallets" to 'clean & untreated wood products such as pallets'. Motion carried

Moved by Senator Petersen, seconded by Senator Emler, in **SB 265** length of time for adoption of rules and regulations to be changed from 6 to 12 months and those of 18 months remain same. Motion carried.

Moved by Senator Emler, seconded by Senator Reitz, contents of **HB 2369** be removed and contents of **SB 265** with amendments be inserted into **Senate Substitute for HB 2369**. Motion carried.

Moved by Senator Lee, seconded by Senator Petersen, **Senate Substitute for HB 2369** be moved out favorably as amended. Motion carried. NO vote recorded for Sen. Francisco.

The meeting was adjourned at 5:30 p.m.

Respectfully submitted,

Ann McMorris
Committee Assistant

Attachments - 8

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

GUEST LIST
SENATE UTILITIES COMMITTEE
MAY 6, 2009

NAME	COMPANY
Nelson Krueger	PAR Electric
Marilyn Jacobson	DOA
Whitney Damron	Empire District Electric Co
Allie Devine	Ks Livestock Assoc.
Dennis Kriesel	KS Assn. of Counties
Kari Presley	Kearney & Associates Inc.
Mark Schreiber	Westar Energy
M. Hazlett	CEP
TOM DAY	KCC
Scott Jones	KCPL
[illegible] Smith	AAMS
Renae Hansen	KS Legislative Staff
Tom Krebs	KASB
LARRY BERG	MIDWEST ENERGY
Mike Jordan	Capitol Strategies.
BRAD HARRELSON	KFB
LON STANTON	Northern NATURAL GAS Co.
Earl Williams	Sunf
Sally [illegible]	Governor

Comprehensive Energy Settlement

One power plant solution: Sunflower will construct one 895 MW pulverized ultra-super critical coal generating unit.

- Down from 1400 MW
- Higher technology (ultra-super critical) results in lower emission rate (1850)
- Annual emission now 6.672 million tons (was 10.718 million tons)

Agreed offsets to reduce CO_2 emissions

- 20% Wind Development (179 MW)
- Achieve 2020 RPS Goal by 2015 (36 MW Renewable Energy)
- 10% Biomass used as fuel in both H1 and H2
- Development of 2- 345 kv transmission lines to western grid
- Dedicate 1% of Gross Annual Sales for Energy Efficiency Programs
- Decommission Garden City 1 and Garden City 2 generation units
- Develop Biodigester to capture methane
- Pursue Algae Reactor

- **Total Quantifiable CO_2 Offsets per year: 3,016,577 tons**

Settlement agreement is contingent on passage of Governor Parkinson's Comprehensive Energy Package which includes:

- Renewable Portfolio Standard
- Net Metering
- Energy Efficiency
- State Vehicle Fuel Economy Standards
- Expanded KETA authority
- 5% Kansas Coal
- Compressed Air Energy Storage
- Subservice Hydrocarbon Storage
- Modified Regulatory Uncertainty
- Larger Cooperative KCC opt-out

For immediate release
May 4, 2009

Beth Martino, Press Secretary
785.368.8500

Cindy Hertel, Communications Coordinator
Sunflower Electric Power Corporation
785.623.3341

Governor Parkinson and Sunflower Electric agree to new energy plan

Kansas to take a significant step forward on renewable energy policy

Governor Mark Parkinson, together with Sunflower Electric Power Corporation President and CEO, Earl Watkins, have announced a comprehensive energy plan to encourage the production of more renewable energy in Kansas.

"We're bringing people together to create hundreds of jobs, increase our renewable energy production and ensure a comprehensive energy plan for our state," said Governor Parkinson. "Prior to this agreement, the Legislature was at an impasse on energy issues. With this agreement, we can start to move forward."

The current agreement will allow Sunflower to construct one 895 megawatt coal plant with an unprecedented level of carbon mitigation. This project is estimated to create more than 1,500 jobs at the peak of its construction.

The agreement between the Governor's Administration and Sunflower Electric is contingent upon the Legislature's passage of the Comprehensive Energy Package proposed by Parkinson and then-Governor Kathleen Sebelius in January.

"We are pleased to work with Governor Parkinson as this proposal meets the base load needs of the region and will promote the development of renewable resources in Kansas. The proposal will allow our out-of-state cooperative partners to participate in the project in a smaller way while preserving the 200 MW needed by Kansas cooperative and municipal utilities. Agreement provisions for wind, biomass and transmission development will promote renewable energy development in western Kansas," said Earl Watkins, president and chief executive officer for Sunflower.

"I want to acknowledge every legislator, stakeholder and environmental advocate who have worked for the past 18 months on comprehensive energy policy for this state," Parkinson continued. "I may not have a full term as Governor, but I do have a full agenda. We will be bringing people together – Republicans and Democrats; labor and business; public and private stakeholders – to move this state forward."

"We appreciate the leadership shown by the Governor to recognize the need for base load power in the Sunflower system. This effort will move the project forward bringing much needed economic activity and jobs to Kansas," said Watkins.

"This agreement meets the goals of our project, but will also address concerns of our coalition partners that the regulatory process is clear and follows the federal clean air act. The legislative proposal will move Kansas toward a comprehensive energy policy that utilizes all forms of generation, encourages the wise use of energy and balances concerns for cost and the environment."

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Senate Utilities Committee
May 6, 2009
Attachment 2-1

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into this 4th of May, 2009, by and between the State of Kansas (Kansas) and Sunflower Electric Power Corporation ("Sunflower").

WHEREAS, Sunflower operates a 350 megawatt (MW) (nominal) electrical generating facility (H1), commonly referred to as the Holcomb Station, located near Holcomb, Kansas; and

WHEREAS, on February 6, 2006, Sunflower applied for a prevention of significant deterioration (PSD) Permit to Construct (PSD Permit) that would authorize the construction at the Holcomb Station of three additional 700 MW pulverized-coal generating units; and

WHEREAS, Sunflower thereafter notified KDHE that it was withdrawing the proposed third unit from the PSD Permit application; and

WHEREAS, the coal fired electric generation units will emit carbon dioxide (CO_2); and

WHEREAS, the Governor is the supreme executive of the state and is authorized to bind the State to this agreement;

WHEREAS, KDHE is a duly authorized agency of the State of Kansas created by an act of the Kansas Legislature; and

WHEREAS, the Secretary of the KDHE (Secretary) has jurisdiction over certain matters relating to emissions of pollutants into the ambient air pursuant to the Kansas Air Quality Act (ACT), K.S.A. 65-3001, et seq.; and

WHEREAS, K.S.A. 65-3005 provides that the Secretary shall have the power to enter into voluntary contracts and agreements with private entities to facilitate the purposes of the Act; and

WHEREAS, Sunflower is a non-profit, membership Kansas Corporation authorized to act as a public utility in the State of Kansas; and

WHEREAS, KDHE issued an Interim Guidance on the Treatment of Carbon Dioxide Emissions in the KDHE Permitting Process setting forth the terms KDHE would consider for the issuance of a permit for a new baseload electric generating unit of the type and nature as sought by Sunflower pursuant to its PSD Permit application; and

WHEREAS, pursuant to K.S.A. 65-3005, the Secretary and Sunflower each have the authority to enter into this Agreement.

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises contained in this Agreement and intending to be legally bound, the State and Sunflower agree as follows:

ARTICLE 1
STATEMENT OF PURPOSE

1.1 Purpose. The State and Sunflower are entering into this Agreement for the purposes of facilitating the timely issuance of a final PSD Permit for the construction of one nominal 895 MW pulverized super critical coal generating unit which shall be known as H2 and the withdrawal from the permit application for a PSD permit for a second new generating unit. This Agreement is not the result of any enforcement action or alleged non-compliance with any law, regulation, permit, or order.

ARTICLE 2
MODIFICATION OF HOLCOMB UNIT 1

2.1 NO_X Emissions. Under the current operating permit for H1, the PSD nitrogen oxides (NO_X) emission limitation is 0.50 lb/mmBtu and the Acid Rain NO_X emission limitation is 0.46 lb/mmBtu. As consideration herein, and without modifying these limitations for PSD NO_X or Acid Rain NO_X as set forth above, Sunflower agrees to achieve compliance with an additional NO_x emission limitation of 0.22 lb/mmBtu, as determined on a 12-month rolling average basis, excluding periods of startup, shutdown, and malfunction. In order to effect the reduction Sunflower agrees to install new Low-NO_X burners, or equivalent or better performing technology that achieves the same objective. Sunflower agrees to install this equipment at the next planned facility outage of sufficient duration, unless it becomes necessary due to operating circumstances and outage limitations to complete the work at a later date, but in no event later than one year after the commercial operation date of H2. Compliance with the new additional standard will begin twelve (12) months thereafter, following an initial compliance test.

2.2 SO_2 Emissions. Under the current permit for H1, the PSD sulfur dioxide (SO_2) emission limitation is 0.48 lb/mmBtu. Sunflower agrees to utilize best operating practices on H1 to achieve compliance with an additional SO_2 emission limitation of 0.12 lb/mm Btu, as determined on a 30-day rolling average basis. Sunflower will achieve these limitations within 12 months of the commercial operational date of H2.

2.3 Mercury Emissions. Sunflower agrees to utilize best operating practices or generally available control technology on H1 to meet a mercury emission limitation of 0.020 lb/GWh, on a 12-month rolling average basis, excluding periods of startup, shutdown, and malfunction. Sunflower will achieve this limitation within 12 months of the commercial operation date of H2.

2.4 Combined Mercury Emissions. The total annual mercury emissions from units H1 and H2 shall be less than the 2005 toxic release inventory reported emissions of 327 pounds for H1. Attached hereto is the data on HAPS previously provided to KDHE which KDHE acknowledges receipt of and does not dispute the accuracy of the data provided.

ARTICLE 3
CONDITIONS

3.1 Conditions. Unless otherwise provided herein, Sunflower agrees to make good faith efforts to meet the following conditions within 1 year, but agrees the conditions will be met no later than 2 years of the commercial operational date of H2.

a) Wind Development. Sunflower agrees that it will, or it will cause the participants in the project, to install and operate, or contract to purchase, wind resources to be located in Kansas equal to 20% of the net production capability of H2, which shall be in addition to any requirement for mandated renewable portfolio standards required of a Kansas utility participating in H2. In addition, should the state of Kansas mandate a renewable portfolio standard requiring at least 20% of its retail load of its members be generated by a renewable resource by the year 2020, Sunflower agrees to meet the mandated standard no later than 2016.

b) Biomass as Fuel Source. Sunflower agrees to use, or cause to be used, biomass as a fuel source equal to the sum of 10% of the full load heat input of H1 and H2 in the production of electric energy without respect to the location of the use. Sunflower shall not be required to meet such requirement if the usage of biomass is technologically or economically infeasible; provided costs no greater than 200% of the delivered in cost of coal to Holcomb Station shall be deemed economically feasible.

c) Transmission Development. The Parties acknowledge that to facilitate the expansion of wind as a source of energy, it is necessary to enhance the transmission grid. Provided Tri-State Generation and Transmission Association, Inc. (Tri-State), or a public utility on the western grid, participates in the plant at an equivalent level (600 MW) to Tri-State's participation, Sunflower agrees to use reasonable efforts to develop, with the assistance of others, two high voltage transmission lines of not less than 345kv from the location of H2 into the state of Colorado. The lines shall be completed no later than 5 years after the commercial operation date of H2, provided the construction of such lines are not delayed by reasons beyond the control of Sunflower or the transmission owner constructing the lines.

d) Energy Efficiency Programs. Sunflower shall develop and implement enhanced energy efficiency and demand side management programs (Efficiency Programs) which will provide information, technical assistance, and incentives to each type of customer and customer class Sunflower's members serve to conserve and more efficiently utilize energy.

Sunflower agrees to commit to the funding of Efficiency Programs, directly and/or through its members, at an amount of not less than 1% of its gross revenues based upon the previous year's gross sales of power to its members and its sister organization, Mid-Kansas Electric Company, LLC (Mid-Kansas) for a 5-year period beginning with the construction of H2. Under current sales, the amount allocated would be approximately $4 million annually. The Parties acknowledge that Efficiency Programs will have diminishing returns over time and, therefore, agree that after the initial five years, Sunflower and KDHE will confer as to what Efficiency Programs' benefits exceed the cost and Sunflower shall continue to fund

those Efficiency Programs for another 5 years thereafter at levels not to exceed 1% of the gross revenues as described above. Regardless of any credit allowed under subsection (e) below, Sunflower agrees that during the first 5 years it will commit to funding at least .5% of its gross sales annually to Efficiency Programs.

e) Bioenergy Center. To advance new and innovative technology, Sunflower agrees to use reasonable efforts to plan, undertake, and support the research and development opportunities associated with an Integrated Bioenergy Center (IBC) in western Kansas, which may consist of an ethanol plant, a bio-diesel plant, an anaerobic digester, a dairy farm, and an algae reactor. Any funds expended on the undertaking of the IBC shall be credited against the funds required to be spent on Efficiency Programs.

f) Decommission of Plants. Sunflower shall as of the commercial operation date of H2 cease to operate and permanently decommission Garden City 1 and Garden City 2 generation units from its operational fleet.

3.2 Permit Issuance. Subject to the modifications as may be required herein and the confirmation of BACT emission limitations and PSD increment consumption constraints, the Secretary shall issue the final permit substantially in the form of the draft final permit prepared by the KDHE technical staff on or about July 17, 2007.

ARTICLE 4
EFFECTIVE DATE, SUSPENSION, TERMINATION

4.1 Effective Date. The State and Sunflower contemplate the passage of certain energy legislation in the 2009 legislative session that would modify the Kansas Air Quality Act, establish a renewable portfolio standard, require net metering by investor owned utilities and other miscellaneous energy related legislation, which shall be substantially similar to H.B. 2127, (Energy Legislation). This Agreement shall be effective upon both the passage of the Energy Legislation and the date the PSD Permit issued by KDHE for the construction of H2 becomes final and non-appealable.

4.2. Operative Effect. If the validity or enforceability of the PSD Permit is challenged by a third party initiating an action for judicial review, then (i) the terms and conditions of Article 2 and 3 shall immediately be suspended, and the time in which Sunflower is required to perform under these Articles shall be tolled; and (iii) the time for Sunflower's performance hereunder otherwise shall be extended by an amount of time equal to the length of time the permit(s) are being contested. Provided further, if such an action for judicial review results in the permit being vacated and ultimately either denied or modified, then this Agreement shall immediately terminate and be of no further force or effect. If the PSD Permit sought by Sunflower is issued but for any reason H2 is not constructed under the authority of that PSD Permit, then this Agreement shall immediately terminate and be of no further force or effect.

ARTICLE 5
MISCELLANEOUS

5.1 Admission of Liability. Nothing in this Agreement shall be considered an admission of any fact or acknowledgment of any liability or obligation by any Party, nor as an admission of any fact or acknowledgment of any violation of any law, regulation, permit, or order. Neither the State of Kansas, nor KDHE or any other agency, shall be held out as a party to any contract entered into by Sunflower or others in carrying out activities pursuant to this Agreement. Provided further, that upon execution of this Agreement, Sunflower shall dismiss with prejudice its current suit pending before the Federal District Court, Case No. 08-CV-2575-EFM-DWB with each party to bear their own attorneys fees and costs.

The parties agree to file a Joint Motion to stay proceedings pending before the Kansas Supreme Court, Case Nos.07-99565-AS, 09-101,857-AS, 09-101,858-AS, 09-101,859-AS until such time as a PSD permit is issued, at which time Sunflower agrees to dismiss these cases with prejudice, with each party to bear their own attorneys fees and costs.

5.2 Authority of the Secretary. Sunflower acknowledges this Agreement does not diminish or supplant the authority of the Secretary or KDHE under the statutes and lawful regulations which they administer.

5.3 Governmental Regulations. Sunflower's performance hereunder is subject to and conditioned upon receiving all governmental and regulatory approvals necessary for it to lawfully perform the terms and conditions hereof, including approval of the recovery of costs of performance through its rate structure. If Sunflower is unable to obtain all such approvals, then such performance shall be excused and that requirement of performance shall be of no further force or effect.

5.4 Amendment. This Agreement may be amended by the mutual agreement of the State and Sunflower. Each such amendment shall be in writing and shall have as its effective date the date on which it has been signed by both parties.

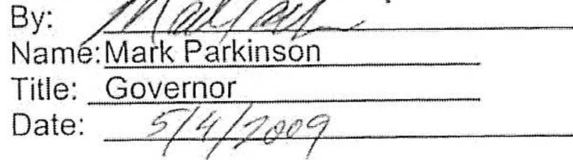
5.5 No Third-Party Beneficiaries. This Agreement inures solely to the benefit of the Parties; and it cannot be construed to be for the benefit of any person or other entity not a party to the Agreement, or to grant any such non-party person a private right of action to enforce it.

5.6 Applicable Law. The terms of this Agreement shall be construed in accordance with the applicable laws of the State of Kansas.

5.7 Future Permits. The Parties herein acknowledge that by entering into this Agreement that Sunflower is not precluded from seeking PSD permits in the future for the construction of electric generation plants, provided however, Sunflower agrees not to file for a PSD permit for a pulverized coal plant prior to April 30, 2011.

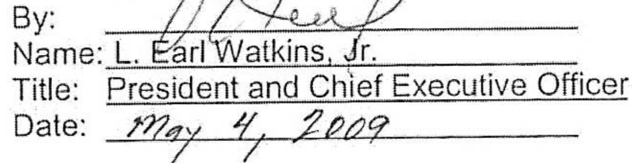
In witness thereof, the representatives of the Parties have affixed their signatures on the dates set forth below. Each signatory to this Agreement hereby certifies that he/she is authorized to execute and legally bind the Party he/she represents to this Agreement.

State of Kansas



By:
Name: Mark Parkinson
Title: Governor
Date: 5/4/2009

Sunflower Electric Power Corporation



By:
Name: L. Earl Watkins, Jr.
Title: President and Chief Executive Officer
Date: May 4, 2009

Legislative Testimony

Comprehensive Energy Bill

May 6, 2009

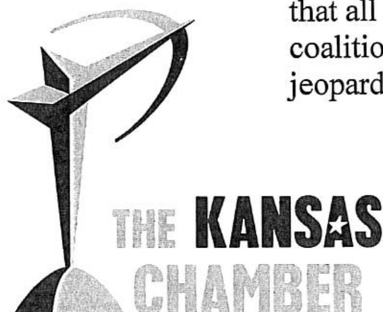
Testimony before Senate Utilities Committee

Jeff Glendening, Vice President of Political Affairs
The Kansas Chamber

Coalition: Kansas Chamber, Kansas Farm Bureau, Kansas Livestock Association, Kansas Bankers Association, National Federation of Independent Businesses – Kansas, Midwest Energy, Sunflower Electric Power Corporation, Ark Valley Electric Cooperative, Lenexa Chamber of Commerce, Kansas Grain and Feed Association, Kansas Agri-Business Retailers Association, Kansas Association of Ethanol Processors, Kansas Contractor's Association, Grant County Chamber of Commerce, Hoisington Chamber of Commerce, Girard Area Chamber of Commerce, Paola Chamber of Commerce, Ottawa Area Chamber of Commerce, Garden City Area Chamber of Commerce, Wichita Hispanic Chamber of Commerce, Wichita Independent Business Association, Derby Chamber of Commerce, Associated General Contractors of Kansas, Kansas Electric Cooperatives, Kansas Cooperative Council, Kansas Petroleum Marketers Association, Liberal Area Chamber of Commerce, Dodge City Area Chamber of Commerce, Great, Bend Chamber of Commerce and Economic Development, Ness County Economic Development, Royal Farms Dairy, Greeley County Community Development, Wheatland Water, Wheatland Electric Cooperative, Rooks County Economic Development, Pioneer Electric Cooperative, Wichita Area Chamber of Commerce, Central and Western Kansas Building Trades, Southeast Kansas Building Trades, Northeast Kansas Building Trades, City of Holcomb, Americans for Prosperity, Barton County Commission, Hays Area Chamber of Commerce, Lane-Scott Electric Cooperative, Prairie Land Electric Cooperative, Southern Pioneer Electric, Victory Electric Cooperative, Western Cooperative Electric, Finney County Commission, Norton County Commission, Kansas City Kansas Area Chamber of Commerce, International Brotherhood of Electrical Workers Local Union 304, City Commission of Garden City, Northwest Kansas Collaborative, Kansas Building Industry Association

Thank you Mr. Chairman and members of the committee for the opportunity to voice the business community's support for the new Comprehensive Energy Bill agreed upon by Governor Mark Parkinson and Sunflower Electric Power Corporation CEO Earl Watkins. My name is Jeff Glendening, Vice President of Political Affairs for the Kansas Chamber, and I am here representing a broad based coalition.

The coalition supports this new bill and its positive impact on the regulatory environment. This measure clarifies the air permitting process and ensures that all Kansas businesses will be treated fairly by the state government. The coalition also believes this legislation will prevent subjective decisions that jeopardize investment and innovation in the state and our workers.



Kansans need your support of this critical piece of legislation. While other states are fighting to make their business environments more stable and friendly to sustain and create jobs, Kansas has been placed under a cloud of uncertainty. This is your opportunity to create a better Kansas and a better place for business investment. There is no better time than the present to enact this legislation with nearly 100,000 Kansans unemployed resulting in the highest unemployment rate since 1983.

We would also like to thank you for your efforts this year in crafting a comprehensive energy plan. The Kansas Legislature has worked diligently to sort the issues involved and put forward a plan that allows Kansas to compete for jobs. We also recognize Governor Mark Parkinson's willingness to open a dialog to find a solution.

Thank you again for allowing me the opportunity to voice the Kansas Chamber's support as well as the other members of the business coalition to the energy legislation submitted by Governor Mark Parkinson and Sunflower Electric Power Corporation and the clarification it brings.

Since 1894

May 6, 2009

Memorandum to Senate Committee on Utilities:

From: Allie Devine, Kansas Livestock Association

Re: HB 2369 "the energy compromise"

Members of the Committee,

The Kansas Livestock Association would like to thank you, Governor Parkinson, and representatives of Sunflower Electric for reaching a compromise on this energy issue. We understand the hours of work members of the legislature, the Governor's staff, and private industry representatives have worked to craft a compromise that addresses many concerns of Kansans. We strongly encourage the legislature to adopt the compromise contained in HB 2369.

There are two primary reasons KLA is supportive of this compromise. The first is energy assurance. Our members are the customers of the cooperatives that are serviced by Sunflower. Our members are energy users. Energy is a major expense for the cattle industry. We use energy in the production and processing of feed; production and maintenance of feeding and milking facilities; and the processing of meat and dairy products. To maintain our competitive advantage we must have a cost effective reliable energy supply. It is our belief that the expansion of the Holcomb facility by Sunflower provides us with this source of energy.

The second reason for our strong support is the resolution of the regulatory climate in Kansas. This bill contains several key points: 1. Provisions that outline that Kansas standards may not exceed those of the federal government; 2. Provisions that direct the Secretary to approve permits that meet the requirements of the law; 3. Provisions that clarify the emergency powers of the secretary; and 4. Provisions that establish the state as the regulator of air issues and preclude counties from deviating from the state requirements. Each of these are important for a variety of reasons and taken together provide uniform and consistent regulations that may be relied upon by environmentalists and businesses.

The first provision-establishing standards equal to and not more restrictive than the federal government -assures that standards will be developed in a public forum with extensive scientific and legal review. This provision also assures that Kansas businesses will be held to the same standards as the nation and we will not be at a competitive disadvantage. This provision is also critical to assuring protection of the environment in a uniform and consistent manner. Given the nature of air emissions-uniformity is critical to effective controls.

6031 SW 37th Street ◆ Topeka, KS 66614-5129 ◆ (785) 273-5115 ◆ Fax (785) 273-3399 ◆ E-mail: kla@kla.org ◆ www.kla.org

The second provision-directing the secretary to act to approve permits that meet standards-is critical to business. Regulatory compliance is a major expense for businesses and one which most willingly pay when they understand and can rely on the outcome. This provision assures that businesses that play by the rules and seek permits will be granted those permits. This sends a strong message that Kansas will protect the environment but will also continue to foster new industries.

The third provision-clarification of emergency powers of the secretary-is critical in sending the message that in Kansas, fairness is respected. The modifications to this section provide a balance of powers between the state-acting through secretarial action-to protect the public and the environment- and the individual conducting operations within the state. Each has his or her opportunity to access the courts.

The fourth and final piece-prohibiting counties from acting in this area-assures uniformity. It is the opinion of many attorneys that the counties do not have the ability to regulate air emissions today. We believe these provisions reiterate that the state not the counties has the responsibility for protection of the environment and regulation of emissions. Again, this emphasizes that air emissions will be uniform within Kansas, across county lines, and across state lines as Kansas adopts the federal standards.

Finally, there are a number of "green" initiatives in this bill. Some of which directly impact agriculture. We have been skeptical of renewable portfolio standards. We believe the marketplace, not government, should dictate what energy sources are used. However, we are hopeful that our industry may be a participant in the development of "renewable energy sources" from cellulosic agricultural residues (we call it manure).

For these reasons, we respectfully request and encourage the legislature to adopt this legislation. Thank you.

SENATE BILL NO. ___

By Committee on Federal and State Affairs

AN ACT concerning energy; relating to conservation and electric generation, transmission and efficiency and air emissions; amending K.S.A. 19-101a, 55-1,117, 65-3012 and 66-104d and K.S.A. 2008 Supp. 65-3005, 65-3008a, 66-1,184, 74-99d07 and 74-99d14 and repealing the existing sections; also repealing K.S.A. 19-101a, as amended by section 7 of 2009 Senate Bill No. 336, and 19-101m.

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

New Section 1. Sections 1 through 7, and amendments thereto, shall be known and may be cited as the renewable energy standards act.

New Sec. 2. As used in the renewable energy standards act:

(a) "Affected utility" means any 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.

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

(c) "Net renewable generation capacity" means the gross generation capacity of the renewable energy resource located over a four-hour period when not limited by ambient conditions, equipment, operating or regulatory restrictions less auxiliary power required to operate the resource, and refers to resources located in the state or resources serving ratepayers in the state.

(d) "Peak demand" means the demand imposed by the affected utility's retail load in the state.

(e) "Renewable energy credit" means a credit representing

energy produced by renewable energy resources issued as part of a program that has been approved by the state corporation commission.

(f) "Renewable energy resources" means net renewable generation capacity from:

(1) Wind;

(2) solar thermal sources;

(3) photovoltaic cells and panels;

(4) dedicated crops grown for energy production;

(5) cellulosic agricultural residues;

(6) plant residues;

(7) methane from landfills or from wastewater treatment;

(8) clean and untreated wood such as pallets;

(9) existing hydropower, and new hydropower, not including pumped storage, that has a nameplate rating of 10 megawatts or less;

(10) fuel cells using hydrogen produced by one of the above-named renewable energy resources; and

(11) other sources of energy, not including nuclear power, that become available after the effective date of this section, and that are certified as renewable by rules and regulations established by the commission pursuant to section 7, and amendments thereto.

New Sec. 3. (a) The commission shall establish by rules and regulations a portfolio requirement for all affected utilities to generate or purchase electricity generated from renewable energy

resources or purchase renewable energy credits. For the purposes of calculating the capacity from renewable energy credit purchases, the affected utility shall use its actual capacity factor from its owned renewable generation from the immediately previous calendar year. Renewable energy credits may only be used to meet a portion of portfolio requirements for the years 2011, 2016 and 2020, unless otherwise allowed by the commission. Such portfolio requirement shall provide net renewable generation capacity that shall constitute the following portion of each affected utility's peak demand:

(1) Not less than 10% of the affected utility's peak demand for calendar years 2011 through 2015, based on the average demand of the prior three years of each year's requirement;

(2) not less than 15% of the affected utility's peak demand for calendar years 2016 through 2019, based on the average demand of the prior three years of each year's requirements; and

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

(b) The portfolio requirements described in subsection (a) shall apply to all power sold to Kansas retail consumers whether such power is self-generated or purchased from another source in or outside of the state. The capacity of all net metering systems interconnected with the affected utilities under the net metering and easy connection act in section 8 et seq., and amendments thereto, shall count toward compliance.

(c) Each megawatt of eligible capacity in Kansas installed after January 1, 2000, shall count as 1.10 megawatts for purposes of compliance.

(d) The commission shall establish rules and regulations required in this section within six months of the effective date of this act.

New Sec. 4. The commission shall allow affected utilities to recover reasonable costs incurred to meet the new renewable energy resource requirements required in the renewable energy standards act.

New Sec. 5. For each affected utility, the commission shall determine whether investment in renewable energy resources required to meet the renewable portfolio requirement, as required by section 3, and amendments thereto, causes the affected utility's total revenue requirement to increase one percent or greater. The retail rate impact shall be determined net of new nonrenewable alternative sources of electricity supply reasonably available at the time of the determination.

New Sec. 6. (a) The commission shall establish rules and regulations for the administration of the renewable energy standards act, including reporting and enforcement mechanisms necessary to ensure that each affected utility complies with this standard and other provisions governing the imposition of administrative penalties assessed after a hearing held by the commission. Administrative penalties should be set at a level that will promote compliance with the renewable energy standards

act, and shall not be limited to penalties set forth in K.S.A 66-138 and 66-177, and amendments thereto.

(b) For the calendar years 2011 and 2012, the commission is not required to assess penalties if the affected utility can demonstrate it made a good faith effort to comply with the portfolio standards requirement. The commission shall exempt an affected utility from administrative penalties for an individual compliance year if the utility demonstrates that the retail rate impact described in section 5, and amendments thereto, has been reached or exceeded and the utility has not achieved full compliance with section 3, and amendments thereto. In imposing penalties, the commission shall have discretion to consider mitigating circumstances. Under no circumstances shall the costs of administrative penalties be recovered from Kansas retail customers.

(c) The commission shall establish rules and regulations required in this section within 12 months of the effective date of this act.

New Sec. 7. (a) The commission shall establish rules and regulations for the administration of a certification process for use of renewable energy resources described in subsection (f)(11) of section 2, and amendments thereto, for purposes of fulfilling the requirements of section 3, and amendments thereto. Criteria for the certification process shall be determined by factors that include, but are not limited to: Fuel type, technology and the environmental impacts of renewable energy resources described in

subsection (f)(11) of section 2, and amendments thereto. Use of renewable energy resources described in subsection (f)(11) of section 2, and amendments thereto, shall not cause undue or adverse air, water or land use impacts, including impacts associated with the gathering of generation feedstocks.

(b) The commission shall establish rules and regulations required in this section within six months of the effective date of this act.

New Sec. 8. Sections 8 through 16, and amendments thereto, shall be known and may be cited as the net metering and easy connection act.

New Sec. 9. As used in the net metering and easy connection act:

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

(b) "Customer-generator" means the owner or operator of a net metered facility which:

(1) Is powered by a renewable energy resource;

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

(3) is interconnected and operates in parallel phase and synchronization with an affected utility and is in compliance with the standards established by the affected utility;

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

(5) contains a mechanism, approved by the utility, that automatically disables the unit and interrupts the flow of

electricity back onto the supplier's electricity lines in the event that service to the customer-generator is interrupted.

(c) "Peak demand" shall have the meaning ascribed thereto in section 2, and amendments thereto.

(d) "Renewable energy resources" shall have the meaning ascribed thereto in section 2, and amendments thereto.

(e) "Utility" means investor-owned electric utility.

New Sec. 10. Each utility shall:

(a) Make net metering available to customer-generators on a first-come, first-served basis, until the total rated generating capacity of all net metered systems equals or exceeds one percent of the utility's peak demand during the previous year. The commission may increase the total rated generating capacity of all net metered systems to an amount above one percent after conducting a hearing pursuant to K.S.A. 66-101d, and amendments thereto;

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

(c) provide a residential class bidirectional meter to the customer-generator at no charge, but may charge the

customer-generator for the cost of any additional metering or distribution equipment necessary to accommodate the customer-generator's facility; and

(d) disclose annually the availability of the net metering program to each of its customers with the method and manner of disclosure being at the discretion of the utility.

New Sec. 11. (a) If the electricity supplied by the utility exceeds the electricity generated by the customer-generator during a billing period, the customer-generator shall be billed for the net electricity supplied by the utility in accordance with normal practices for customers in the same rate class.

(b) If a customer-generator generates electricity in excess of the customer-generator's monthly consumption, all such net excess energy (NEG), expressed in kilowatt-hours, shall be carried forward from month-to-month and credited at a ratio of one-to-one against the customer-generator's energy consumption, expressed in kilowatt-hours, in subsequent months.

(c) Any net excess generation credit remaining in a net-metering customer's account at the end of each calendar year shall expire.

New Sec. 12. Each utility shall allow:

(a) Residential customer-generators to generate electricity subject to net metering up to 25 kilowatts; and

(b) commercial, industrial, school, local government, state government, federal government, agricultural and institutional customer-generators to generate electricity subject to net

metering up to 200 kilowatts.

Customer-generators shall appropriately size their generation to their expected load.

New Sec. 13. (a) Net metered facilities must meet all applicable safety, performance, interconnection and reliability standards established by the national electrical code, the national electrical safety code, the institute of electrical and electronics engineers, underwriters laboratories, the federal energy regulatory commission and any local governing authorities. A utility may require that a customer-generator's system contain a switch, circuit breaker, fuse or other easily accessible device or feature located in immediate proximity to the customer-generator's metering equipment that would allow a utility worker the ability to manually and instantly disconnect the unit from the utility's electric distribution system.

(b) A utility may not require a customer-generator whose net metering facility meets the standards in subsection (a) to comply with additional safety or performance standards or perform or pay for additional tests or purchase additional liability insurance. A utility shall not be liable directly or indirectly for permitting or continuing to allow an attachment of a net metered facility or for the acts or omissions of the customer-generator that cause loss or injury, including death, to any third party.

New Sec. 14. The commission shall, within 12 months from the effective date of the net metering and easy connection act, establish rules and regulations necessary for the administration

of the act, which shall include rules and regulations ensuring that simple contracts are used for interconnection and net metering. For systems less than 25 kilowatts, the application process shall use an all-in-one document that includes a simple interconnection request, simple procedures and a brief set of terms and conditions.

New Sec. 15. Reasonable costs incurred by a utility under the net metering and easy connection act shall be recoverable in the utility's rate structure.

New Sec. 16. The estimated generating capacity of all net metered facilities operating under the provisions of this act shall count toward the affected utility's compliance with the renewable energy standards act in sections 1 through 7, and amendments thereto.

New Sec. 17. As used in sections 17 through 21, and amendments thereto:

(a) "ASHRAE" means American society of heating, refrigerating and air-conditioning engineers, inc. standard 90.1-2007.

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

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

(d) "New construction" means any building or structure which

is constructed by the state or any agency of the state and the construction of which commences on or after July 1, 2010.

New Sec. 18. Within 18 months after the effective date of this act, the secretary of administration shall adopt rules and regulations for state agencies for the purchase of products and equipment, including, but not limited to, appliances, lighting fixtures and bulbs, and computers, which meet energy efficiency guidelines which are not less than the guidelines adopted for such products to qualify as an energy star product if the projected cost savings for the useful life of such products and equipment is equal to or greater than the additional cost compared to functionally equivalent products and equipment of lower efficiency.

New Sec. 19. (a) The secretary of administration shall adopt rules and regulations, within 18 months of the effective date of this act, for state agencies for the conduct of an energy audit at least every five years on all state-owned real property. On or before the first day of the 2010 regular session of the legislature and on or before the first day of each ensuing regular session of the legislature, the secretary of administration shall submit a written report to the joint committee on state building construction, the house committee on energy and utilities and the senate committee on utilities, or their successors, and an electronic copy to the legislature, identifying state-owned real property locations in which an excessive amount of energy is being used in accordance with rules

and regulations adopted, within 18 months after the effective date of this act, by the secretary of administration concerning energy efficiency performance standards for state-owned real property.

(b) The secretary of administration shall not approve a new lease or a renewal or extension of an existing lease of non-state owned real property unless the lessor has submitted an energy audit for such real property that is the subject of such lease. Within 18 months after the effective date of this act, the secretary of administration shall adopt rules and regulations establishing energy efficiency performance standards which shall apply to leased space and improvements which the lessor shall be required to address based on such energy audit.

New Sec. 20. Within the limitations of appropriations therefor, the energy programs division of the state corporation commission shall develop and increase the participation of school districts and local governments in the facilities conservation improvements program pursuant to K.S.A. 75-37,125, and amendments thereto.

New Sec. 21. Within 18 months after the effective date of this act, the secretary of administration shall adopt rules and regulations prescribing energy efficiency performance standards requiring that all new construction and, to the extent possible, renovated state-owned buildings, be designed and constructed to achieve energy consumption levels that meet the levels established under the ASHRAE standard or the IECC, as

appropriate, if such levels of energy consumption are life-cycle cost-effective for such buildings and also recommend that new and, to the extent possible, renovated school and municipal buildings meet the same requirements.

Sec. 22. K.S.A. 2008 Supp. 66-1,184 is hereby amended to read as follows: 66-1,184. (a) Except as provided in subsection (b), every public utility which provides retail electric services in this state shall enter into a contract for parallel generation service with any person who is a customer of such utility, upon request of such customer, whereby such customer may attach or connect to the utility's delivery and metering system an apparatus or device for the purpose of feeding excess electrical power which is generated by such customer's energy producing system into the utility's system. No such apparatus or device shall either cause damage to the public utility's system or equipment or present an undue hazard to utility personnel. Every such contract shall include, but need not be limited to, provisions relating to fair and equitable compensation on such customer's monthly bill for energy supplied to the utility by such customer.

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

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

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

(2) Every utility which provides retail electric services in this state shall enter into a contract for parallel generation service with any person who is a customer of such utility, if such customer is a residential customer of the utility and owns a renewable generator with a capacity of 25 kilowatts or less, or is a commercial customer of the utility and owns a renewable generator with a capacity of 200 kilowatts or less or is a school and owns a renewable generator with a capacity of 1.5 megawatts or less. Such generator shall be appropriately sized for such customer's anticipated electric load. A commercial customer who uses the operation of a renewable generator in connection with irrigation pumps shall not request more than 10 irrigation pumps connected to renewable generators be attached or connected to the utility's system. At the customer's delivery point on the customer's side of the retail meter such customer may attach or connect to the utility's delivery and metering system an apparatus or device for the purpose of feeding excess electrical power which is generated by such customer's energy producing system into the utility's system. No such apparatus or device shall either cause damage to the utility's system or equipment or present an undue hazard to utility personnel. Every such contract shall include, but need not be limited to, provisions relating to fair and equitable compensation for energy supplied to the utility by such customer. Such compensation shall be not less

than 100% of the utility's monthly system average cost of energy per kilowatt hour except that in the case of renewable generators with a capacity of 200 kilowatts or less, such compensation shall be not less than 150% of the utility's monthly system average cost of energy per kilowatt hour. A utility may credit such compensation to the customer's account or pay such compensation to the customer at least annually or when the total compensation due equals $25 or more.

(3) A customer-generator of any investor owned utility shall have the option of entering into a contract pursuant to this subsection (b) or utilizing the net metering and easy connection act. The customer-generator shall exercise the option in writing, filed with the utility.

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

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

(2) for the purposes of insuring the safety and quality of utility system power, the utility shall have the right to require the customer, at certain times and as electrical operating conditions warrant, to limit the production of electrical energy

from the generating facility to an amount no greater than the load at the customer's facility of which the generating facility is a part;

(3) the customer shall furnish, install, operate, and maintain in good order and repair and without cost to the utility, such relays, locks and seals, breakers, automatic synchronizer, and other control and protective apparatus as shall be designated by the utility as being required as suitable for the operation of the generator in parallel with the utility's system. In any case where the customer and the utility cannot agree to terms and conditions of any such contract, the state corporation commission shall establish the terms and conditions for such contract. In addition, the utility may install, own, and maintain a disconnecting device located near the electric meter or meters. Interconnection facilities between the customer's and the utility's equipment shall be accessible at all reasonable times to utility personnel. Upon notification by the customer of the customer's intent to construct and install parallel generation, the utility shall provide the customer a written estimate of all costs that will be incurred by the utility and billed to the customer to accommodate the interconnection. The customer may be required to reimburse the utility for any equipment or facilities required as a result of the installation by the customer of generation in parallel with the utility's service. The customer shall notify the utility prior to the initial energizing and start-up testing of the customer-owned

generator, and the utility shall have the right to have a representative present at such test;

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

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

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

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

(f) The governing body of any school desiring to proceed under this section shall, prior to taking any action permitted by this section, make a finding that either: (1) Net energy cost savings will accrue to the school from such renewable generation

over a 20-year period; or (2) that such renewable generation is a science project being conducted for educational purposes and that such project may not recoup the expenses of the project through energy cost savings. Any school proceeding under this section may contract or enter into a finance, pledge, loan or lease-purchase agreement with the Kansas development finance authority as a means of financing the cost of such renewable generation.

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

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

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

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

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

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

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

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

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

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

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

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

~~(j)~~ (10) Encourage air contaminant emission sources to voluntarily implement strategies, including the development and use of innovative technologies, market-based principles and other

private initiatives to reduce or prevent pollution.

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

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

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

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

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

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

~~(q)~~ (17) Conduct or participate in intrastate or interstate emissions trading programs or other programs that demonstrate

equivalent air quality benefits for the prevention, abatement and control of air pollution in Kansas or in other states or both.

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

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

(b) It is a policy of the state to regulate the air quality of the state and implement laws and regulations that are applied equally and uniformly throughout the state and consistent with those of the federal government.

(1) The secretary shall have the authority to promulgate rules and regulations to establish standards to ensure that the state is in compliance with the provisions of the federal clean air act, as amended (42 U.S.C. section 7401 et seq.). The standards so established shall not be any more stringent, restrictive or expansive than those required under the federal clean air act, as amended, nor shall the rules and regulations be enforced in any area of the state prior to the time required by the federal clean air act. If the secretary determines that more stringent, restrictive or expansive rules and regulations are necessary, the secretary may implement the rules and regulations

only after approval by an act of the legislature. The restrictions of this subsection shall not apply to the parts of the state implementation plan developed by the secretary to bring a nonattainment area into compliance when needed to have a United States environmental protection agency approved state implementation plan.

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

Sec. 24. K.S.A. 2008 Supp. 65-3008a is hereby amended to read as follows: 65-3008a. (a) No permit shall be issued, modified, renewed or reopened without first providing the public an opportunity to comment and request a public hearing on the proposed permit action. The request for a public hearing on the issuance of a permit shall set forth the basis for the request and a public hearing shall be held if, in the judgment of the secretary, there is sufficient reason.

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

permit pursuant to the act for judicial review and civil enforcement of agency actions in the court of appeals. Any such person other than the applicant for or holder of the permit shall not be required to have exhausted administrative remedies in order to be entitled to review. The court of appeals shall have original jurisdiction to review any such final agency action. The record before the court of appeals shall be confined to the agency record for judicial review and consist of the documentation submitted to or developed by the secretary in making the final permit decision, including the permit application and any addenda or amendments thereto, the permit summary, the draft permit, all written comments properly submitted to the secretary, all testimony presented at any public hearing held on the permit application, all responses by the applicant or permit holder to any written comments or testimony, the secretary's response to the public comments and testimony and the final permit.

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

Sec. 25. K.S.A. 65-3012 is hereby amended to read as follows: 65-3012. (a) ~~Notwithstanding-any-other-provision-of-this act,-the-secretary-may-take-such-action-as-may--be--necessary--to protect--the--health--of--persons--or--the--environment:--(1)~~ Upon receipt of ~~information~~ evidence that ~~the--emission--of~~ emissions from an air pollution source or combination of air pollution

sources presents ~~a~~: (1) An imminent and substantial endangerment to ~~the~~ public health ~~of-persons~~ or welfare or to the environment; or (2) for an imminent or actual violation of this act, any rules and regulations adopted under this act, any orders issued under this act or any permit conditions required by this act, the secretary may issue a temporary order not to exceed seven days in duration, directing the owner or operator, or both, to take such steps as necessary to prevent the act or eliminate the practice.

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

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

~~(2)--Commencing~~ (b) Upon issuance of the temporary order, the secretary may commence an action in the district court to enjoin acts or practices specified in subsection (a) or ~~requesting~~ request the attorney general or appropriate county or district attorney to commence an action to enjoin those acts or practices. ~~Upon-a-showing-by-the--secretary--that--a--person--has engaged--in--those--acts--or--practices,-a-permanent-or-temporary injunction,-restraining-order-or-other-order-may--be--granted--by any-court-of-competent-jurisdiction.~~

(c) The secretary may bring suit in any court of competent jurisdiction to immediately restrain the acts or practices specified in subsection (a). An action for injunction under this

subsection shall have precedence over other cases in respect to order of trial.

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

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

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

(d) The owner or operator, or both, aggrieved by an order of the secretary issued pursuant to this section shall be immediately entitled to judicial review of such agency action by filing a petition for judicial review in district court. The aggrieved party shall not be required to exhaust administrative

remedies. A petition for review under this subsection shall have precedence over other cases in respect to order of trial.

Sec. 26. K.S.A. 66-104d is hereby amended to read as follows: 66-104d. (a) As used in this section, "cooperative" means any ~~cooperative,--as--defined--by--K.S.A.--17-4603,--and amendments-thereto,-which-has-fewer--than--15,000--customers--and which--provides-power-principally-at-retail~~ corporation organized under the electric cooperative act, K.S.A. 17-4601 et seq., and amendments thereto, or which becomes subject to the electric cooperative act in the manner therein provided; or any limited liability company or corporation providing electric service at wholesale in the state of Kansas that is owned by four or more electric cooperatives that provide retail service in the state of Kansas; or any member-owned corporation formed prior to 2004.

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

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

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

(2) The proposition for deregulation shall be presented to a meeting of the members, the notice of which shall set forth the

proposition for deregulation and the time and place of the meeting. Notice to the members shall be written and delivered not less than 21 nor more than 45 days before the date of the meeting.

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

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

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

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

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

(f) Nothing in this section shall be construed to affect the

single certified service territory of a cooperative or the authority of the state corporation commission, as otherwise provided by law, over a cooperative with regard to service territory~~,~~; charges, fees or tariffs for transmission services~~,~~; sales of power for resale, other than sales between a cooperative, as defined in subsection (a), that does not provide retail electric service and an owner of such cooperative; and wire stringing and transmission line siting, pursuant to K.S.A. 66-131, 66-183, 66-1,170 et seq. or 66-1,177 et seq., and amendments thereto.

(g) (1) Notwithstanding a cooperative's election to be exempt under this section, the commission shall investigate all rates, joint rates, tolls, charges and exactions, classifications and schedules of rates of such cooperative if there is filed with the commission, not more than one year after a change in such cooperative's rates, joint rates, tolls, charges and exactions, classifications or schedules of rates, a petition in the case of a retail distribution cooperative signed by not less than 5% of all the cooperative's customers or 3% of the cooperative's customers from any one rate class, or, in the case of a generation and transmission cooperative, not less than 20% of the generation and transmission cooperative's members or 5% of the aggregate retail customers of such members. If, after investigation, the commission finds that such rates, joint rates, tolls, charges or exactions, classifications or schedules of rates are unjust, unreasonable, unjustly discriminatory or unduly

preferential, the commission shall have the power to fix and order substituted therefor such rates, joint rates, tolls, charges and exactions, classifications or schedules of rates as are just and reasonable.

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

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

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

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

(i) (1) Any cooperative exempt under this section shall

maintain a schedule of rates and charges at the cooperative headquarters and shall make copies of such schedule of rates and charges available to the general public during regular business hours.

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

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

New Sec. 27. Within 18 months after the effective date of this act, the secretary of administration shall adopt rules and regulations that require that the average fuel economy standard for state-owned motor vehicles purchased during fiscal year 2011 shall not be less than 10% higher than the average fuel economy standard of state-owned motor vehicles purchased during fiscal year 2008, if such higher average fuel economy standards are life-cycle cost effective for such motor vehicles purchased during fiscal year 2011. The head of each state agency shall provide information to and cooperate with the secretary of administration for the purposes of implementing and administering this section and the rules and regulations adopted by the secretary of administration.

New Sec. 28. (a) The joint committee on energy and environmental policy established pursuant to K.S.A. 2008 Supp. 46-3701, and amendments thereto, in addition to the provisions of subsection (j) of K.S.A. 2008 Supp. 46-3701, and amendments thereto, shall include recommendations concerning the use of moneys received by the state pursuant to the American recovery and reinvestment act of 2009, (U.S.C. 12501) for energy efficiency and conservation block grants, state energy programs, the weatherization assistance program and the alternative fueled vehicles pilot grant program in such joint committee's report to the 2010 and 2011 legislature.

(b) The provisions of this section shall expire on January 1, 2011.

Sec. 29. K.S.A. 2008 Supp. 74-99d07 is hereby amended to read as follows: 74-99d07. (a) Except as otherwise provided by this act, the authority shall have all the powers necessary to carry out the purposes and provisions of this act, including, without limitation:

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

(2) having perpetual existence and succession;

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

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

(5) adopting bylaws for the regulation of its affairs and

the conduct of its business;

(6) adopting such rules and regulations as the authority deems necessary for the conduct of the business of the authority;

(7) employing consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers and such other employees and agents as the authority deems necessary and fixing the compensation thereof;

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

(9) receiving and accepting from any federal agency grants, or any other form of assistance, for or in aid of the planning, financing, construction, development, acquisition or ownership of any property, structures, equipment, facilities and works of public improvement necessary or useful for the accomplishment of the purposes for which the authority was created and receiving and accepting aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

(10) borrowing funds to carry out the purposes of the authority and mortgaging and pledging any lease or leases granted, assigned or subleased by the authority;

(11) purchasing, leasing, trading, exchanging or otherwise acquiring, maintaining, holding, improving, mortgaging, selling,

leasing and disposing of personal property, whether tangible or intangible, and any interest therein; and purchasing, leasing, trading, exchanging or otherwise acquiring real property or any interest therein, and maintaining, holding, improving, mortgaging, leasing and otherwise transferring such real property, so long as such transactions do not conflict with the mission of the authority as specified in this act;

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

shall be payable from and be secured by the pledge of revenues derived from the operation of such electric transmission facilities;

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

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

by the commission and each electric municipal or cooperative utility shall recover such assessed costs from the utility's customers in a manner approved by the utility's governing body;

(15) participating in and coordinating with the planning activities of the southwest power pool regional transmission organization, or its successor, and adjoining regional transmission organizations, or their successors; ~~and~~

(16) participating in and coordinating with the planning activities of the southwest power pool regional reliability organization, or its successor, and adjoining regional reliability organizations, or their successors~~.~~; and

(17) establish and charge reasonable fees, rates, tariffs or other charges, unless costs are recoverable under paragraph (14), for the use of all facilities owned, financed or administered by it and for all services rendered by it, and, if all costs are not recovered under paragraph (14), such costs shall be recovered through assessments against any entity or entities requesting use of facilities owned, financed or administered by the authority or for all requested services provided by the authority, or both.

(b) On or before the first day of the regular legislative session each year, the authority shall submit to the governor and to the legislature a written report of the authority's activities for the preceding fiscal year. Such report shall include the report of any audit conducted pursuant to K.S.A. 2008 Supp. 74-99d10, and amendments thereto, of the preceding fiscal year.

(c) The authority shall continue until terminated by law. No

such law terminating the authority shall take effect while the authority has bonds, debts or obligations outstanding unless adequate provision has been made for the payment or retirement of such bonds, debts or obligations. Upon dissolution of the authority, all property, funds and assets thereof shall be disposed of as provided by law.

Sec. 30. K.S.A. 2008 Supp. 74-99d14 is hereby amended to read as follows: 74-99d14. (a) Subject to the provisions of this act, the authority shall have the power to:

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

(2) participate in partnerships or joint ventures with individuals, corporations, governmental bodies or agencies, partnerships, associations or other entities to facilitate any activities or programs consistent with the public purpose and intent of this act, including partnerships or joint ventures for the purpose of financing all or any portion of a project pursuant to subsection (a)(2) of K.S.A. 2008 Supp. 74-99d09, and amendments thereto.

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

(2) Prior to exercising any rights or powers granted to it in this section, the authority shall publish once in the Kansas register, and once in a newspaper and trade magazine in the area where the facilities or services are contemplated, a notice describing the acts, facilities or services contemplated by the authority and stating that private entities willing and able to perform the acts, finance and own and construct the facilities or provide the services described in the notice shall have a period of 90 days after the date of publication of the notice in the Kansas register within which to notify the authority of intention and ability to perform the acts, finance and construct the facilities or provide the services described in the notice. In the absence of notification by a private entity, the authority may proceed to perform the acts, construct the facilities or provide the services originally contemplated. If a private entity has given notice of intention to perform the acts, finance and construct the facilities or provide the services contemplated by the authority, the authority may proceed to perform the acts, construct the facilities or provide the services originally

contemplated if the private entity fails to commence performance within 180 days after the date of notification of the authority of its intention. Actions deemed to constitute commencement of performance of the acts, construction of the facilities or provision of the services within the required time shall include, but not be limited to, holding of public meetings on siting of facilities, acquisition of land or commencement of proceedings for condemnation of land, application to acquire any federal, state, local or private permits, certificates or other authorizations or approvals necessary to perform the acts, construct the facilities or provide the services.

(3) Notwithstanding commencement of performance of the acts, construction of the facilities or provision of the services by a private entity, if the authority is not satisfied with subsequent progress in performance of the acts, construction of the facilities or provision of the services, the authority may again give notice as provided in subsection (b)(2) with respect to completion of performance of the acts, construction of the facilities or provision of the services. In the absence of notification by a private entity willing and able to complete performance of the acts, construction of the facilities or provision of the services, the authority may proceed to complete performance. If a private entity has given notice of intention to complete performance, the authority may proceed to perform the acts, construct the facilities or provide the services if the private entity fails to complete performance within 180 days

after the date of notice by the entity.

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

(d) The authority shall exercise the rights and powers granted to it in this act only with respect to transmission facilities which the southwest power pool regional transmission organization, or its successor, has determined are compatible with plans adopted by such organization and, for electric transmission lines with an operating voltage of 60 kilovolts or more, which have been approved by such organization.

New Sec. 31. (a) Any new coal-fired electricity generating facility in Kansas, construction of which commences on or after the effective date of this act, shall purchase Kansas coal for at least 5% of its coal requirements. For the purposes of this section, "Kansas coal" shall have the meaning ascribed thereto in K.S.A. 2008 Supp. 79-32,228, and amendments thereto.

(b) The provisions of this section shall apply if the cost of the Kansas coal, including costs of transportation and handling at the new coal-fired electricity generating facility, is:

(1) Competitive to the cost of the out-of-state coal supply the owner or operator of the new coal-fired electricity generating facility is using to meet its remaining coal supply requirements;

(2) sold on comparable contractual terms and specification; and

(3) of an acceptable quality for use in the new coal-fired electricity generating facility.

This section shall not apply if the use or purchase of Kansas coal will result in the owner or operator of the new coal-fired electricity generating facility violating its air permit or a contractual obligation to which the owner or operator is subject.

New Sec. 32. Sections 32 through 39, and amendments thereto, shall be known and may be cited as the compressed air energy storage act.

New Sec. 33. As used in the compressed air energy storage act:

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

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

New Sec. 34. (a) Within 18 months after the effective date of this act, the commission shall establish rules and regulations establishing requirements, procedures and standards for the safe and secure injection of compressed air into storage wells, which shall include maintenance of underground storage of compressed air. Such rules and regulations shall include, but not be limited to:

(1) Site selection criteria;

(2) design and development criteria;

(3) operation criteria;

(4) casing requirements;

(5) monitoring and measurement requirements;

(6) safety requirements, including public notification;

(7) closure and abandonment requirements, including the financial requirements of subsection (d); and

(8) long-term monitoring.

(b) The commission may adopt rules and regulations establishing fees for permitting, monitoring and inspecting operators of compressed air energy storage wells and underground storage. Fees collected by the commission under this section shall be remitted by the commission to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and credit it to the compressed air energy storage fund.

(c) The commission or the commission's duly authorized representative may impose on any holder of a permit issued pursuant to this section such requirements relating to inspecting, monitoring, investigating, recording and reporting as the commission or representative deems necessary to administer the provisions of this section and rules and regulations adopted hereunder.

(d) Any company or operator receiving a permit under the provisions of the compressed air energy storage act shall demonstrate annually to the commission evidence, satisfactory to the commission, that the permit holder has financial ability to cover the cost of closure of the permitted facility as required by the commission.

(e) The commission may enter into contracts for services from consultants and other experts for the purposes of assisting in the drafting of rules and regulations pursuant to this section.

(f) Rules and regulations adopted under the compressed air energy storage act shall apply to any compressed air energy storage well, whether in existence on the effective date of this act or thereafter.

New Sec. 35. Within 18 months after the effective date of this act, the department shall establish rules and regulations establishing requirements, procedures and standards for the monitoring of air emissions coming from compressed air energy storage wells and storage facilities to ensure the wells and facilities comply with the Kansas air quality act.

New Sec. 36. The commission and the department may enter into a memorandum of understanding concerning implementation of the requirements and responsibilities under the compressed air energy storage act.

New Sec. 37. (a) The commission, upon a finding that a person has violated any provision of section 34, and amendments thereto, or rules and regulations adopted thereunder, may impose a penalty not to exceed $10,000 per violation which shall constitute an economic deterrent to the violation for which it is assessed and, in the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) No penalty shall be imposed pursuant to this section

except after an opportunity for hearing upon the written order of the commission to the person who committed the violation. The order shall state the violation and the penalty to be imposed.

(c) Whenever the commission or the commission's duly authorized representative find that the soil or waters of the state are not being protected from pollution resulting from the storage of compressed air, the commission or the commission's duly authorized representative shall issue an order prohibiting such storage. Any person aggrieved by such order may request in writing, within 15 days after service of the order, a hearing on the order. Upon receipt of a timely request, a hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(d) Any action of the commission pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

New Sec. 38. (a) In performing investigations or administrative functions relating to prevention of pollution of the soil or waters of the state, the commission or the commission's duly authorized representative may enter any property or facility which is subject to the provisions of section 34, and amendments thereto, for the purpose of observing, monitoring, collecting samples, examining records and facilities to determine compliance or noncompliance with state laws and rules and regulations relating to air pollution, water pollution, soil pollution or public health or safety.

(b) The representatives of the commission shall have the right of ingress and egress upon any lands to clean up pollution from the storage of compressed air over which the commission has jurisdiction pursuant to section 34, and amendments thereto. Such representatives shall have the power to occupy such land if necessary to investigate and clean up such pollution or to investigate and plug any such compressed air energy storage well. Any representative entering upon any land to investigate and clean up such pollution or to investigate and plug any such compressed air energy storage well shall not be liable for any damages necessarily resulting therefrom, except damages to growing crops, livestock or improvements on the land. Upon completion of activities on such land, such representative shall restore the premises to the original contour and condition as nearly as practicable.

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

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

authorized to receive from any private or governmental source any funds made available for the purposes of the compressed air energy storage act.

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

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

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

(2) review and witnessing of test procedures;

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

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

(5) design and review of remedial action plans;

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

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

(8) mitigation of adverse environmental impacts;

(9) emergency or long-term remedial activities;

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

(11) costs of program administration.

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

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

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

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

(1) <u>"Company or operator" means any form of legal entity including, but not limited to, a corporation, limited liability company and limited or general partnerships.</u>

<u>(2)</u> "Secretary" means the secretary of health and environment.

~~(2)~~ <u>(3)</u> "Underground porosity storage" means the storage of hydrocarbons in underground, porous and permeable geological strata which have been converted to hydrocarbon storage.

(b) For the purposes of protecting the health, safety and property of the people of the state, and preventing surface and

subsurface water pollution and soil pollution detrimental to public health or to the plant, animal and aquatic life of the state, the secretary of health and environment shall adopt separate and specific rules and regulations establishing requirements, procedures and standards for the following:

(1) Salt solution mining;

(2) the safe and secure underground storage of liquid petroleum gas and hydrocarbons, other than natural gas in underground porosity storage; and

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

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

(1) Site selection criteria;

(2) design and development criteria;

(3) operation criteria;

(4) casing requirements;

(5) monitoring and measurement requirements;

(6) safety requirements, including public notification;

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

(8) long term monitoring.

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

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

(B) permitting, monitoring and inspecting underground storage of liquid petroleum gas and hydrocarbons, other than natural gas in underground porosity storage; and

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

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

(e) The secretary or the secretary's duly authorized representative may impose on any holder of a permit issued pursuant to this section such requirements relating to inspecting, monitoring, investigating, recording and reporting as the secretary or representative deems necessary to administer the provisions of this section and rules and regulations adopted hereunder.

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

(g) The secretary may enter into contracts for services from consultants and other experts for the purposes of assisting in

the drafting of rules and regulations pursuant to this section.

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

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

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

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

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

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

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

(3) Counties shall be subject to acts of the legislature

prescribing limits of indebtedness.

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

(5) Counties may not legislate on social welfare administered under state law enacted pursuant to or in conformity with public law No. 271--74th congress, or amendments thereof.

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

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

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

(9) No county may levy ad valorem taxes under the authority of this section upon real property located within any redevelopment project area established under the authority of K.S.A. 12-1772, and amendments thereto, unless the resolution

authorizing the same specifically authorized a portion of the proceeds of such levy to be used to pay the principal of and interest upon bonds issued by a city under the authority of K.S.A. 12-1774, and amendments thereto.

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

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

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

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

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

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

thereto.

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

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

(18) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

(19) Counties may not regulate the production or drilling of any oil or gas well in any manner which would result in the duplication of regulation by the state corporation commission and the Kansas department of health and environment pursuant to chapter 55 and chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any rules and regulations adopted pursuant thereto. Counties may not require any license or permit for the drilling or production of oil and gas wells. Counties may not impose any fee or charge for the drilling or production of any oil or gas well.

(20) Counties may not exempt from or effect changes in K.S.A. 79-41a04, and amendments thereto.

(21) Counties may not exempt from or effect changes in K.S.A. 79-1611, and amendments thereto.

(22) Counties may not exempt from or effect changes in

K.S.A. 79-1494, and amendments thereto.

(23) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-202, and amendments thereto.

(24) Counties may not exempt from or effect changes in subsection (b) of K.S.A. 19-204, and amendments thereto.

(25) Counties may not levy or impose an excise, severance or any other tax in the nature of an excise tax upon the physical severance and production of any mineral or other material from the earth or water.

(26) Counties may not exempt from or effect changes in K.S.A. 79-2017 or 79-2101, and amendments thereto.

(27) Counties may not exempt from or effect changes in K.S.A. 2-3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-1,178 through 65-1,199, 65-3001 through 65-3028, and amendments thereto.

(28) Counties may not exempt from or effect changes in K.S.A. 2008 Supp. 80-121, and amendments thereto.

(29) Counties may not exempt from or effect changes in K.S.A. 19-228, and amendments thereto.

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

(31) Counties may not exempt from or effect changes in K.S.A. 2008 Supp. 26-601, and amendments thereto.

(32) (A) Counties may not exempt from or effect changes in

the Kansas liquor control act except as provided by paragraph (B).

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

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

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

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

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

(36) Counties may neither exempt from nor effect changes to the eminent domain procedure act.

(37) Any county granted authority pursuant to the provisions of K.S.A. 19-5001 through 19-5005, and amendments thereto, shall be subject to the limitations and prohibitions imposed under K.S.A. 19-5001 through 19-5005, and amendments thereto.

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

(b) Counties shall apply the powers of local legislation granted in subsection (a) by resolution of the board of county

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

(c) Any resolution adopted by a county which conflicts with the restrictions in subsection (a) is null and void.

New Sec. 42. (a) The secretary shall timely approve a prevention of significant deterioration permit (PSD) to sunflower electric cooperative to be issued consistent with the settlement agreement executed May 4, 2009, by sunflower electric cooperative and the governor of the state of Kansas to resolve all claims or causes of action, or both, pending before various courts and administrative agencies consistent with article V of the settlement agreement.

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

New Sec. 43. The provisions of this act are declared to be severable and if any provision, word, phrase or clause of the act

or the application thereof to any person shall be held invalid, such invalidity shall not affect the validity of the remaining portions of this act.

Sec. 44. K.S.A. 19-101a, 19-101m, 55-1,117, 65-3012 and 66-104d and K.S.A. 2008 Supp. 65-3005, 65-3008a, 66-1,184, 74-99d07 and 74-99d14 are hereby repealed.

Sec. 45. On and after July 1, 2009, K.S.A. 19-101a, as amended by section 7 of 2009 Senate Bill No. 336, is hereby repealed.

Sec. 46. This act shall take effect and be in force from and after its publication in the Kansas register.

KDHE/Sunflower Electric Settlement Agreement

- KDHE agrees to facilitate the timely issuance of a permit for one new 895 MW ultra supercritical coal generating unit (H2) and Sunflower agrees to withdraw the application for a second new coal generating unit (H3).

Modifications to Holcomb Unit 1

- Sunflower agrees to an additional limitation of NO_X (nitrogen oxides) emissions from 0.50 lb/mmBtu to 0.22 lb/mmBtu on a twelve-month rolling average basis.
- Sunflower will install new Low-NOx burners or other equivalent equipment that achieves the objective of reducing emissions no later than December 31, 2018.
- Sunflower agrees to an additional limitation of sulfur dioxide (SO_2) emissions from 0.48 lb/mmBtu to 0.12 lb/mmBtu on a 30-day rolling average basis within 12 months of the commercial operation of H2.
- Sunflower will meet a mercury emission limit of 0.020 lb/GWh on a 12-month rolling average basis while the unit is running within 12 months of commercial operation of H2. Total mercury emissions from units H1 and H2 shall be less than 327 pounds for H1, which was the amount reported by Sunflower on the 2005 toxic release inventory to EPA.

Additional Conditions Placed on Sunflower within Two Years of Commercial Operation of H2

- Wind – Sunflower and project partners will install, operate, or purchase Kansas wind resources equal to 20% of production capability of H2. This will be in addition to any Kansas RPS requirement for Kansas utilities.
- Sunflower will meet the 20% RPS renewable energy requirement by 2016.
- Biomass - Sunflower will use biomass as a fuel source in the production of electricity in the amount of 10% of the full load heat input of H1 and H2, if such facility is economically and technologically feasible and all necessary regulatory approvals are obtained.
- Transmission – Sunflower and the participants will work to develop two high voltage transmission lines operating at not less that 345 kV from H2 to the state of Colorado.
- Energy Efficiency – Sunflower will implement an enhanced energy efficiency and demand side management programs and invest 1% of gross revenue for Sunflower and Mid-Kansas Electric Company, LLC for a 5-year period commencing in the year of initial construction of H2.
- Integrated Bioenergy Center – Sunflower will use reasonable efforts to support development of an integrated bioenergy center which may include an ethanol plant, bio-diesel plant, anaerobic digester, a dairy, and an algae reactor. Any funds expended on the IBC may be credited against the requirements for energy efficiency expenditures, but will not reduce the funding for energy efficiency below .5% of gross revenues..
- Decommission Plants - Sunflower agrees to decommission Garden City 1 and Garden City 2 from the generating fleet.

- KDHE Secretary will issue the PSD permit substantially in the form of the draft final permit prepared by KDHE technical staff in July, 2007 with necessary modifications needed after the BACT technology review is updated and PSD increment consumption is evaluated.

Effective Date, Suspension & Termination

- Effective when comprehensive energy legislation is passed that would modify the Kansas Air Quality Act, establish a renewable portfolio standard and net metering for investor-owned utilities, and mandate energy efficiency for state-owned facilities; and when the PSD permit for H2 is issued and when any appeals have run their course.
- In the event H2 is not constructed or the PSD permit is revoked, remanded, or vacated, the agreement is terminated.

Senate Utilities Committee
May 6, 2009
Attachment 8-1

Comparison of 2009 Sub. HB 2014, Senate Sub. for Sub. HB 2014 and Senate Sub. HB 2369

Provision	Sub. HB 2014 as Amended by House Committee of the Whole	Senate Sub. for Sub. HB 2014 as Amended by Senate Committee of the Whole	Senate Sub. for Sub. HB 2014 as Passed by the Legislature	Senate Sub. HB 2369
Fuel Economy and Energy Efficiency	The bill would require the Secretary of Administration to adopt rules and regulations: • Requiring the average fuel efficiency for state-owned vehicles purchased during 2011 to be at least 10 percent higher than the fuel efficiency of state-owned vehicles purchased in 2008 (New Sec.1)	All rules and regulations required by this bill would have to adopted within 18 months of the effective date of the act. Same, if life-cycle cost-effective. (New Sec. 30)	House concurs with Senate House concurs with Senate	All rules and regulations required by this bill would have to be adopted within 18 months of the effective date of the Act, except as noted in individual sections. Same as HB 2014 as passed by the Legislature. (New Sec. 27)
Energy Efficiency of Products and Equipment	• Establishing energy efficiency guidelines for state agencies for the purchase of products and equipment such as appliances, lighting fixtures and bulbs and computers, that would be at least as energy efficient as similar products that qualify for the Energy Star® program if the avoided energy cost over the life of the product is equal to or greater than the additional cost paid for the more efficient product (New Sec. 3)	Same (New Sec. 2)	Same	Same (New Sec. 18, 17)
State Facility Energy Audit/Data Collection	• Requiring state agencies to conduct an energy audit at least every five years on all state-owned real property. The Secretary would be require to submit an annual report to the Legislature identifying state-owned property where an excessive amount of energy is being used (New Sec. 4)	Requires the Secretary of Administration to collect data on energy consumption and costs for all state-owned or leased real property. The Secretary must submit annual electronic reports to the Legislature identifying properties that use an excessive amount of energy, and provide written reports to the Joint Committee on State Building Construction. Reports would be due on the first day of the Legislative Session in 2010 and annually thereafter. (New Sec. 3)	Senate concurs with House position on energy audits Senate agreed to House proposal to distribute written reports to House and Senate Utilities committees, as well as to the Joint Building Committee.	Same as HB 2014 as passed by the Legislature. (New Sec. 19) Same as HB 2014 as passed by the Legislature. (New Sec. 19)
State-leased Space Energy Efficiency Requirements	• Establishing energy efficiency performance standards for leased space and improvements. The Secretary would be prohibited from approving, renewing or extending building leases unless the lessor has submitted an energy audit for the building. Lessors would be required to address the performance standards based on the energy audit (New Sec. 4).	Same (New Sec. 3)	Same	Same (New Sec. 19)

8-2

Provision	Sub. HB 2014 as Amended by House Committee of the Whole	Senate Sub. for Sub. HB 2014 as Amended by Senate Committee of the Whole	Senate Sub. for Sub. HB 2014 as Passed by the Legislature	Senate Sub. HB 2369
State-owned Space Energy Efficiency Standards	• Prescribing energy efficiency performance standards for state buildings. All new and, to the extent possible, renovated, state-owned buildings would have to be designed and constructed to achieve energy consumption levels that are at least the levels specified by ASHRAE or IECC. The applicable version of ASHRAE and IECC would be established in rules and regulations. The regulations only apply if the levels are life-cycle cost-effective. The Secretary also would recommend that new and, to the extent possible, renovated school and municipal buildings meet the same requirements. (New Sec. 6)	Same, except the applicable levels for the standards would be specified in statute as ASHRAE 90.1-2007 and 2006 IECC. (New Sec. 5)	House concurs with Senate	Same as HB 2014 as passed by the Legislature. (New Sec. 17, 21)
Facilities Conservation Improvement Program (FCIP)	The Energy Office of the Kansas Corporation Commission (KCC) would be required to develop and increase participation of school districts and local governments in the Facility Conservation Improvement Program (FCIP) to the extent that funds are appropriated for that purpose. The Commission also would be required to strongly encourage state agencies that operate and maintain buildings and that do not participate in the FCIP to do so by December 1, 2011. (New Sec. 5)	Same (New Sec. 4) NA	Same House concurs with Senate	Same (New Sec. 20) NA (Same as HB 2014 as passed by the Legislature.)
Underground Hydrocarbon Storage Wells	The bill would amend current law regarding underground hydrocarbon storage wells by adding a definition for "company or operator". The term would be defined as any form of legal entity, including a corporation, limited liability company, and limited or general partnerships (New Sec. 7).	Same (New Sec. 47)	Same	Same (Sec. 40)
Compressed Air Energy Storage Act (CAES)	The bill would establish a system of regulation for the injection of compressed air into storage wells and the maintenance of underground storage of compressed air. The KCC would be required to adopt rules and regulations addressing issues such as site selection, design and operation criteria, and requirements for monitoring, safety and closure. The KCC would be authorized to establish rules and regulations establishing fees for permitting, monitoring and inspecting operators; moneys received would be deposited in the Compressed Air Energy Storage Fund, which would be created by the Act, and used to pay the costs of regulation. The KDHE would be required to adopt rules and regulations related to air emissions from compressed air energy storage wells and storage facilities to ensure compliance with the Kansas Air Quality Act. The KCC and KDHE would be authorized to enter into a memorandum of understanding	Same (New Secs. 38-45)	Same	Same (New Sec. 32 - 39)

8-3

Provision	Sub. HB 2014 as Amended by House Committee of the Whole	Senate Sub. for Sub. HB 2014 as Amended by Senate Committee of the Whole	Senate Sub. for Sub. HB 2014 as Passed by the Legislature	Senate Sub. HB 2369
	concerning implementation of the Act. The Act would create financial penalties for violations. (New Secs. 8-15).			
Certificates of Public Convenience	The bill would establish a timeframe for the KCC to grant, deny or amend certificates of public convenience. The Commission would have to issue a decision within 180 days from receipt of the application, unless the applicant extends the time in writing. This requirement would not apply to decisions to grant or deny a certificate in cases involving acquisitions and mergers of utilities (New Sec. 16).	Same (New Sec. 32)	Same	NA
Kansas Electric Transmission Authority	The bill would amend existing law to allow the Kansas Electric Transmission Authority (KETA) to establish and charge reasonable fees, rates, tariffs or other charges for use of facilities owned, financed or administered by KETA and for services rendered by KETA, provided such costs were not recoverable through tariffs of the Southwest Power Pool. The bill also would clarify that KETA's statutory rights and powers extend to electric transmission lines that have been deemed compatible with plans adopted by the Southwest Power Pool, as well as to transmission lines with an operating voltage of 60 kilovolts or more which have been approved by the Southwest Power Pool. (Secs. 17 and 18)	Same, but adds statement that costs not recoverable through the Southwest Power Pool would be recovered from the entity that requested services from KETA. (New Sec. 33) Same (New Sec. 34)	House concurs with Senate Same	Same as HB 2014 as passed by the Legislature. (Sec. 29) Same (Sec. 30)
Deregulation of Large Electric Cooperatives	The bill would amend existing law to allow large electric cooperatives to remove themselves from the regulatory jurisdiction of the KCC regarding rates. Under the bill, the option to deregulate would be expanded to cover the following entities: • Electric cooperatives with more than 15,000 members that primarily sell power at retail; • Limited liability companies that provide wholesale electric service and are owned by four or more electric cooperatives that provide retail service in Kansas; and • Any member-owned corporation formed prior to 2004. The bill would amend existing law to require that, in the case of a generation and transmission cooperative that elected to be deregulated, a petition signed by at least 20 percent of that cooperative's members or by five percent of the aggregate retail customers of such members would trigger a KCC review of a	Same (Sec. 29)	Same	Same, except adds language clarifying that all cooperatives are subject to the authority of the Commission in regard to renewable energy standards. (Sec. 26)

Provision	Sub. HB 2014 as Amended by House Committee of the Whole	Senate Sub. for Sub. HB 2014 as Amended by Senate Committee of the Whole	Senate Sub. for Sub. HB 2014 as Passed by the Legislature	Senate Sub. HB 2369
	rate change. In addition, the bill would require cooperatives that deregulate to notify customers of their right to request KCC review of a rate change. The bill would add clarifying language regarding the portion of members of a retail distribution cooperative who must sign a rate review petition, but that portion of members would remain as in current law. (Sec. 19)			
Renewable Energy Standards	The bill would enact the Renewable Energy Standards Act that would require electric public utilities, except municipally owned electric utilities, to generate or purchase specified amounts of electricity generated from renewable resources, or purchase renewable energy credits. (New Sec. 22)	Not a named act. Would require electric public utilities, except municipally owned electric utilities, to generate or purchase specified amounts of electricity generated from renewable resources. No provision for purchase of renewable energy credits. (New Sec. 6)	House concurs with Senate	Named act with provision for purchase of renewable energy credits. Otherwise, same as HB 2014 as passed by the Legislature. (New Sec. 1-7)
Regulations for Portfolio Requirements	The amount of electricity from renewable resources would be established by rules and regulations adopted by the KCC as specified in the Act. Any Commission regulations under the Act would have to be established within 240 days of the effective date of the Act.	The KCC would be required to adopt rules and regulations for reporting requirements and prevention of duplication of the application of the renewable energy requirement. Regulations must be adopted within 18 months of the effective date of the Act. (Sec. 6)	House concurs with Senate	Same as House-passed version of HB 2014 except regulations must be adopted within 12 months of the effective date of the Act. (New Sec. 3)
Definition of Renewable Resources	Wind, solar, photovoltaic, biomass, hydropower, geothermal, waste incineration and landfill gas resources or technologies; and municipal or other solid waste and animal waste.	Wind, solar, photovoltaic, biomass, hydropower, geothermal, and landfill gases. (New Sec. 6)	Senate concurs with House on definition of renewables	Wind; solar thermal sources; photovoltaic cells and panels; dedicated crops grown for energy production; cellulosic agricultural residues; plant residues; methane from landfills or from wastewater treatment; clean and untreated wood products such as pallets; existing hydropower; new hydropower not including pumped storage, that has a nameplate rating of 10 MW or less; fuel cells using hydrogen using one of the above named renewable energy resources; and other sources of energy, not including nuclear power, that become available after the effective date of this section, and that are certified as renewable by rules and regulations established by the Commission pursuant to Section 7 and amendments thereto. (New Sec. 2)
Certification Process	The KCC would be required to establish a certification process for other renewable energy resources to meet the requirements of the Act. (New Secs. 21, 22, and 26)	NA	House agreed to Senate-proposed language requiring the KCC to adopt rules and regulation for administration of a certification process for renewable electric generation facilities for purposes of fulfilling the requirements of section 6.	Clarification of the House-passed language, including removal of language related to generation feedstocks. The Commission would be required to adopt rules and regulations within 12 months of the effective date of the Act. (New Sec. 7)

Provision	Sub. HB 2014 as Amended by House Committee of the Whole	Senate Sub. for Sub. HB 2014 as Amended by Senate Committee of the Whole	Senate Sub. for Sub. HB 2014 as Passed by the Legislature	Senate Sub. HB 2369
Renewable Requirement Increments	The renewable energy requirement (net renewable generation capacity) would be for a portion of the affected utility's peak demand (defined as the one-hour maximum annual demand created by the utility's retail load in Kansas) that is at least: • 10 percent of the peak demand for calendar years 2010 through 2015, based on the average demand during the three years prior of each of those years; • 15 percent of the peak demand for 2016 through 2019, based on the average demand during the three years prior of each of those years; and • 20 percent of the peak demand for each year beginning in 2020, based on the average demand during the three years prior of each of those years. Renewable energy credits may be used to meet a portion of the requirements in 2010, 2016 and 2020, unless otherwise allowed by the Commission.	For each public utility, the nameplate capacity of the renewable electric generation facilities included in the utility's portfolio, whether owned or contracted for energy purchase, shall be at least: • 10 percent of the three-year average (calendar years 2009, 2010, and 2011) peak retail load, expressed in megawatts, in the State of Kansas, by 2013 • 15 percent of the three-year average (calendar years 2013, 2014, and 2015) peak retail load, expressed in megawatts, in the State of Kansas, by 2017 • 20 percent of the three-year average (calendar years 2017, 2018, and 2019) peak retail load, expressed in megawatts, in the State of Kansas, by 2021 (New Sec. 6) No provision for renewable energy credits.	House concurs with Senate	Same as House-passed version of HB 2014 except peak demand is defined as the demand imposed by the affected utility's retail load in Kansas, and the first year renewable energy credits may be used is 2011. • Requirements and increments are the same as the House-passed version of HB 2014, except the first requirement begins in 2011. (New Sec. 2, 3)
Cost Recovery	The KCC would be required to allow affected utilities to recover costs incurred to meet the renewable energy requirement. (New Sec. 23)	NA	House concurs with Senate	Same as House-passed version of HB 2014. (New Sec. 4)
Circuit Breaker	As determined by the Commission, a utility would be able to delay compliance with the renewable energy requirement if transmission capacity is not available for the renewable energy, if the utility's customers would realize substantial benefit by delaying compliance until transmission capacity is available, or if the utility can demonstrate that the cost of compliance would adversely impact its credit rating or its liquidity. (New Sec. 22)	The requirement beginning in 2021 would not apply if the KCC finds that a utility would have to make unreasonable and imprudent expenditures to comply with the requirement because sufficient transmission facilities do not exist (New Sec. 6)	House concurs with Senate	NA
Definition of Net Renewable Generation Capacity	"Net renewable generation capacity" would be defined as the gross hourly maximum output capability of a renewable energy resource when not limited by ambient conditions, equipment, operating or regulatory restrictions, less power required to operate the resource. The phrase refers to resources located in Kansas or those serving ratepayers in the State, regardless of how those resources are treated for ratemaking purposes. (New Sec. 20(d))	NA The operative term would be "nameplate capacity" which would not be defined by the bill.	House concurs with Senate	Same as House-passed version of HB 2014 except the basis for determining capacity is a four-hour period rather than a one-hour period. New Sec. 2)
Credit for KS Generated Power and for Equipment Manufactured in KS	Each megawatt of eligible capacity in Kansas would count as 1.25 megawatts for purposes of compliance with the renewable energy requirement. (New Sec. 22)	Same, but clarifies that the incentive refers to eligible capacity generated in Kansas. (New Sec. 6)	House concurs with Senate	Same as House-passed version of HB 2014 except it would apply only to capacity installed after January 1, 2000, and the multiplier would be 1.10. (New Sec. 3)

Provision	Sub. HB 2014 as Amended by House Committee of the Whole	Senate Sub. for Sub. HB 2014 as Amended by Senate Committee of the Whole	Senate Sub. for Sub. HB 2014 as Passed by the Legislature	Senate Sub. HB 2369
	NA	Each megawatt of eligible capacity generated in Kansas from equipment manufactured in Kansas would count as 1.5 megawatts for purposes of compliance with the renewable energy requirement. Part of the criteria for qualifying as manufactured in Kansas is that not less than 51 percent of the cost of the equipment used was attributable to manufacturing located in Kansas. (New Sec. 6)	House concurs with Senate	NA
Credit for Net Metering and Parallel Generation	The capacity of any systems interconnected with the affected utilities under the Net Metering and Easy Connection Act or the parallel generation statute would count toward compliance with the renewable energy requirement.	Same (New Sec. 6 and 19)	Same	Same (New Sec. 3, 16, 22)
Credit for Energy Efficiency	In addition, affected utilities would be able to count savings from energy efficiency programs toward up to 25 percent of the renewable energy requirement. Savings from energy efficiency programs would be determined in accordance with rules and regulations adopted by the KCC. Savings would have to include both savings at customer facilities and savings by the utility in generation and distribution as compared to the level of usage expected without energy efficiency programs. (New Sec. 22)	NA	House concurs with Senate	NA
Enforcement/ Implementation	The KCC would have broad authority under the Act to establish rules and regulations for administration of the Act, including enforcement mechanisms necessary to ensure compliance with the Act. The Act would authorize imposition of administrative penalties for non-compliance and would give the KCC discretion in imposition of penalties. Costs of administrative penalties could not be recovered from retail customers. (New Sec. 24, 25)	The KCC would be required to adopt rules and regulations for reporting requirements and prevention of duplication of the application of the renewable energy requirement. (New Sec. 6)	House concurs with Senate	Same as House-passed version of HB 2014 except Commission shall adopt rules and regulations within 12 months of the effective date of the Act. (New Sec. 5, 6)
Net Metering and Easy Connection Act	The Act would require any municipal electric utility, electric cooperative, or electric public utility to make net metering available to customer-generators with maximum generation capacity of 100 kilowatts.	Same. (New Secs. 8 and 9)	Same	The Act would require any investor-owned utility to make net metering available to customer-generators. (New Sec. 8 - 16) Maximum generation capacity is 25 kilowatts for residential customers and 200 kilowatts for other customers. (New Sec. 12)
	"Net metering" would be defined to mean use of metering equipment sufficient to measure the difference between the electricity supplied to a customer-generator by a retail electric supplier and the electricity supplied by the customer-generator to the supplier during a billing period. (New Sec. 27)	Same, except deletes the word "sufficient" (New Sec. 8)	House concurs with Senate	NA

Provision	Sub. HB 2014 as Amended by House Committee of the Whole	Senate Sub. for Sub. HB 2014 as Amended by Senate Committee of the Whole	Senate Sub. for Sub. HB 2014 as Passed by the Legislature	Senate Sub. HB 2369
Renewable Resources	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; and municipal or other solid waste and animal waste. (New Sec. 28) Upon the request of a utility, the KCC would be authorized to approve other methods of renewable generation. (Sec. 46)	Renewable resources for this requirement include wind, solar, photovoltaic, biomass, hydropower, geothermal, and landfill gases. (New Sec. 8) Same (Sec. 25)	Senate concurs with House Same	Renewable resources for this requirement include wind; solar thermal sources; photovoltaic cells and panels; dedicated crops grown for energy production; cellulosic agricultural residues; plant residues; methane from landfills or from wastewater treatment; clean and untreated wood products such as pallets; existing hydropower; new hydropower, not including pumped storage, that has a nameplate rating of 10 MW or less; fuel cells using hydrogen using one of the above named renewable energy resources; and other sources of energy, not including nuclear power, that become available after the effective date of this section, and that are certified as renewable by rules and regulations established by the Commission pursuant to Section 7 and amendments thereto. (New Sec. 9, 2, 7) Same (Sec. 22)
Implementation	The KCC would be required to adopt rules and regulations within nine months of the effective date of the Act for administration of Act in regard to regulated utilities. Governing bodies of non-regulated utilities would be required to adopt policies required by the Act. (New. Sec. 36-37)	Same, except timeframe for rules and regulations is within 18 months. (New Sec. 16-17)	House concurs with Senate	The KCC would be required to adopt rules and regulations within 12 months of the effective date of the Act. (New Sec. 14)
Customer Choice	Customer-generators would be able to utilize either the parallel generation statute or the Net Metering Act. (Sec. 46)	Same (Sec. 25)	Same	Same (Sec. 22)
Billing Procedure and Net Excess Generation	The Act would provide that retail electric suppliers would measure the net power produced and consumed by the customer-generator during a billing period by using a bidirectional meter, multiple meters, or alternative technology. If the supplier provides the customer-generator with more power during a billing period than the customer generates, the customer would be billed for the net amount provided by the supplier. If the amount of electricity generated by the customer during a billing period exceeds the amount provided by the supplier, the customer would be billed for applicable customer or demand charges, or both. Excess electricity generated by the customer during a billing period would be retained by the suppler as a contribution to the fixed costs associated with owning and maintaining the facilities required to provide electric service to the customer. (New Sec. 32)	Same (New Sec. 12)	Same	The Act would provide that retail electric suppliers would measure the net power produced and consumed by the customer-generator during a billing period by using a bidirectional meter. If the supplier provides the customer-generator with more power during a billing period than the customer generates, the customer would be billed for the net amount provided by the supplier. If the amount of electricity generated by the customer exceeds the amount provided by the supplier, the net excess electricity generated by the customer, expressed in kilowatt hours, is carried forward from month-to-month and credited at a ratio of 1:1 against the customer-generator's energy consumption in subsequent months. Any credits remaining at the end of the calendar year expire.

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Provision	Sub. HB 2014 as Amended by House Committee of the Whole	Senate Sub. for Sub. HB 2014 as Amended by Senate Committee of the Whole	Senate Sub. for Sub. HB 2014 as Passed by the Legislature	Senate Sub. HB 2369
				(New Sec. 10, 11)
Metering Equipment	A customer-generator's facility shall be equipped with sufficient metering equipment that can measure the net amount of electrical energy produced or consumed by the customer generator.	A customer-generator's facility shall be equipped with sufficient metering equipment to measure the difference between the electrical energy supplied to a customer-generator by a retail electrical supplier and the electrical energy supplied by the customer-generator to the retail electrical supplier.	House concurs with Senate	NA
	If the customer-generator's equipment does not meet the requirements, the customer-generator shall reimburse the retail electric supplier for the cost to purchase and install the necessary equipment. (New Sec. 30)	If the customer-generator's equipment does not meet the requirements, the retail electric supplier may charge the customer-generator for the costs to purchase and install the necessary equipment.	House concurs with Senate	The utility must provide a residential-class bidirectional meter to the customer-generator at no charge, but may charge the customer for additional equipment needed. (New Sec. 10)
	NA	Subsequent meter testing and maintenance necessitated by the customer-generator are paid by the customer-generator. (New Sec. 10)	House concurs with Senate	NA
Generation Capacity	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. Generation systems of 10 kilowatts or less capacity would only have to meet the statutory standards. Larger systems could be required to meet additional standards established by the KCC or the supplier's governing body. (New Secs. 33 and 34)	Same (New Sec. 8, 13)	Same	Same, except no distinctions in requirements based on system size. (New Sec. 13)
Insurance	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. (New Sec. 33)	NA	House concurs with Senate	The utility cannot require additional insurance if the net metering facility meets the safety and performance standards in the Act. (New Sec. 13)
Electric Supplier Liability	The Act would provide that for any cause of action relating to damages to property or persons caused by the generation unit of a customer-generator or its interconnection, the electric supplier would not be liable in the absence of clear and convincing evidence of fault on the part of the supplier.(New Sec. 38)	Same (New Sec. 18)	Same	A utility shall not be liable, directly or indirectly, for permitting or continuing to allow an attachment of a net metered facility or for the acts or omissions of a customer-generator that cause loss or injury, including death, to any third party. (New Sec. 13)
System Maximum Net Generation	The maximum amount of net generation capacity that a supplier must accept on its system during a calendar year is one percent of the supplier's single-hour peak load during the prior year. Overall, a supplier would not have to make net metering	Same, except peak load not defined separately (New Sec. 9)	House concurs with Senate	No annual limit. Overall, a supplier would not have to make net metering available to additional customers once the total net metering capacity on the supplier's system reaches one percent of the

Provision	Sub. HB 2014 as Amended by House Committee of the Whole	Senate Sub. for Sub. HB 2014 as Amended by Senate Committee of the Whole	Senate Sub. for Sub. HB 2014 as Passed by the Legislature	Senate Sub. HB 2369
	available to additional customers once the total net metering capacity on the supplier's system reaches five percent of the supplier's Kansas single-hour peak load during the prior year. "Peak load" would be defined to mean the supplier's one-hour maximum annual demand imposed by its retail load in Kansas. (New Sec. 29)			utility's peak demand during the prior year. The Commission can increase the limit after a hearing. (New Sec. 10)
Cost Recovery	Suppliers would be able to recover in their rate structures those costs associated with implementation of the Act. (New Sec. 40)	Same (New Sec. 20)	Same	Same (New Sec. 15)
Local Authority	Declares void and unenforceable any provision of a city ordinance, county resolution or covenant that limits or prohibits the use of equipment for solar power installed on or adjacent to residential dwellings or buildings. (New Sec. 44 and 45)	NA	House concurs with Senate	NA
Parallel Generation Statute Amendments *Avoided Energy Cost*	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. (New Sec. 46)	Same (Sec. 25)	Same	No change from current law (uses monthly system average cost of energy per kilowatt hour). (Sec. 22)
Customer Choice	The statute would authorize customer-generators, as defined in the Net Metering Act, to choose to either utilize that Act or the parallel generation statute. Once the choice is filed with the utility, the customer would not be able to change the method chosen. (New Sec. 46)	Same (Sec. 25)	Same	Same, except no prohibition on customer-generator changing method. (Sec. 22)
Conforming Amendments	The bill would delete a reference to the Governor's goals for production of energy from wind and to include in its place a reference to a renewable portfolio target or mandate. (New Sec. 46)	Same. (Sec. 25)	Same	Same (Sec. 22)
Kansas Air Quality Act Amendments	The bill would amend the Kansas Air Quality Act to prohibit the Secretary of KDHE from promulgating rules and regulations that are more stringent than required by the federal Clean Air Act or rules and regulations authorized by that Act. The restriction in the bill would not apply to a plan for a non-attainment area under the federal Clean Air Act. The bill would prohibit rules and regulations under the State Act from being enforced in any area of the State prior to the time required by the federal Act. The Secretary would be prohibited from denying or delaying issuance of a permit required under the State Act if the applicant has met the requirements of that Act. (Sec. 48 and 49)	Same (Sec. 26)	Same	Same, except if the secretary determines that more stringent, restrictive or expansive rules and regulations are necessary, the secretary may implement the rules and regulations only after approval by an act of the legislature. (Sec. 23, 24)
County Home Rule	Counties would be prohibited from utilizing home rule authority to create exemptions from or change the application of the	Same (Sec. 24) Includes Revisor's technical corrections.	House concurs with Senate	Same as HB 2014 as passed by the Legislature. (Sec. 41)

Provision	Sub. HB 2014 as Amended by House Committee of the Whole	Senate Sub. for Sub. HB 2014 as Amended by Senate Committee of the Whole	Senate Sub. for Sub. HB 2014 as Passed by the Legislature	Senate Sub. HB 2369
	Kansas Air Quality Act. (Sec. 47)			
Permit Reconsideration	If requested by the applicant, the Secretary would be required to reconsider an action on a permit, filed after January 1, 2006 and prior to the effective date of the Act, that remains pending in any administrative or judicial review proceeding. The application for reconsideration would have to be filed with the Secretary within 60 days of the effective date of the Act, and the Secretary would have 15 days during which to act on the request. The Secretary's reconsideration and determination would be governed by the Act as amended by the bill. If the Secretary fails to act within the 15 day period, the party who requested review would be entitled to seek a writ of mandamus from the Court of Appeals. An applicant aggrieved by the Secretary's action after the reconsideration would be able to file a petition for review with the Kansas Court of Appeals within 30 days of the Secretary's determination. The Court's review would be conducted in accordance with the Act for Judicial Review and Civil Enforcement of Agency Actions but without any requirement to exhaust other administrative remedies. (Sec 48)	Same. (Sec. 26)	Same	NA
Emergency Procedures	KSA 65-3012 would be amended to establish a procedure for addressing air pollution emissions that pose an imminent and substantial danger to public health or welfare or to the environment. The procedure also would be applicable to an imminent or actual violation of the Kansas Air Quality Act. The Secretary of Health and Environment could issue a temporary order directing the owner or operation or the pollution source to take steps necessary to prevent the offending act or to eliminate the offending practice. The order could not exceed 72 hours in duration. When the temporary order is issued, the Secretary would be authorized to file an action in district court to enjoin the offending activity. Alternatively, the Secretary could request the Attorney General or the appropriate county or district attorney to file for the injunction. The court could issue a temporary or permanent injunction if the Secretary shows that the offending condition or situation exists. Persons aggrieved by an order of the Secretary issued under the new procedure would be entitled to review of the Secretary's action under the Act for Judicial Review and Civil Enforcement of Agency Actions. The aggrieved party would not be required to exhaust other or additional administrative remedies available within the agency. A petition for review under the new provision would have	Same (Sec. 28)	Same	Same, except the temporary order could not exceed 7 days in duration. In addition, the Secretary is authorized to bring suit in any court of competent jurisdiction to immediately restrain the offending acts or practices. (Sec. 25)

Provision	Sub. HB 2014 as Amended by House Committee of the Whole	Senate Sub. for Sub. HB 2014 as Amended by Senate Committee of the Whole	Senate Sub. for Sub. HB 2014 as Passed by the Legislature	Senate Sub. HB 2369
	precedence over other cases in regard to order of trial. (Sec. 50)			
Access to New Baseload Generation Capacity	The bill would require any public utility that builds a new fossil fuel or nuclear baseload electric generating facility in Kansas to provide to any municipal or cooperative electric utility an option to own a portion of the facility or enter into an agreement to purchase a portion of the power generated, or both. The portion available to municipal or cooperative utilities would be a maximum of 15 percent of the rated capacity of the facility or 200 megawatts of power, whichever is less, that is not dedicated to Kansas consumers. The aggregate amount of purchased power by all municipal utilities and cooperatives could not exceed 200 megawatts. If the facility developer proceeds with construction of the new generating facility, any municipal or cooperative electric utility in the State would have six months from the date of issuance of the construction permit under the Kansas Air Quality Act for the facility, or nine months from the effective date of this Act, whichever occurs first, to exercise the option to purchase an ownership interest in or to enter into an agreement to purchase power from the new facility. The terms and conditions of the sale or the power purchase agreement would have to be the same as those for other participants in the facility, other than the developer. The bill would provide that if more than one municipal or cooperative electric utility exercises the option described in the bill, in the absence of a mutual agreement otherwise, the amount of power available would be allocated equally among those utilities, but an option could not be exercised for less than 25 megawatts. (New Sec. 51)	Same (New Sec. 46)	Same	NA
Kansas Energy Resources Commission	The bill would create the Kansas Energy Resources Commission, a seven-member body that would make annual recommendations to the Governor and the Legislature. The charge to the Commission would be as follows: • Develop strategies to maximize productive use of the existing energy resources in Kansas; • Identify means of sustaining and, if possible, increasing production and use of identified energy resources; • Identify emerging technologies and opportunities relevant to	Same, except as shown below (New Sec. 35 The Commission would make annual reports...	House concurs with Senate	NA

Provision	Sub. HB 2014 as Amended by House Committee of the Whole	Senate Sub. for Sub. HB 2014 as Amended by Senate Committee of the Whole	Senate Sub. for Sub. HB 2014 as Passed by the Legislature	Senate Sub. HB 2369
	Kansas energy resources and recommend state investment in specific research projects; • Investigate scientific literature on the public health impacts of emissions of greenhouse gases and particulate matter, as well as technologies to capture and reduce such emissions, and recommend emission limits for man-made emissions by type of emitting source; • Recommend reallocation of existing state budget resources; • Recommend permanent funding sources for energy and sustainability research; and • Pursue other issues Commission members deem necessary. Six members of the Commission would be appointed by legislative leadership, and one member would be appointed by the Governor. Members would be required to be residents of Kansas; recognized for their breadth of knowledge on energy issues and initiatives, with expertise in the matters assigned for commission review; and to possess either terminal professional degrees or a minimum of five years experience in their field. Initial appointments would be for staggered terms of office; thereafter members would have four-year terms. Members would receive reimbursement for certain expenses, but would not receive compensation. The Commission would meet at least quarterly and submit a preliminary report by September 1, 2010. Legislative branch agencies would provide assistance as requested by the Commission and authorized by the LCC. The KCC would be provide assistance as requested by the Council. (New Sec. 52)	Investigate scientific literature on the public health impacts of emissions, as well as technologies to capture and reduce such emissions; NA Investigate permanent funding sources for energy and sustainability research; and		
Kansas Coal Requirement	NA	Any new coal-fired electricity generation facility in Kansas constructed after the effective date of the Act would be required to purchase at least five percent of its coal from Kansas coal mines. This requirement would not apply if the cost of Kansas coal was more than 125 percent greater than the cost of out-of-state coal, or if Kansas coal was not reasonably available for use, as provided in the bill. (New Sec. 37)	House and Senate agreed to new language that would require purchase of Kansas coal by a new coal-fired electricity generation facility only if the Kansas coal was cost-competitive, sold on comparable terms, and of acceptable quality. It addition, the purchase would not be required if it would cause the facility to violate its air quality permit or a contractual obligation.	Same as HB 2014 as passed by the Legislature (New Sec. 31)
Joint Committee on Energy and	NA	The Joint Committee on Energy and Environmental Policy would be required to study and make	House concurs with Senate	Same as HB 2014 as passed by the Legislature

Provision	Sub. HB 2014 as Amended by House Committee of the Whole	Senate Sub. for Sub. HB 2014 as Amended by Senate Committee of the Whole	Senate Sub. for Sub. HB 2014 as Passed by the Legislature	Senate Sub. HB 2369
Environmental Policy		recommendations regarding the use of moneys received under the American Recovery and Reinvestment Act of 2009 for energy efficiency, weatherization, energy conservation, alternative fuel vehicles and state energy programs. The results of these studies would be submitted to the Legislature in 2010 and 2011 as part of the Committee's annual reports. (New Sec. 31)		(New Sec. 28)
Settlement Agreement	NA	NA	NA	The bill would amend the Kansas air quality act to require the Secretary to approve the air quality permit for Sunflower consistent with the settlement agreement executed May 4, 2009 between Sunflower and the State of Kansas. The settlement would resolve actions pending before various courts and administrative agencies. (New Sec. 42)
Severability	NA	New Sec. 36	House concurs with Senate	Same as HB 2014 as passed by the Legislature (New Sec. 43)
Effective Date of Act	Upon publication in the *Kansas Register*	Same	Same	Same