

Requires Increased Energy Efficiency in New State and Public School Buildings as Well as in State Vehicles

- New state buildings (including Regents facilities) and new public school buildings must be designed to meet energy and water use efficiency standards. Facilities that do not achieve at least 85 percent of the standard in the first year of operation must identify corrections. (New Sections 6 & 7)
 - ▶ New products and equipment such as appliances, light fixtures, and computers purchased by state agencies must be at least as energy efficient as similar products that qualify for the EnergyStar rating. (New Section 3)
- The average fuel economy for state-owned vehicles purchased in 2010 must be at least 10 percent higher than the average for vehicles purchased in 2007. (New Section 2)
- New or extended leases for real property and state-owned real property will be required to meet energy efficiency standards. The Legislature will receive an annual report identifying state-owned and leased real property where an excessive amount of energy is used. (New Section 4)
- The Kansas Energy Office is tasked with increasing the participation of school districts, local governments, and state agencies in the KCC's Facilities Conservation Improvements Program. (New Section 5)

Prohibits Construction or Expansion of Merchant, Fossil-Fuel Burning Electricity Generating Plants

- As of the effective date of the Act, construction or expansion of coal-fired merchant power plants will be prohibited in Kansas.
 - ▶ A merchant power plant is defined as an electricity generating plant with a nameplate rating of at least 300 megawatts and which sells less than 50 percent of its output to retail customers or to "load serving entities."
 - ▶ A load serving entity is defined as a regulated utility that sells electricity to retail customers; a municipal utility; or a cooperative, other member-owned corporation or an LLC whose primary purpose is to provide electricity to its members. (New Section 8)

Creates the Kansas Electric Generation, Transmission and Efficiency Study Commission to Look at Issues Related to Electric Service in Kansas

- The Commission will have 11 members - six legislators, the chief of energy operations of the KCC, the director of the division of environment at KDHE, and three members appointed by the

Governor. Authorization for the Commission will sunset on June 30, 2010.

- The Commission will study a variety of issues related to electric service, such as:
 - the economic impact of generation, transmission, and distribution of electricity on communities and on customers' rates;
 - the fuel portfolio balance of the electricity generating facilities;
 - incentives for renewable energy investment;
 - the impact of conservation on the need for expansion of electric capacity; and
 - the impact on tax revenues of various means of generating and transmitting electricity.

- The Commission will make a preliminary report to the 2009 Legislature, and a final report to the 2010 Legislature. (New Section 9)

Establishes CO₂ Emissions Limitations for New Electricity Generation Facilities Using Fossil Fuels

- Large new power plants (other than federal facilities, plants on tribal land, or plants exempt from the New Source Performance Standards (NSPS) of the federal Clean Air Act) constructed or expanded after December 31, 2007 will be required to comply with new emissions limitations. (New Sections 10 and 11)

- The maximum CO₂ emissions for the first ten years of operation of a coal-fired plant will be 1,520 pounds per net megawatt hour. After that, the maximum will drop to 1,330 pounds per megawatt hour. (New Sec. 11(b)(1))

- For plants using other fossil fuels, the maximum CO₂ emission level will be:
 - 1,080 pounds per net megawatt hour for fuel oil and diesel; and
 - 810 pounds per net megawatt hour for natural gas-fired plants. (New Sec. 11(b)(1))

Creates a Mechanism for Offsetting CO₂ Emissions that Exceed the Statutory Limitation

- Emissions offsets created by wind-powered electricity generating facilities in Kansas, except community wind projects, will be determined by multiplying together one and one-half the fossil fuel facility's emission rate, the nameplate rating of the wind-powered facility, the capacity factor of the wind facility and the number of hours per year. Projects located outside Kansas generate a lesser credit. (New Sec. 12(a)(1))

- Offset credits equal to two times the amount of CO₂ emissions captured will be created for projects using chilled ammonia, amine capture, or coal gasification. (New Sec. 12(a)(2)(A))

- Offset credits equal to three times the amount of CO₂ emissions captured, stored, displaced, or avoided will be created for:
 - CO₂ storage projects utilizing specified injection or sequestration methods;
 - Projects that develop technology that displaces or offsets the release of CO₂ using algae to produce bio-diesel or starch substitutes for grain-based ethanol;
 - New nuclear or hydro-power electric generation projects located in the state, large-scale energy storage projects, and any central station solar energy project or any efficiency project of an existing fossil-fueled electricity generating facility (any such projects located outside Kansas would create credits equal to the actual CO₂ avoided); and
 - Demand-side peak-shaving, photo-voltaic, biomass or community wind projects located in the state, and electricity purchased from a customer-generator pursuant to the Net Metering and Easy Connection Act. (New Sec. 12(a)(2)-(4))

- Ultra-supercritical pulverized coal technology projects will create offset credits equal to three times the difference between the CO₂ emissions of the project and a super critical pulverized coal project. (New Sec. 12(a)(5))

- Minimum till or no-till agricultural practices, conversion of cultivated land to pasture, forest sequestration, windbreaks, or community beautification projects will create credits equal to three times the amount of CO₂ sequestered if the project is in Kansas, and two times the amount of CO₂ sequestered if the project is within the service territory of the electrical plant. (New Sec. 12(a)(6))

- Transmission system improvements that enable or enhance development of electricity generation from renewable resources located in Kansas will create offset credits based on the capacity of the improvement. The amount of credit attributable to transmission system improvements would be recalculated on an annual basis. (New Sec. 12(b))

- Each dollar invested in research projects to develop new carbon capture, displacement, or sequestration technology will create an offset credit equal to one ton of CO₂. (New Sec. 12(c))

- Each dollar expended by a Kansas public utility for energy conservation education programs will create an offset credit equal to one-half ton of CO₂. (New Sec. 12(d))

- An offset credit will be created for electricity generating units taken out of service as long as the retired unit utilized the same fuel as the unit to which the credit will be applied. (New Sec. 12(e))

- Offset credits resulting from carbon mitigation projects in Kansas could be sold, traded, or exchanged. (New Sec. 12(g))

- Excess CO₂ emissions not offset by any other method would be offset by payment of \$3 per ton to the Energy Efficiency Grant Programs Fund which will be administered by the KCC. (New Sec. 12(h))

- The Secretary of Health and Environment, in consultation with the KCC, will adopt rules and regulations necessary to implement the CO₂ emissions offset provisions. The Secretary cannot

defer or delay issuance of any construction permit under the Kansas Air Quality Act until the rules and regulations are adopted. (New Sec. 12(i))

Enacts The Net Metering and Easy Connection Act

- Establishes a net metering procedure for small solar electricity generating units that are interconnected with a retail electricity supplier.
 - Electric generation equipment covered by the act includes interconnected solar-powered units with maximum capacity of 100 kilowatts located on premises controlled by the customer, and used to offset all or part of the customer's electricity needs. (Sec. 14(c))
- Defines net metering as the use of metering equipment to measure the difference between the electrical energy supplied to a customer-generator by a retail electric supplier and the electrical energy supplied by a customer-generator to the retail electric supplier. (Sec. 14(d))
- Retail electricity suppliers will be required to make net metering available to customers up to a maximum generation capacity established by the KCC or the governing body of a municipal or cooperative electric utility. (Sec. 15)
 - Customers will be billed for any electricity provided by the retail supplier in excess of the amount generated by the customer. (Sec. 17)
 - Customers will receive credit applied to the succeeding billing period, at least equal to the avoided fuel cost, for electricity generated in excess of that provided to the customer by the retail supplier. (Sec. 17(c))
 - Credits will expire without compensation either 12 months after their issuance or when the customer-generator disconnects service or terminates the net metering relationship with the supplier. (Sec. 17(d))
- Establishes safety requirements (Sec. 18), procedures for customers to apply to the retail supplier for interconnection (Sec. 19), reporting requirements for retail suppliers (Sec. 20), a requirement that the KCC and the governing bodies of electric co-ops and municipal electric utilities adopt rules and regulations and procedures to implement the act within nine months of the effective date of the act (Secs 21 and 22), requires that costs incurred pursuant to the Act by the retail supplier will be recovered in the utility's rate structure (Sec. 25), and addresses liability issues (Secs. 23, 27, and 28).
- The existing parallel generation statute will be amended to provide customers with the option of using the existing act or the Net Metering and Easy Connection Act. The customer's decision will be recorded in writing and filed with the retail electricity supplier. (Sec. 29(b)(3))

Enacts Regulatory Amendments

- The Kansas Air Quality Act would be amended to authorize the Secretary of Health and Environment to implement the federal Clean Air Act and to prohibit the Secretary, absent specific

statutory authority, from adopting rules and regulations under the Kansas act that are more stringent than required by the federal act or rules and regulations authorized by that act. The restriction will not apply to an implementation plan for a non-attainment area. The provision authorizes the Secretary to enter into agreements with permittees that are more stringent, restrictive, or expansive than the federal requirements. (Sec. 30)

- ▶ The Secretary will be prohibited from denying or delaying issuance of a permit under the Act if the requirements of the Act have been met by the applicant. (Sec. 30(t)(3) and Sec. 31(b)) The Secretary also will be prohibited from utilizing emergency powers under KSA 65-3012, or other discretionary authority, in the air quality permitting process (Sec. 30(t)).
 - ▶ If requested by the applicant, the Secretary will be required to reconsider an application for 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 will have to be filed with the Secretary within 60 days of the effective date of the Act and the Secretary will have 15 days during which to act on the request (Sec. 30(t))
 - ▶ An applicant aggrieved by the Secretary's action will 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 without the need to exhaust other administrative remedies (Sec. 30(t)).
 - ▶ The Act would be amended to specify that the Secretary could take certain actions against only existing sources to protect the public health or the environment if emission of an air pollutant presents an "imminent" and substantial danger. (Sec. 33(a))
- Existing law would be amended to permit members of large electric cooperatives to elect to be exempt from regulation by the Kansas Corporation Commission utilizing the procedure currently available only to cooperatives with fewer than 15,000 customers. (Sec. 34(a))