

# Journal of the House

THIRTY-SIXTH DAY

---

HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Wednesday, March 5, 2008, 11:00 a.m.

The House met pursuant to recess with Speaker Neufeld in the chair.  
The roll was called with 120 members present.  
Reps. Flora and Judy Morrison were excused on verified illness.  
Reps. Aurand, Sawyer and Wetta were excused on excused absence by the Speaker.  
Present later: Reps. Flora and Judy Morrison.

Prayer by guest chaplain, the Rev. Matt Sturtevant, pastor, First Baptist Church, Topeka,  
and guest of Rep. Burgess:

God who created us and creates us still, we recognize your presence in this gathering today.

Lord, it is in a week like this that we are reminded, many of us for the thousandth time, how small and dependent we really are. If anything, spring in Kansas reminds us once again that we are not in charge. A Sunday that begins with 70 degrees and tulips poking their heads from the ground . . . and ends with snow and wind and rain and a retreat back to winter. Even the people that get paid to predict the weather will often have to shrug their shoulders this season. God, if spring in Kansas does not make us humble, nothing will.

Help us to learn from your creation . . .

. . . to be a people who do not rely only on our own predictions and plans and organization.

. . . to be a people who put others before ourselves, listening to what each other has to say and responding with grace and modesty.

. . . to be a people who know our limitations of our power and our strength.

But help us also to learn from your creation to foster a sense of hope . . .  
. . . to be a people who do not throw up our hands in hopelessness, but wait like the winter wheat for the time of maturity and fruit.

. . . to be co-creators in your world, to do our part and then rely on your grace to heal and change the world.

Remind us that humility does not mean sitting on our hands, but that it means wisdom and patience and reliance upon each other and on you as we do our work.

In your name we pray. Amen.

The Pledge of Allegiance was led by Rep. Whitham.

## COMMUNICATIONS FROM STATE OFFICERS

From Jim Garner, Secretary, Kansas Department of Labor, 2007 Kansas Department of Labor Annual Report.

The complete report is kept on file and open for inspection in the office of the Chief Clerk.

**CONSENT CALENDAR**

No objection was made to **HB 2919** appearing on the Consent Calendar for the third day. The bill was advanced to Final Action on Bills and Concurrent Resolutions.

**FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS**

Speaker Neufeld announced that order of business, Final Action on Bills and Concurrent Resolutions, would be passed over today.

**CONFERENCE COMMITTEE REPORT**

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 327**, submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

And your committee on conference recommends the adoption of this report.

CARL DEAN HOLMES  
ROBERT OLSON  
*Conferees on part of House*

JAY SCOTT EMLER  
PAT APPLE  
JANIS K. LEE  
*Conferees on part of Senate*

On motion of Rep. C. Holmes, the conference committee report on **H. Sub. for SB 327** was adopted.

Speaker Neufeld thereupon appointed Reps. C. Holmes, Olson and Kuether as second conferees on the part of the House.

Upon unanimous consent, the House referred back to the regular order of business, Introduction of Bills and Concurrent Resolutions.

**INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills were thereupon introduced and read by title:

**HB 2950**, An act concerning the department of health and environment; relating to assistance for certain expenses for eosinophilic disorders, by Committee on Appropriations.

**HB 2951**, An act concerning social welfare; relating to medicaid eligibility requirements; amending K.S.A. 39-709 and repealing the existing section, by Committee on Appropriations.

**INTRODUCTION OF ORIGINAL MOTIONS AND HOUSE RESOLUTIONS**

The following resolution was introduced and read by title:

HOUSE RESOLUTION No. 6016—

By Representatives Neufeld, McKinney, Aurand, Ballard, Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Burroughs, Carlin, Carlson, Colloton, Colyer, Craft, Crow, Crum, Dahl, Davis, Dillmore, Donohoe, Faber, Faust-Goudeau, Feuerborn, Flaharty, Flora, Frownfelter, Fund, Garcia, Gatewood, George, Goico, Gordon, Goyle, Grange, Grant, Hawk, Hayzlett, Henderson, Henry, Hill, Hodge, Holland, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Huntington, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Kuether, Landwehr, Lane, Light, Loganbill, Long, Lukert, Mah, Mast, Masterson, McCray-Miller, McLachlan, McLeland, Menghini, Merrick, Metsker, Jim Morrison, Judy Morrison, Moxley, Myers, Neighbor, O'Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peck, Peterson, Phelps, Pottorff, Powell, Powers, Proehl, Quigley, Rardin, Rhoades, Roth, Ruff, Ruiz, Sawyer, Schroeder, Schwartz, Shultz, Siegfried, Sloan, Spalding, Storm, Svaty, Swanson, Swenson, Tafanelli, Tietze, Treaster, Trimmer, Vickrey, Ward, Watkins, Wetta, Whitham, Wilk, Williams, Winn, B. Wolf, K. Wolf, Worley and Yoder

A RESOLUTION in memory of John J. Conard, Sr.

WHEREAS, John J. Conard, Sr. was born on June 30, 1921, in Coolidge, Kansas to Joseph Harvey and Jessie Shanstrom Conard; and

WHEREAS, Mr. Conard attended the University of Kansas in 1939 as a Summerfield Scholar and received a Bachelor of Arts degree in journalism in 1943; and

WHEREAS, While at the University of Kansas, Mr. Conard was a member of Phi Beta Kappa, Sigma Delta Chi, Pi Sigma Alpha honoraries, as well as the Tau Kappa Epsilon social fraternity; and

WHEREAS, Mr. Conard married Virginia Powell on September 13, 1947, and they raised four children: James P., Spencer D., Violet and John J. Conard, Jr.; and

WHEREAS, Upon graduation from the University of Kansas, Mr. Conard entered a naval flight training program and served as a flight instructor at the end of World War II; and

WHEREAS, After World War II, Mr. Conard returned to the University of Kansas and earned a Master of Arts degree in political science, where he was an instructor while he completed his degree requirements; and

WHEREAS, In 1949, Mr. Conard received a rotary foundation scholarship for doctoral studies in international law at the Sorbonne University of Paris, and completed his doctorate in 1951, graduating with the highest honors; and

WHEREAS, In 1962, Mr. Conard served as chief of staff to U.S. Senator James B. Pearson in Washington D.C.; and

WHEREAS, Mr. Conard served as an elected state representative for 10 years from 1959 through 1968, and was the Speaker of the Kansas House of Representatives during his final term from 1967 to 1968; and

WHEREAS, Mr. Conard was the Republican nominee for lieutenant governor in 1968; and

WHEREAS, Mr. Conard became the Director of University Relations at the University of Kansas in 1970, and later was an assistant to three chancellors at the university; and

WHEREAS, In 1975, Mr. Conard served as chief of staff and executive assistant to Governor Robert Bennett; and

WHEREAS, Mr. Conard became the executive director of the Kansas Board of Regents, a position he held from 1976 until his retirement in 1982; and

WHEREAS, Mr. Conard was involved in several post-retirement activities, including service as the vice-president of the Higher Education Assistance Foundation, president of the Higher Education Loan Program for Kansas and Senate liaison for Governor Mike Hayden; and

WHEREAS, Mr. Conard died on Friday, October 12, 2007, at the age of 86, in his home in Lawrence, Kansas, and funeral services were held for him at the Plymouth Congregational Church in Lawrence on October 15, and graveside services with military honors were held on October 16 at the Fairview Cemetery in Greensburg, Kansas: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas:* That we honor John J. Conard, Sr. for the public service he gave to the state, and extend our deepest sympathy to his family and friends.

On motion of Rep. Merrick, the House recessed until 3:00 p.m.

---

## AFTERNOON SESSION

The House met pursuant to recess with Speaker Neufeld in the chair.

### INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bill and concurrent resolutions were introduced and read by title:

**HB 2952.** An act concerning consumer protection; relating to homeowners' associations; amending K.S.A. 50-624 and 50-627 and repealing the existing sections, by Committee on Appropriations.

## HOUSE CONCURRENT RESOLUTION No. 5033—

By Representative Judy Morrison

A CONCURRENT RESOLUTION urging the United States to withdraw from the Security and Prosperity Partnership of North America and the North American Free Trade Agreement (NAFTA).

Whereas, President George W. Bush entered into the Security and Prosperity Partnership (SPP) of North America with the nations of Mexico and Canada on March 23, 2005; and

Whereas, On March 31, 2006, a White House news release confirmed the continuing existence of the SPP and its “ongoing process of cooperation”; and

Whereas, The economic and physical security of the United States is impaired by the potential loss of control of its borders attendant to the full operation of NAFTA; and

Whereas, A NAFTA highway system from the west coast of Mexico through the United States and into Canada has been suggested as part of a merger into what is called the North American Union (NAU) and the broader plan to advance the Security and Prosperity Partnership; and

Whereas, Future unrestricted foreign trucking into the United States can pose a safety hazard due to inadequate maintenance and inspection and can act collaterally as a conduit for the entry into the United States of illegal drugs, illegal human smuggling and terrorist activities; and

Whereas, State and local government throughout the United States would be negatively impacted by the SPP and NAU process, such as the “open borders” vision of the SPP, eminent domain takings of private property along the planned highways and increased law enforcement problems along those same highways; and

Whereas, A NAFTA highway system would be funded by foreign consortiums and controlled by foreign management, which threatens the sovereignty of the United States; and

Whereas, This trilateral partnership to develop a North American Union has never been presented to Congress as an agreement or treaty, and has had virtually no Congressional oversight: Now, Therefore,

*Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein:* That the Kansas Legislature urges the United States Congress, especially the Kansas Congressional delegation, to use all of their efforts, energies and diligence to withdraw the United States from any further participation in the Security and Prosperity Partnership of North America and the North American Free Trade Agreement; and

*Be it further resolved:* That the Kansas Legislature urges Congress to withdraw the United States from any other bilateral or multilateral activity, however named, which seeks to advance, authorize, fund or in any way promote the creation of any policy or structure to accomplish any form of North American Union as described in this resolution; and

*Be it further resolved:* That the Secretary of State be directed to send enrolled copies of this resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and each member of the Kansas Congressional delegation.

## HOUSE CONCURRENT RESOLUTION No. 5034—

By Committee on Agriculture and Natural Resources

A CONCURRENT RESOLUTION urging the United States Congress to amend the Beef Promotion and Research Act of 1985.

WHEREAS, The Beef Promotion and Research Act of 1985 is a piece of federal legislation which governs beef promotion; and

WHEREAS, The Beef Promotion and Research Order, commonly called the beef checkoff program, is authorized by the Beef Promotion and Research Act of 1985. The program became effective on July 18, 1986, when the Order was issued. Assessments on beef began on October 1, 1986; and

WHEREAS, The beef checkoff program’s goal is to strengthen the position of beef in the marketplace and to maintain and expand domestic and foreign markets and uses for beef and beef products in all sectors of the industry; and

WHEREAS, Beef checkoff assessments are used to increase demand for beef at the state level and at the national level. Such assessments are also used to fund promotional campaigns, to conduct research studies in such areas as heart disease and dietary cholesterol, the role of beef in human diets and the development of new low-fat, low-cholesterol beef products; and

WHEREAS, The beef checkoff program is funded by a mandatory assessment of \$1-per-head collected each time cattle are sold. All producers owning and marketing cattle, regardless of the size of their operation or the value of their cattle, must pay the assessment. A comparable assessment is collected on all imported cattle, beef and beef products; and

WHEREAS, Assessments collected under this program total approximately \$45 million annually. In 2007, domestic assessments totaled \$36,105,471 and importers assessments totaled \$7,640,266; the ratio of domestic and importer assessments is comparable annually: Now, therefore,

*Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein:* That we urge the United States Congress to amend the Beef Promotion and Research Act of 1985 to allow for a minimum of 50% of beef checkoff assessments collected to be used for the promotion of United States born, raised and processed beef; and

*Be it further resolved:* That the Secretary of State be directed to send an enrolled copy of this resolution to the President of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of the United States Department of Agriculture and each member of the Kansas Congressional delegation.

#### MESSAGE FROM THE SENATE

The Senate adopts the conference committee report to agree to disagree on **H. Sub. for SB 327** and has appointed Senators Emler, Apple and Lee as second conferees on the part of the Senate.

#### CONFERENCE COMMITTEE REPORT

MR. PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 327**, submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with House Committee of the Whole amendments, as follows:

On page 1, in line 16, by striking "6" and inserting "5"; by striking all in lines 28 through 38;

And by renumbering the sections accordingly;

On page 5, by striking all in lines 9 through 34, and inserting the following:

"New Sec. 6. (a) There is hereby established the Kansas electric generation, science and technology commission. The commission shall be made up of the following 15 members:

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

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

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

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

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

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

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

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

(9) one member appointed by the governor;

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

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

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

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

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

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

(2) expertise in energy conservation;

(3) expertise in baseload generation and regulation; or

(4) expertise in renewable energy resources.

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

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

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

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

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

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

(5) the social impact on Kansas residents of various methods of generation and transmission of electricity;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

New Sec. 7. As used in this section:

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

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

(B) an affected facility on tribal lands.

(2) "Best available control technology" means an emissions limitation, including a visible emission standard, based on the maximum degree of reduction for each pollutant subject to regulation under this act which would be emitted from any proposed major stationary source or major modification which the administrator, on a case-by-case basis, taking into account energy, environmental and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 C.F.R. parts 60 and 61. If the administrator determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

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

New Sec. 8. (a) (1) By the year 2012, for each public utility, the nameplate capacity of the renewable electric generation facilities included in the public utility's generation portfolio, whether owned by the public utility or contracted for energy purchase by the public utility, shall be no less than 10% of the public utility's peak load, expressed in megawatts, in the state of Kansas, for a three-year average for the 2008, 2009 and 2010 calendar years.

(2) By the year 2016, for each public utility, the nameplate capacity of the renewable electric generation facilities included in the public utility's generation portfolio, whether

owned by the public utility or contracted for energy purchase by the public utility, shall be no less than 15% of the public utility's peak load, expressed in megawatts, in the state of Kansas, for a three-year average for the 2012, 2013 and 2014 calendar years.

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

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

And by relettering the remaining subsection accordingly;

Also on page 5, in line 35, by striking the comma and inserting “:

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

(2)”;

Also on page 5, in line 38, before the period by inserting “and the capacity of all net metering systems operating under the net metering and easy connection act”; in line 39, by striking “10 through 25” and inserting “9 through 25”;

On page 6, in line 1, by striking “fuel” where it appears for the first time and inserting “energy”; also in line 1, by striking “for the”; in line 2, by striking all before “as” and inserting “and purchased energy for the preceding 12 months for the utility, or in the case of a non-generating utility, for such utility's wholesale power supplier,”; by striking all in lines 5 through 28;

And by relettering the remaining subsections accordingly;

On page 7, in line 5, after “mechanism” by inserting “accessible by electric utility personnel”; in line 25, after “supplier's” by inserting “Kansas”;

On page 8, following line 11, by inserting:

“New Sec. 13. 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.”;

And by renumbering the remaining sections accordingly;

Also on page 8, in line 31, by striking “12” and inserting “11”; in line 33, by striking “fuel cost of” and inserting “energy cost for”;

On page 9, in line 21, by striking “13” and inserting “12”;

On page 10, in line 41, by striking all after “towards”; in line 42, by striking all before “of” and inserting “accomplishment by the respective retail electric supplier, or the wholesale generator supplying electric energy to the retail electric supplier,”;

On page 11, in line 40, by striking the period and inserting “; and

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

On page 12, in line 19, by striking all after “the” and inserting “avoided energy cost”; in line 22, by striking all before the period and inserting “avoided energy cost”; in line 26, by striking “11” and inserting “10”;

On page 14, in line 7, by striking all after the second “the”; by striking all in line 8 and inserting “requirements of section 8, and amendments thereto,”; in line 10, after “state's” by inserting “renewable”; also in line 10, by striking “by wind power”; following line 10, by inserting:

“(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 (c)(1) of section 10, and amendments thereto.”;



On page 19, in line 12, by striking all after “issue”; by striking all in line 13 and inserting “, amend, revise or renew the permit consistent with the provisions of this act.”; following line 30, by inserting:

“Sec. 30. 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 *against any existing source* as may be necessary to protect the health of persons or the environment: (1) Upon receipt of information that the emission of air pollution presents ~~an~~ *an imminent and* substantial endangerment to the health of persons 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.

(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 an action to enjoin acts or practices specified in subsection (a) or requesting 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. 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.”;

And by renumbering sections accordingly;

On page 21, in line 39, by striking the comma where it appears for the first time and inserting “and”; also in line 39, by striking “and 2010”; in line 43, by striking all after “occupied”;

On page 22, by striking all in lines 1 through 18 and inserting “multiple family dwellings, \$100 per dwelling unit located immediately below the attic space where sufficient ceiling insulation is installed to achieve an insulation value of R-52; and”; in line 19, by striking “(3)” and inserting “(2)”; in line 21, by striking “, ventilation or” and inserting “and”;

On page 23, in line 13, by striking “31” and inserting “32”; also in line 13, by striking the comma where it appears for the third time and inserting “and”; in line 14, by striking “and 2010”; in line 31, by striking “generates”; by striking all in lines 32 through 35 and inserting “: (A) Commenced operation on or after January 1, 2008; (B) generates electricity in this state; (C) combusts coal in an amount greater than 10% of its total heat input on a rolling 12-month basis; and (D) is a new unit.”; in line 38, before the period by inserting “as determined using the coal analysis procedures established in the United States environmental protection agency’s mercury information collection request, as amended”; in line 43, by striking “measured” and inserting “calculated”;

On page 24, after line 3, by inserting the following:

“Sec. 35. K.S.A. 2007 Supp. 74-616 is hereby amended to read as follows: 74-616. In addition to other powers and duties provided by law, in administering the provisions of this act the state corporation commission shall:

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

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

(c) *allow, for commission approved energy efficiency, conservation and demand management programs, at the option of the requesting utility, the capitalization and addition to rate base of investments in and expenditures for such approved programs;*

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

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

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

And by renumbering the remaining sections accordingly;

Also on page 24, in line 9, after “65-3008b” by inserting “, 65-3012”; in line 10, by striking “and 66-1,184” and inserting “, 66-1,184 and 74-616”;

On page 1, in the title, in line 12, after “65-3008b” by inserting “, 65-3012”; in line 13, by striking “and 66-1,184” and inserting “, 66-1,184 and 74-616”;

And your committee on conference recommends the adoption of this report.

CARL DEAN HOLMES

ROBERT OLSON

*Conferees on part of House*

JAY SCOTT EMLER

PAT APPLE

JANIS K. LEE

*Conferees on part of Senate*

On motion of Rep. C. Holmes, the conference committee report on **H. Sub. for SB 327** was adopted.

On roll call, the vote was: Yeas 75; Nays 47; Present but not voting: 0; Absent or not voting: 3.

Yeas: Beamer, Bethell, Bowers, Brown, Brunk, Burgess, Carlson, Colyer, Craft, Crum, Dahl, Donohoe, Faber, Feuerborn, Fund, Gatewood, George, Goico, Gordon, Grange, Grant, Hayzlett, Hill, Hodge, C. Holmes, M. Holmes, Horst, Huebert, Humerickhouse, Johnson, Kelley, Kelsey, Kiegerl, King, Kinzer, Knox, Light, Mast, Masterson, McKinney, McLeland, Merrick, Jim Morrison, Moxley, Myers, Neufeld, O’Neal, Olson, Otto, Owens, Palmer, Patton, Pauls, Peterson, Phelps, Powell, Powers, Proehl, Rhoades, Roth, Ruff, Schroeder, Schwartz, Shultz, Siegfried, Sloan, Swanson, Tafanelli, Vickrey, Watkins, Whitham, Wilk, Williams, B. Wolf, Yoder.

Nays: Ballard, Burroughs, Carlin, Colloton, Crow, Davis, Dillmore, Faust-Goudeau, Flaherty, Flora, Frownfelter, Garcia, Goyle, Hawk, Henderson, Henry, Holland, Huntington, Kuether, Landwehr, Lane, Loganbill, Long, Lukert, Mah, McCray-Miller, McLachlan, Menghini, Metsker, Judy Morrison, Neighbor, Peck, Pottorff, Quigley, Rardin, Ruiz, Spalding, Storm, Svaty, Swenson, Tietze, Treaster, Trimmer, Ward, Winn, K. Wolf, Worley.

Present but not voting: None.

Absent or not voting: Aurand, Sawyer, Wetta.

#### EXPLANATIONS OF VOTE

MR. SPEAKER: **H. Sub. for SB 327** will: 1) Establish the Kansas Electric Generation, Science and Technology Commission to examine our state’s energy needs and environmental responsibilities — a science, not political, based process; 2) Require public utilities to generate 20% of their peak load from renewable resources; 3) Establish net metering for solar energy; 4) Result in high voltage transmission lines that wind energy can use to move power regionally and nationally; 5) Provide real incentives for consumer and utility energy conservation investments. Based on my national and state roles on wind and other energy issues, I believe that our state has a much greener future with **H. Sub. for SB 327** than without

it. Therefore, I vote aye on **H. Sub. for SB 327**.—TOM SLOAN, DEENA HORST, THOMAS C. OWENS

MR. SPEAKER: Conference Committee report for **H. Sub. for SB 327** represents movement forward to a balanced energy policy with regulatory certainty including all fuel sources. For the first time, net metering for solar will be required in statute, a renewable portfolio standard will be required for renewable energy production from solar, and it provides cost recovery for energy conservation. The legislation will require energy conservation by state government. The legislation requires 80% reduction of mercury from new coal fired power plants. The legislation provides tax incentives for energy reduction of rental housing. I vote yes on **H. Sub. for SB 327**.—CARL DEAN HOLMES

On motion of Rep. Merrick, the House adjourned until 11:00 a.m., Thursday, March 6, 2008.

JANET E. JONES, *Chief Clerk*.

CHARLENE SWANSON, *Journal Clerk*.

