

# House Comprehensive Energy Bill

## Q & A

Why should I support the House Comprehensive Energy Bill (H Sub for HB 2014)?

- **Jobs.** Last December 73,131 Kansans were without a job, up from 59,866 the previous December. Wichita now has an unemployment rate of 5% and Kansas City is 8.8%. This number does not reflect the thousands of recently announced layoffs in the Wichita and Kansas City areas.
- **Jobs.** Regulatory certainty invites new businesses to Kansas bringing more jobs to our state giving current job creators the surety and stability they need.
- **Jobs.** Kansas must put a stop to job losses. If more jobs continue to leave Kansas our budget deficit will continue to grow, increasing the possibility of tax increases that will drive Kansas jobs even further away. Our economy will not improve if jobs continue to decline. This is a Kansas stimulus package without government spending.

What is in the bill?

- This bill will provide stability to the regulatory environment. Kansas businesses should not be unfairly burdened with more stringent rules and regulations than what the federal government demands. Regardless of whether or not the Obama administration enacts more regulations, Kansas businesses should not be put at a disadvantage by over-regulation.
- This bill affirms that if a business meets all of the necessary requirements they will receive their permit. There should be no unforeseen outcomes if requirements are met. It does *not* guarantee that permits will be granted to all applicants, but that permit requests made since 2006 which meet all requirements will be reconsidered.
- This bill clarifies that emergency powers are used only in situations of imminent and substantial danger and not merely political whim. This bill does not strip the Secretary of needed emergency powers.

Will the Holcomb project be built if this bill is passed?

- It would be fundamentally unfair to stabilize the regulatory environment and not allow recently denied permits to be reconsidered.
- The \$3.8 billion project will create 2,500 Kansas jobs, including engineering jobs in the Kansas City area, and provide energy to 500,000 Kansans is a great opportunity for western Kansas to be self-sufficient and not rely on tax dollars from other parts of the state. Over 300 permanent jobs will be created, adding \$16 million in payroll to the Kansas economy.
- Electricity rates will increase 36% in some areas of Kansas if the project is not completed.

## Do the new CO2 guidelines issued recently by KDHE bring clarification?

- The guidelines were nothing more than a political game, which clarifies the need of a legislative fix to restore fairness and the public's trust in KDHE.
- KDHE stated that the issuance of the guidelines was in anticipation that the Obama Administration will act on emissions. We are unclear why KDHE would issue guidelines in response to the intentions of the Administration and not actual federal law or regulation.

## Why should I vote for this bill if some of the power is going out of state?

- Kansas will receive the needed power from the power plant making energy more readily available and affordable.
- Yes, power that is not needed in the State of Kansas can be distributed to other states. Energy, like any other product made in Kansas (Garmin GPS or a Boeing plane), can and should be exported.
- Revenue from the exported power is expected to exceed \$750 million, which will help keep Kansas rates low
- 200 MW will be used by 500,000 Kansans including 7 cooperatives and 9 municipal utilities.

### Other Frequently Asked Questions:

#### **Can EPA review the Holcomb Expansion Air permit as part of the reconsideration?**

EPA can, on its own review, be asked or forced to review the permit.

#### **Are other states building coal plants?**

Yes, including plants in Nebraska, Colorado, and Missouri; all competitor states of Kansas.

#### **Can a coal plant be financed in today's financial environment?**

Yes. The project will be financed by institutions that traditionally finance power projects.

#### **Does Kansas need this power?**

Yes, Midwest Energy, Sunflower, and the municipal customers have need for the power, now and into the future.

#### **Will individuals be encouraged to conserve power if the plant is built?**

Even with our estimates of the reduction in consumption from energy efficiency, the cooperatives will need new baseload power and energy conservation will be promoted.

#### **How much will the plants contribute via taxes?**

Construction alone will pump \$9 million into the Kansas economy. During the 12 year tax abatement, the plants will contribute \$700,000 in taxes. Once the abatement ends, these two plants will contribute about \$10 million annually in property taxes based on today's tax rates for 50 years.

#### **Has Sunflower ever filed bankruptcy?**

No, Sunflower has never filed bankruptcy.

**How much of the power generated at the new plant will stay in Kansas?**

200 MW will be used by 500,000 Kansans including 7 cooperatives and 9 municipal utilities.

**Will we continue to develop green energy if a new coal plant is built?**

Yes. Development of renewable energy is compatible with building baseload power plants.

**Highlights of the bill include:**

**Section 1** – Instructs the Secretary of Administration to adopt rules and regulations so that the average fuel economy of state vehicles purchased in 2011 be 10% more efficient than vehicles purchased in 2008.

**Sections 2-6** – Instructs the Secretary of Administration to adopt rules and regulations for the purchase of products and equipment (appliances, light fixtures, etc.) and procedures for energy audits on state owned real property every five years. New or extended building leases must first have an energy audit and the building must meet performance standards. School districts, if funds are available, are to participate in energy efficient programs.

**Section 7** – Requires KDHE to adopt rules and regulations for (a) salt mining; (b) underground storage of liquid petroleum gas & hydrocarbons and (c) natural gas embedded in salt.

**Sections 8-15** – Requires KDHE to adopt rules and regulations for the regulation of compressed air energy storage activities.

**Section 16** – Requires the Kansas Corporation Commission to grant a “certificate of public convenience” within 180 days of receipt, unless an extension is sought by the applicant.

**Sections 17-18** – Amends the Kansas electric transmission authority laws and allows for the establishment of fees for the use of transmission services.

**Section 19** – Authorizes the remaining electric cooperatives still regulated by KCC to remove themselves from KCC oversight upon a majority vote of its members. The amendment will allow cooperative members electing to do so to self regulate their rates.

**Sections 20-26** - Establishes renewable portfolio standards for utilities. Not less than 10% of a utility’s peak demand must be from renewable energy from 2010 to 2015. This requirement increases to 15% from 2016 to 2019 and eventually requires a 20% renewable energy source after 2020. Each megawatt of renewable energy generation capacity in Kansas counts as 1.25 for meeting the new portfolio standard. A utility’s net savings from energy efficiency programs may count for up to 25% of their portfolio standards. Compliance with the renewable energy standards may be waived if KCC determines there are inadequate transmission services or if the utility’s credit rating could be negatively impacted.

**Sections 27-43** – Establishes a “net metering” program in Kansas. “Customer-generators”, with renewable energy at a capacity of 100 kilowatts or less generating primarily for their own use, may sell their excess energy to its electric utility for the same price as the energy is purchased. Even if the customer-generator’s energy exceeds the energy supplied by the utility, the customer-generator may be billed the monthly customer or demand charges. Energy produced each month in excess of the customer-generator’s needs may be retained by the utility to recover the utility’s fixed cost of providing energy to the customer-generator when the customer can’t meet its needs.

**Sections 43&44** – Amends the parallel energy generation statutes. Requires a utility to enter into a contract with (a) residential owner of renewable energy capacity of 25 or fewer kilowatts; (b) commercial customer with 200 kilowatts or less; or (c) a school with a renewable generating capacity of 1.5 megawatts or less and pay the generator not less than 100% of the utility’s avoided cost for a generator with capacity less than 200 kilowatts and not less than 150% for a generator greater than 200 kilowatts. Avoided cost is defined as the utility’s current average cost of fuel and purchased energy for the preceding month. Customer-generators with a parallel

generating contract may sell excess energy to the utility. Renewable energy generated by customer-generators may count towards the utility's renewable portfolio requirements.

**Section 45** – Amends the county home rule statute to prohibit local governments from imposing their own air emission standards and ordinances.

**Sections 46-47** - These sections require the Kansas Department of Health and Environment (KDHE) to ensure that the Kansas Air Quality Act is consistent and uniform with the federal Clean Air Act. The rules and regulations promulgated by KDHE could not be more stringent, restrictive, or expansive than those required by federal law. In addition, enforcement actions could not be applied prior to the time-limits that would be imposed by federal law. The Secretary of KDHE could not deny or delay the issuance of any permit when the requirements of state law have been met. Any action taken by the Secretary on any application filed after January 1, 2006 and before the effective date of this bill, which seeks the issuance, modification, amendment, revision, or renewal of any approval or permit, and which is still the subject of any administrative or judicial review proceedings, must be reconsidered by the Secretary upon receiving a written request of the permittee or applicant.

Within 15 days after the applicant or permittee files a written request, the Secretary would be required to reconsider the previous decision, agency action, or order and determine, according to law, whether the issuance, modification, amendment, revision, or renewal of any approval or permit should be issued, modified, amended, revised, or renewed. Should the permittee or applicant be aggrieved by the Secretary's determination, the permittee or applicant would be entitled to judicial review in the Court of Appeals within 30 days from the date of the Secretary's decision. The permittee or applicant could also file a writ of mandamus with the Court of Appeals if the Secretary fails to act within the 15-day time period.

**Section 48** – This section amends KDHE's existing emergency powers for regulating air contamination. (Used by KDHE Secretary to deny Sunflower permit).

The Secretary, if information is received that an existing air pollution source or combination of air pollution sources present an imminent and substantial endangerment to public health, welfare, or the environment, may issue a temporary order not to exceed 72 hours, against any facility in violation of the clean air act. Upon the expiration of the initial order the Secretary must pursue an action in the District Court or request of the Attorney General or district attorney to seek a temporary or permanent injunction against such facility. The aggrieved facility may seek immediate review of any emergency orders issued without exhausting administrative appeals.

**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, Junction City Geary County Economic Development Corporation, 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