

As Amended by House Committee

Session of 2006

HOUSE BILL No. 2904

By Committee on Utilities

2-14

10 AN ACT concerning electric generation facilities; providing certain in-
11 come tax credits and property tax exemptions relating thereto; provid-
12 ing for issuance of bonds and other financing for certain purposes;
13 exempting certain facilities from certain siting requirements; amend-
14 ing K.S.A. 66-1,158, 66-1,159, 66-1,159a, 66-1,161, 66-1,162, 66-
15 1,169a and 66-1,169b and K.S.A. 2005 Supp. 66-1,160 and 79-32,117
16 and repealing the existing sections.

17

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

19 New Section 1. As used in sections 1 through 4, and amendments
20 thereto:

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

22 (b) "Integrated coal gasification power plant" means a facility which:
23 (1) Is located in Kansas, (2) converts coal into synthesis gas that can be
24 used as a fuel to generate energy, (3) uses the synthesis gas as a fuel to
25 generate electric energy and (4) is dedicated primarily to serving Kansas
26 retail electric utility consumers.

27 (c) "Kansas coal" means coal from a mine whose coal deposits are
28 located in the ground wholly or partially in Kansas regardless of the lo-
29 cation of the mine's tipple.

30 (d) "Pass-through entity" means any: (1) Corporation which is exempt
31 from income tax under section 1363 of the ~~Internal Revenue Code~~ **federal**
32 **internal revenue code** and which complies with the requirements
33 of K.S.A. 79-32,100e, and amendments thereto; (2) limited liability com-
34 pany; (3) partnership; (4) limited liability partnership; (5) corporation or-
35 ganized under the electric cooperative act; or (6) nonstock member-
36 owned electric cooperative corporation incorporated in this state.

37 (e) "Qualified investment" means expenditures made in construction
38 of a new integrated coal gasification power plant, or in expansion of the
39 capacity of an existing integrated coal gasification power plant by at least
40 10% of such capacity, for: ~~(1) Real real~~ and tangible personal property
41 incorporated in and used as part of such plant and ~~(2) transmission equip-~~
42 ~~ment and other real and personal property which are located at the site~~
43 ~~of such plant and which are employed specifically to serve such plant.~~

1 New Sec. 2. (a) For taxable years commencing after December 31,
 2 2005, any taxpayer who is awarded a tax credit under this act by the
 3 commission and complies with the conditions set forth in this act and the
 4 agreement entered into by the commission and the taxpayer under this
 5 act shall be allowed a credit against the taxpayer's tax liability under the
 6 Kansas income tax act as provided in subsection ~~(e)~~ **(b). Expenditures**
 7 **used to qualify for this credit shall not be used to qualify for any**
 8 **other type of Kansas income tax credit.**

9 ~~(b) Subject to the provisions of subsection (c), the~~ **The** amount of
 10 the credit to which a taxpayer is entitled shall be equal to the sum of: (1)
 11 An amount equal to 10% of the taxpayer's qualified investment for the
 12 first \$500,000,000 invested and (2) an amount equal to 5% of the amount
 13 of the taxpayer's qualified investment that exceeds \$500,000,000. **Such**
 14 **credit shall be taken in 10 equal, annual installments, beginning**
 15 **with the year in which the taxpayer places into service the inte-**
 16 **grated coal gasification power plant or the expansion of an existing**
 17 **integrated coal gasification power plant.**

18 ~~(c) Except as provided by subsection (d), an income tax credit pur-~~
 19 ~~suant to this act shall be taken in 10 annual installments, beginning with~~
 20 ~~the year in which the taxpayer places into service the integrated coal~~
 21 ~~gasification power plant or the expansion of an existing integrated coal~~
 22 ~~gasification plant. Subject to the provisions of section 3, and amendments~~
 23 ~~thereto, the amount of an annual installment of such tax credit shall be~~
 24 ~~equal to:~~

25 ~~—(1) Twenty five percent of the lesser of: (A) The credit amount deter-~~
 26 ~~mined under subsection (b), divided by 10, or (B) the taxpayer's total~~
 27 ~~tax liability under the Kansas income tax act for the taxable year, minus~~
 28 ~~—(2) the amount determined by multiplying: (A) The amount deter-~~
 29 ~~mined pursuant to subsection (c)(1) and (B) the percentage determined~~
 30 ~~by subtracting the percentage of Kansas coal used in the taxpayer's in-~~
 31 ~~tegrated coal gasification power plant in the taxable year for which the~~
 32 ~~annual installment of the credit is allowed from the percentage of Kansas~~
 33 ~~coal determined by the commission to be prudent in such year.~~

34 ~~—(d) (c)~~ If the amount of an annual installment of a tax credit allowed
 35 under this section exceeds the taxpayer's income tax liability for the tax-
 36 able year in which the annual installment is allowed, the amount thereof
 37 which exceeds such tax liability may be carried over for deduction from
 38 the taxpayer's income tax liability in the next succeeding taxable year or
 39 years until the total amount of the annual installment of the tax credit has
 40 been deducted from tax liability, except that: ~~(1) No~~ **no** such tax credit
 41 shall be carried over for deduction after the 14th taxable year succeeding
 42 the taxable year in which the first annual installment is allowed; ~~and (2)~~
 43 ~~in no taxable year shall such tax credit exceed 50% of the taxpayer's in-~~

1 ~~come tax liability for the taxable year.~~
2 ~~(e)(1)~~ **(d)(1)** Before making a qualified investment, a taxpayer ~~may~~
3 **shall** apply to the commission to enter into an agreement for a tax credit
4 under this act. The commission shall prescribe the form of the application.
5 After receipt of such application, the commission may enter into an agree-
6 ment with the applicant for a credit under this act if the commission
7 determines that the taxpayer's proposed investment satisfies the require-
8 ments of this act. The commission shall enter into an agreement with an
9 applicant which is awarded a credit under this act. The agreement shall
10 include: (A) A detailed description of the power plant project that is the
11 subject of the agreement, (B) the first taxable year for which the credit
12 may be claimed, (C) the maximum amount of tax credit that will be al-
13 lowed for each taxable year, (D) a requirement that the taxpayer shall
14 maintain operations at the project location for at least 10 years during the
15 term that the tax credit is available, (E) a requirement that the taxpayer
16 shall use at the taxpayer's integrated coal gasification power plant in any
17 taxable year for which an annual installment of the credit is allowed that
18 percentage of Kansas coal which the commission determines is prudent,
19 based on availability and cost of Kansas coal, in such year and (F) a re-
20 quirement that the taxpayer obtain from the commission a determination
21 that the public necessity and convenience require, or will require, con-
22 struction of the taxpayer's integrated coal gasification power plant.
23 (2) A taxpayer must comply with the terms of the agreement de-
24 scribed in subsection ~~(e)(1)~~ **(d)(1)** to receive an annual installment of the
25 tax credit awarded under this act. The commission, in accordance with
26 rules and regulations of the commission, shall annually determine
27 whether the taxpayer is in compliance with the agreement. **Such deter-**
28 **mination of compliance shall include, but not be limited to, oper-**
29 **ation of the integrated coal gasification power plant during the tax**
30 **years when any installments of tax credits are claimed by the tax-**
31 **payer.** If the commission determines that the taxpayer is in compliance,
32 the commission shall issue a certificate of compliance to the taxpayer. **If**
33 **the secretary determines that the taxpayer is not in compliance**
34 **with the agreement, the secretary shall notify the taxpayer and the**
35 **secretary of revenue of such determination of noncompliance, and**
36 **any tax credits claimed pursuant to this section for any tax year**
37 **shall be forfeited.**
38 (3) The state corporation commission may adopt rules and regula-
39 tions to administer the provisions of this subsection ~~(e)~~.
40 New Sec. 3. (a) If a qualified investment is made by **or transferred**
41 **to** a pass-through entity and the credit allowed by this act for a taxable
42 year is greater than the entity's tax liability against which the tax credit
43 may be applied, a shareholder, partner or member of the entity is entitled

1 to a tax credit equal to: ~~(1) The~~ **the** tax credit determined for the entity
 2 for the taxable year in excess of the entity's tax liability under the Kansas
 3 income tax act for the taxable year multiplied by the percentage of the
 4 entity's distributive income to which the shareholder, partner or member
 5 is entitled ~~if the entity is an entity described in subsection (c)(1), (2), (3)~~
 6 ~~or (4) of section 1, and amendments thereto, or (2) the relative percentage~~
 7 ~~of the entity's patronage dividends allocable to the member for the taxable~~
 8 ~~year if the entity is an entity described in subsection (c)(5) or (6) of section~~
 9 ~~1, and amendments thereto.~~

10 (b) If an integrated coal gasification power plant is co-owned by two
 11 or more taxpayers, the amount of the credit that may be allowed to a co-
 12 owner in a taxable year is equal to the tax credit determined under section
 13 2, and amendments thereto, with respect to the total qualified investment
 14 in such plant multiplied by the co-owner's percentage of ownership in
 15 such plant.

16 (c) ~~Except as provided by subsection (d), the amount of an annual~~
 17 ~~installment of the credit allowed to a shareholder, partner or member of~~
 18 ~~a pass-through entity or a co-owner under this act shall be equal to:~~

19 ~~—(1) Twenty-five percent of the lesser of: (A) That portion of the credit~~
 20 ~~allowed to the shareholder, partner, member or co-owner under this sec-~~
 21 ~~tion, divided by 10; or (B) the total tax liability of the shareholder, partner,~~
 22 ~~member or co-owner under the Kansas income tax act for the taxable~~
 23 ~~year; minus~~

24 ~~—(2) the amount determined by multiplying: (A) The amount deter-~~
 25 ~~mined pursuant to subsection (c)(1) and (B) the percentage determined~~
 26 ~~by subtracting the percentage of Kansas coal used in the taxpayer's in-~~
 27 ~~tegrated coal gasification power plant in the taxable year for which the~~
 28 ~~annual installment of the credit is allowed from the percentage of Kansas~~
 29 ~~coal determined by the commission to be prudent in such year.~~

30 **Such credit shall be taken in 10 equal, annual installments, be-**
 31 **ginning with the year in which the entity places into service the**
 32 **integrated coal gasification power plant or the expansion of such**
 33 **plant.**

34 (d) If the amount of an annual installment of a tax credit allowed a
 35 shareholder, partner, member or co-owner under this section exceeds the
 36 taxpayer's income tax liability for the taxable year in which the annual
 37 installment is allowed, the amount thereof which exceeds such tax liability
 38 may be carried over for deduction from the taxpayer's income tax liability
 39 in the next succeeding taxable year or years until the total amount of the
 40 tax credit has been deducted from tax liability, except that: ~~(1) No~~ **no**
 41 such tax credit shall be carried over for deduction after the 14th taxable
 42 year succeeding the taxable year in which the first annual installment is
 43 allowed; ~~and (2) in no taxable year shall such tax credit exceed 50% of~~

1 ~~the taxpayer's income tax liability for the taxable year.~~

2 New Sec. 4. To receive the credit awarded by this act, a taxpayer
3 must claim the credit on the taxpayer's annual state income tax return or
4 returns in the manner prescribed by the director of taxation. The taxpayer
5 shall submit to the director a copy of the taxpayer's ~~certificate of com-~~
6 ~~pliance issued under subsection (d)(2) of~~ **agreement for a tax credit**
7 **entered into with the commission pursuant to** section 2, and amend-
8 ments thereto, and all information that the director determines necessary
9 for the calculation of the credit provided by this act.

10 New Sec. 5. (a) The following described property, to the extent
11 herein specified, shall be exempt from all property taxes levied under the
12 laws of the state of Kansas:

13 (1) Any new integrated coal gasification power plant property or any
14 expanded integrated coal gasification power plant property.

15 (2) All property purchased for or constructed or installed at an inte-
16 grated coal gasification power plant to comply with air emission standards
17 imposed by state or federal law.

18 (3) Any ~~expanded~~ **new** nuclear generation facility property or any
19 expanded nuclear generation facility property.

20 (b) The provisions of subsection (a) shall apply from and after pur-
21 chase or commencement of construction or installation of such property
22 and for the 12 taxable years immediately following the taxable year in
23 which construction or installation of such property is completed.

24 (c) The provisions of this section shall apply to all taxable years com-
25 mencing after December 31, 2005.

26 (d) As used in this section:

27 (1) "Expanded integrated coal gasification power plant property"
28 means any real or tangible personal property purchased, constructed or
29 installed for incorporation in and use as part of an expansion of an inte-
30 grated coal gasification power plant, construction of which expansion be-
31 gins after December 31, 2005, ~~and any transmission equipment and other~~
32 ~~real and personal property which are located at the site of such plant and~~
33 ~~are employed specifically to serve such expansion.~~

34 (2) "Expanded nuclear generation facility property" means any real
35 or tangible personal property purchased, constructed or installed for in-
36 corporation in and use as part of an expansion of a nuclear generation
37 facility, construction of which expansion begins after December 31, 2005;
38 ~~and any transmission equipment and other real and personal property~~
39 ~~which are located at the site of such facility and are employed specifically~~
40 ~~to serve such facility.~~

41 (3) "Expansion of an integrated coal gasification power plant" means
42 expansion of the capacity of an existing integrated coal gasification power
43 plant by at least 10% of such capacity.

1 (4) “Expansion of a nuclear generation facility” means expansion of
2 the capacity of an existing nuclear generation facility by at least 10% of
3 such capacity.

4 (5) “Integrated coal gasification power plant” has the meaning pro-
5 vided by section 1, and amendments thereto.

6 (6) “New integrated coal gasification power plant property” means
7 any real or tangible personal property purchased, constructed or installed
8 for incorporation in and use as part of an integrated coal gasification
9 power plant, construction of which begins after December 31, 2005,~~and~~
10 ~~any transmission equipment and other real and personal property which~~
11 ~~are located at the site of such plant and are employed specifically to serve~~
12 ~~such plant.~~

13 (7) “New nuclear generation facility property” means any real or tan-
14 gible personal property purchased, constructed or installed for incorpo-
15 ration in and use as part of a nuclear generation facility, construction of
16 which begins after December 31, 2005,~~and any transmission equipment~~
17 ~~and other real and personal property which are located at the site of such~~
18 ~~facility and are employed specifically to serve such facility.~~

19 (8) “Nuclear generation facility” means any physical plant utilizing
20 nuclear energy as the primary fuel for the production or generation of
21 electricity or electric power.

22 New Sec. 6. (a) For the purpose of financing the construction of a
23 new integrated coal gasification power plant or expansion of an existing
24 integrated coal gasification power plant, the Kansas development finance
25 authority is hereby authorized to issue revenue bonds pursuant to the
26 Kansas development finance authority act, K.S.A. 74-8901 et seq., and
27 amendments thereto, in amounts sufficient to pay the costs of such con-
28 struction or expansion, including any required interest on the bonds dur-
29 ing construction and installation, plus all amounts required for the costs
30 of bond issuance, costs of credit enhancement or other financial contracts,
31 capitalized interest and any required reserves on the bonds. The bonds,
32 and interest thereon, issued pursuant to this section shall be payable from
33 revenues pledged to the Kansas development finance authority for such
34 purpose, which may include revenues derived from sales of generation
35 from the integrated coal gasification power plant.

36 (b) The provisions of subsection (a) of K.S.A. 74-8905, and amend-
37 ments thereto, shall not prohibit the issuance of bonds by the Kansas
38 development finance authority for the purposes of this section and any
39 such issuance of bonds is exempt from the provisions of subsection (a) of
40 K.S.A. 74-8905, and amendments thereto, which would operate to pre-
41 clude such issuance.

42 (c) Revenue bonds, including refunding revenue bonds, issued under
43 this section shall not constitute an indebtedness of the state of Kansas,

1 nor shall they constitute indebtedness within the meaning of any consti-
2 tutional or statutory provision limiting the incurring of indebtedness.

3 (d) Revenue bonds, including refunding revenue bonds, issued here-
4 under and the income derived therefrom are and shall be exempt from
5 all state, county and municipal taxation in the state of Kansas, except
6 Kansas estate taxes.

7 (e) As used in this section:

8 (1) “Expansion of an existing integrated coal gasification power plant”
9 means expansion, beginning after December 31, 2005, of the capacity of
10 an existing integrated coal gasification power plant by at least 10% of such
11 capacity, and includes construction or expansion of transmission facilities
12 which are located at the site of such plant and are employed specifically
13 to serve such expansion.

14 (2) “Integrated coal gasification power plant” has the meaning pro-
15 vided by section 1, and amendments thereto.

16 (3) “New integrated coal gasification power plant” means an inte-
17 grated coal gasification power plant construction of which begins after
18 December 31, 2005, and includes transmission facilities which are located
19 at the site of such plant and are employed specifically to serve such plant.

20 Sec. 7. K.S.A. 66-1,158 is hereby amended to read as follows: 66-
21 1,158. As used in this act:

22 (a) *“Addition to a nuclear generation facility” means any addition of*
23 *nuclear generation capacity to an existing nuclear generation facility.*

24 (b) “Commission” means the state corporation commission.

25 ~~(b)~~ (c) “Electric utility” means every public utility, as defined by
26 K.S.A. 66-104, and amendments thereto, which owns, controls, operates
27 or manages any equipment, plant or generating machinery for the pro-
28 duction, transmission, delivery or furnishing, of electricity or electric
29 power.

30 ~~(c)~~ (d) “Landowner” means any person having an estate or interest
31 in any land, which land is proposed to be acquired by an electric utility
32 in connection with the construction, operation and maintenance of a nu-
33 clear generation facility ~~or addition to a nuclear generation facility.~~

34 ~~(d)~~ (e) (1) “Nuclear generation facility ~~or addition to a nuclear gener-~~
35 ~~ation facility” means: (A) any physical plant utilizing nuclear energy as~~
36 ~~the primary fuel for the production or generation of electricity or electric~~
37 ~~power; or (B) any addition of nuclear generation capacity to an existing~~
38 ~~generation facility.~~

39 (2) “Nuclear generation facility ~~or addition to a nuclear generation~~
40 ~~facility” does not include: (A) Remodeling, reconditioning or retrofitting~~
41 ~~of an existing nuclear plant generation facility; (B) construction of non-~~
42 ~~nuclear generation capacity at the site of an existing nuclear plant, or (C)~~
43 ~~generation facility; (C) an addition to an existing nuclear generation fa-~~

1 *cility; (D) construction of a plant utilizing nuclear energy to produce*
 2 *electricity or electric power within five miles of an existing nuclear gen-*
 3 *eration facility; or (E) any facility ~~or addition to a facility~~ proposed to be*
 4 *located outside this state if: (i) The need for the facility ~~or addition~~ and*
 5 *the reasonableness of its proposed siting is subject to review by the utility*
 6 *regulatory authority of that state; (ii) less than 10% of the retail customers*
 7 *on the electric system intended to be served by such facility or addition*
 8 *are located in this state; and (iii) such retail customers located in this state*
 9 *number no more than 15,000.*

10 ~~(e)~~ (f) “Party” means any landowner, electric utility, governmental
 11 board or agency, or any other person allowed to intervene in any pro-
 12 ceeding under this act.

13 ~~(f)~~ (g) “Person” means any individual, partnership, corporation or
 14 other association of persons.

15 Sec. 8. K.S.A. 66-1,159 is hereby amended to read as follows: 66-
 16 1,159. No electric utility may begin site preparation for or construction
 17 of a nuclear generation facility ~~or addition to a nuclear generation facility~~
 18 or exercise the right of eminent domain to acquire any land in connection
 19 with site preparation for or construction of any such facility ~~or addition~~
 20 ~~thereto~~, without first acquiring a permit from the commission. Whenever
 21 any such electric utility desires to obtain such a permit, the utility shall
 22 file an application with the commission, setting forth therein that the
 23 utility proposes to construct a nuclear generation facility ~~or addition to a~~
 24 ~~nuclear generation facility~~ and specifying the description and the total
 25 number of acres of land that such utility contemplates is needed in con-
 26 nection with the construction, operation and maintenance of such facility
 27 ~~or addition thereto~~. Also, the electric utility shall file with the application
 28 documents and plans which indicate the total planned utilization of a
 29 proposed location for electric generation purposes and documents and
 30 plans for utilization of an alternative location or locations. ~~Such docu-~~
 31 ~~ments and plans with respect to alternative locations shall not be required~~
 32 ~~for additions to existing nuclear generation facilities~~. In addition, the elec-
 33 tric utility shall file with the application such documents pertaining to the
 34 construction, operation and maintenance of the proposed facility ~~or ad-~~
 35 ~~dition~~ and such other matters deemed relevant thereto as may be re-
 36 quired by rules and regulations of the commission. Thereupon, the com-
 37 mission shall fix a time for a public hearing on such application, which
 38 shall be not less than 30 nor more than 180 days from the date the ap-
 39 plication was filed and shall be conducted in accordance with the provi-
 40 sions of the Kansas administrative procedure act, to determine the ne-
 41 cessity for the proposed facility ~~or addition~~ and the most reasonable
 42 location and size of the proposed facility ~~or addition~~. The commission
 43 shall fix the place for hearing, which may be in the county in which is

1 located the major portion of the land which has been or is proposed to
2 be acquired in connection with the construction, operation and mainte-
3 nance of the proposed facility ~~or addition~~. Such hearing may be held in
4 Topeka.

5 Sec. 9. K.S.A. 66-1,159a is hereby amended to read as follows: 66-
6 1,159a. Any electric generation facility, ~~or addition thereto~~, for which a
7 permit application was pending under the electric generation facility sit-
8 ing act as it existed immediately before the effective date of this act shall
9 be required to have such permit only if the facility is required to have a
10 permit pursuant to this act.

11 Sec. 10. K.S.A. 2005 Supp. 66-1,160 is hereby amended to read as
12 follows: 66-1,160. The commission shall publish notice of the time, place
13 and subject matter of such hearing in newspapers having general circula-
14 tion in the counties in which is located any portion of the land which
15 has been or is proposed to be acquired in connection with the construc-
16 tion, operation and maintenance of the proposed nuclear generation fa-
17 cility ~~or addition to a nuclear generation facility~~ once each week for three
18 consecutive weeks, the last publication to be not less than five days before
19 such hearing date. Written notice of such hearing and a copy of the ap-
20 plication also shall be served not less than 20 days prior to the hearing
21 date upon all landowners, as shown by the files, records and indexes of
22 the register of deeds of the county in which such land is located, and the
23 chief administrative officer, or any person designated by such officer to
24 receive such service, of the department of commerce, Kansas department
25 of agriculture, Kansas water office, department of health and environ-
26 ment, department of transportation, state geological survey and division
27 of the budget of the department of administration. In addition to the
28 information contained in the published notice, such written notice shall
29 state that the electric utility has filed the application and supporting doc-
30 uments as required by K.S.A. 66-1,159 and amendments thereto, and that
31 such application and supporting documents are available in the office of
32 the commission for examination and copying by the person or board or
33 agency desiring copies thereof.

34 Sec. 11. K.S.A. 66-1,161 is hereby amended to read as follows: 66-
35 1,161. The commission shall appoint an attorney to represent the interests
36 of the landowners at the hearing and shall allow a reasonable attorney's
37 fee, which shall be taxed as part of the costs thereof. Landowners, at their
38 own expense, may retain counsel to represent their individual interests at
39 such hearing. The chief administrative officer, or any other person or
40 persons designated by such officer, of any governmental board or agency
41 affected by the siting of the proposed nuclear generation facility ~~or ad-
42 dition to a nuclear generation facility~~ shall be deemed to meet the re-
43 quirement for intervention contained in subsection (a)(2) of K.S.A. 77-

1 521 and amendments thereto. Any owner or lessee of land whose estate
2 or interest in such land would not be acquired by the electric utility but
3 would be affected in some other manner by the construction, operation
4 or maintenance of the facility ~~or addition~~ may petition for intervention in
5 accordance with the provisions of K.S.A. 77-521 and amendments
6 thereto.

7 Sec. 12. K.S.A. 66-1,162 is hereby amended to read as follows: 66-
8 1,162. Except as otherwise provided in this act, the rules and regulations
9 adopted by the commission pursuant to K.S.A. 66-106 and amendments
10 thereto to govern the commission's proceedings shall be applicable to any
11 proceeding before the commission under this act. The electric utility shall
12 proceed with the introduction of evidence of the necessity for the pro-
13 posed nuclear generation facility ~~or addition to a nuclear generation fa-~~
14 ~~ility~~ and of the reasonableness of the proposed location and size of the
15 facility ~~or addition~~. The burden of proof on any such matter shall be upon
16 the electric utility and shall be established by a preponderance of the
17 evidence. All parties present or represented by counsel at the hearing
18 shall have an opportunity to be heard and the right to cross-examine any
19 witness appearing before the commission at the hearing. The commission
20 shall cause a transcript to be made of the hearing. All costs of any hearing
21 shall be taxed against the electric utility. The hearing and all parties' ar-
22 guments shall be completed within 90 days after the commencement
23 thereof. At any time after the commencement of the hearing, the electric
24 utility may withdraw its application for the permit required by K.S.A. 66-
25 1,159 and amendments thereto.

26 The commission shall make findings of fact and file such findings with
27 its decision to grant, grant conditioned by such findings or withhold the
28 permit applied for, except that whenever approval of applications are
29 pending with or must be obtained from any state regulatory authority
30 which relate to the operation of any such facility ~~or addition to a facility~~,
31 the commission shall postpone its decision until proof of the approval or
32 disapproval of any such application is received. In any case where a state
33 regulatory authority cannot render final approval of any such application
34 until the facility ~~or addition to a facility~~ is in actual operation, the com-
35 mission shall accept as proof of approval or disapproval the state regula-
36 tory authority's certification of probable acceptability or unacceptability
37 of an application. Prior to making its determination with respect to the
38 most reasonable location and size of a proposed nuclear generation facility
39 ~~or addition to a nuclear generation facility~~, the commission shall make its
40 determination of whether or not a necessity exists for the electric gen-
41 eration capacity of a proposed facility ~~or addition to a facility~~. In addition
42 to any other consideration deemed necessary in making such determi-
43 nation, the commission shall consider and make determinations on the

1 following factors: (1) Whether or not the electric generating capacity of
2 the proposed facility ~~or addition to a facility~~ meets or contributes to the
3 meeting of the electrical energy needs of the people of this state consid-
4 ering the probable future statewide electrical energy needs thereof; and
5 (2) whether or not available electrical generating capacity exists within
6 the state that is capable of being distributed economically, reliably, tech-
7 nically and environmentally. Whenever the commission determines that
8 a necessity exists for electric generation capacity to be provided by a
9 proposed nuclear generation facility ~~or addition to a nuclear generation~~
10 ~~facility~~, the commission shall make its determinations with respect to the
11 most reasonable size and location of any such facility ~~or addition to a~~
12 ~~facility~~. In addition to any other consideration deemed necessary in mak-
13 ing a determination with respect to the size of a proposed facility ~~or~~
14 ~~addition to a facility~~, the commission shall consider the electric utility's
15 total planned utilization of a proposed location for electric generation
16 purposes as it relates to the necessity found by the commission for ad-
17 ditional electric generating capacity in the state. In addition to any other
18 consideration deemed necessary in making a determination with respect
19 to the most reasonable location of a proposed facility ~~or addition to a~~
20 ~~facility~~, the commission shall consider the availability of natural resources
21 necessary in the operation of a proposed facility ~~or addition to a facility~~
22 as the same relates to each alternative location submitted by the electric
23 utility as required by the provisions of K.S.A. 66-1,159 and amendments
24 thereto. ~~The location of the existing nuclear generation facility shall be~~
25 ~~the most reasonable location for any addition to such facility.~~ Upon a
26 determination that a necessity exists for the proposed nuclear generation
27 facility ~~or addition to a nuclear generation facility~~ and that the proposed
28 location and size of such facility ~~or addition thereto~~ are the most reason-
29 able, the commission shall issue to the electric utility a permit to construct
30 such facility ~~or addition thereto~~, except that the commission may condi-
31 tion such permit with respect to the location and size of the proposed
32 nuclear generation facility ~~or addition to a nuclear generation facility~~ to
33 provide for an alternate location or size, or both, thereof, but in no case
34 shall the commission provide for a size larger than that applied for. Upon
35 the issuance of such permit, no local ordinance, resolution or regulation
36 shall prohibit the construction of the nuclear generation facility ~~or addi-~~
37 ~~tion to a nuclear generation facility~~, and the electric utility may proceed
38 with such facility ~~or addition thereto~~ notwithstanding any requirement to
39 obtain any building permit under any local zoning ordinance, resolution
40 or regulation.

41 Sec. 13. K.S.A. 66-1,169a is hereby amended to read as follows: 66-
42 1,169a. In order to more effectively administer the provisions of the Kan-
43 sas nuclear generation facility siting act with respect to determining

1 whether or not a necessity exists for a proposed nuclear generation facility
2 ~~or addition to a nuclear generation facility~~, the commission shall compile
3 and maintain a comprehensive statewide electric generation capacity fore-
4 cast. In compiling and maintaining said forecast, the commission may hold
5 such hearings deemed necessary. The proceedings of any such hearing
6 shall be governed by the rules and regulations adopted by the commission
7 pursuant to K.S.A. 66-106 and amendments thereto. For the purposes of
8 this section, every municipally owned or operated electric utility and every
9 electric utility operating wholly and solely within the legal boundaries of
10 any municipality and within three miles thereof shall furnish to the com-
11 mission such information as to electric generation capacity as the com-
12 mission may require.

13 Sec. 14. K.S.A. 66-1,169b is hereby amended to read as follows: 66-
14 1,169b. With regard to a facility proposed to be located outside this state,
15 K.S.A. 66-1,160 and 66-1,161, and amendments thereto, shall not apply
16 and, for purposes of determining the most reasonable location of a pro-
17 posed facility ~~or addition to a facility~~ pursuant to K.S.A. 66-1,162, and
18 amendments thereto, the commission shall consider only the effects on
19 system reliability and economic efficiency.

20 Sec. 15. K.S.A. 2005 Supp. 79-32,117 is hereby amended to read as
21 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual
22 means such individual's federal adjusted gross income for the taxable year,
23 with the modifications specified in this section.

24 (b) There shall be added to federal adjusted gross income:

25 (i) Interest income less any related expenses directly incurred in the
26 purchase of state or political subdivision obligations, to the extent that
27 the same is not included in federal adjusted gross income, on obligations
28 of any state or political subdivision thereof, but to the extent that interest
29 income on obligations of this state or a political subdivision thereof issued
30 prior to January 1, 1988, is specifically exempt from income tax under the
31 laws of this state authorizing the issuance of such obligations, it shall be
32 excluded from computation of Kansas adjusted gross income whether or
33 not included in federal adjusted gross income. Interest income on obli-
34 gations of this state or a political subdivision thereof issued after Decem-
35 ber 31, 1987, shall be excluded from computation of Kansas adjusted
36 gross income whether or not included in federal adjusted gross income.

37 (ii) Taxes on or measured by income or fees or payments in lieu of
38 income taxes imposed by this state or any other taxing jurisdiction to the
39 extent deductible in determining federal adjusted gross income and not
40 credited against federal income tax. This paragraph shall not apply to taxes
41 imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amend-
42 ments thereto, for privilege tax year 1995, and all such years thereafter.

43 (iii) The federal net operating loss deduction.

- 1 (iv) Federal income tax refunds received by the taxpayer if the de-
2 duction of the taxes being refunded resulted in a tax benefit for Kansas
3 income tax purposes during a prior taxable year. Such refunds shall be
4 included in income in the year actually received regardless of the method
5 of accounting used by the taxpayer. For purposes hereof, a tax benefit
6 shall be deemed to have resulted if the amount of the tax had been de-
7 ducted in determining income subject to a Kansas income tax for a prior
8 year regardless of the rate of taxation applied in such prior year to the
9 Kansas taxable income, but only that portion of the refund shall be in-
10 cluded as bears the same proportion to the total refund received as the
11 federal taxes deducted in the year to which such refund is attributable
12 bears to the total federal income taxes paid for such year. For purposes
13 of the foregoing sentence, federal taxes shall be considered to have been
14 deducted only to the extent such deduction does not reduce Kansas tax-
15 able income below zero.
- 16 (v) The amount of any depreciation deduction or business expense
17 deduction claimed on the taxpayer's federal income tax return for any
18 capital expenditure in making any building or facility accessible to the
19 handicapped, for which expenditure the taxpayer claimed the credit al-
20 lowed by K.S.A. 79-32,177, and amendments thereto.
- 21 (vi) Any amount of designated employee contributions picked up by
22 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,
23 and amendments to such sections.
- 24 (vii) The amount of any charitable contribution made to the extent
25 the same is claimed as the basis for the credit allowed pursuant to K.S.A.
26 79-32,196, and amendments thereto.
- 27 (viii) The amount of any costs incurred for improvements to a swine
28 facility, claimed for deduction in determining federal adjusted gross in-
29 come, to the extent the same is claimed as the basis for any credit allowed
30 pursuant to K.S.A. 2005 Supp. 79-32,204 and amendments thereto.
- 31 (ix) The amount of any ad valorem taxes and assessments paid and
32 the amount of any costs incurred for habitat management or construction
33 and maintenance of improvements on real property, claimed for deduc-
34 tion in determining federal adjusted gross income, to the extent the same
35 is claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203
36 and amendments thereto.
- 37 (x) Amounts received as nonqualified withdrawals, as defined by
38 K.S.A. 2005 Supp. 75-643, and amendments thereto, if, at the time of
39 contribution to a family postsecondary education savings account, such
40 amounts were subtracted from the federal adjusted gross income pur-
41 suant to paragraph (xv) of subsection (c) of K.S.A. 79-32,117, and
42 amendments thereto, or if such amounts are not already included in the
43 federal adjusted gross income.

- 1 (xi) The amount of any contribution made to the same extent the
2 same is claimed as the basis for the credit allowed pursuant to K.S.A.
3 2005 Supp. 74-50,154, and amendments thereto.
- 4 (xii) For taxable years commencing after December 31, 2004,
5 amounts received as withdrawals not in accordance with the provisions
6 of K.S.A. 2005 Supp. 74-50,204, and amendments thereto, if, at the time
7 of contribution to an individual development account, such amounts were
8 subtracted from the federal adjusted gross income pursuant to paragraph
9 (xiii) of subsection (c), or if such amounts are not already included in the
10 federal adjusted gross income.
- 11 *(xiii) The amount of any ~~deductions claimed for~~ expenditures claimed*
12 *for deduction in determining federal adjusted gross income, to the extent*
13 *the same is claimed as the basis for any credit allowed pursuant to sections*
14 *1 through 4, and amendments thereto.*
- 15 (c) There shall be subtracted from federal adjusted gross income:
- 16 (i) Interest or dividend income on obligations or securities of any
17 authority, commission or instrumentality of the United States and its pos-
18 sessions less any related expenses directly incurred in the purchase of
19 such obligations or securities, to the extent included in federal adjusted
20 gross income but exempt from state income taxes under the laws of the
21 United States.
- 22 (ii) Any amounts received which are included in federal adjusted
23 gross income but which are specifically exempt from Kansas income tax-
24 ation under the laws of the state of Kansas.
- 25 (iii) The portion of any gain or loss from the sale or other disposition
26 of property having a higher adjusted basis for Kansas income tax purposes
27 than for federal income tax purposes on the date such property was sold
28 or disposed of in a transaction in which gain or loss was recognized for
29 purposes of federal income tax that does not exceed such difference in
30 basis, but if a gain is considered a long-term capital gain for federal in-
31 come tax purposes, the modification shall be limited to that portion of
32 such gain which is included in federal adjusted gross income.
- 33 (iv) The amount necessary to prevent the taxation under this act of
34 any annuity or other amount of income or gain which was properly in-
35 cluded in income or gain and was taxed under the laws of this state for a
36 taxable year prior to the effective date of this act, as amended, to the
37 taxpayer, or to a decedent by reason of whose death the taxpayer acquired
38 the right to receive the income or gain, or to a trust or estate from which
39 the taxpayer received the income or gain.
- 40 (v) The amount of any refund or credit for overpayment of taxes on
41 or measured by income or fees or payments in lieu of income taxes im-
42 posed by this state, or any taxing jurisdiction, to the extent included in
43 gross income for federal income tax purposes.

- 1 (vi) Accumulation distributions received by a taxpayer as a beneficiary
2 of a trust to the extent that the same are included in federal adjusted
3 gross income.
- 4 (vii) Amounts received as annuities under the federal civil service
5 retirement system from the civil service retirement and disability fund
6 and other amounts received as retirement benefits in whatever form
7 which were earned for being employed by the federal government or for
8 service in the armed forces of the United States.
- 9 (viii) Amounts received by retired railroad employees as a supple-
10 mental annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1)
11 et seq.
- 12 (ix) Amounts received by retired employees of a city and by retired
13 employees of any board of such city as retirement allowances pursuant to
14 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
15 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and
16 amendments thereto.
- 17 (x) For taxable years beginning after December 31, 1976, the amount
18 of the federal tentative jobs tax credit disallowance under the provisions
19 of 26 U.S.C. 280 C. For taxable years ending after December 31, 1978,
20 the amount of the targeted jobs tax credit and work incentive credit dis-
21 allowances under 26 U.S.C. 280 C.
- 22 (xi) For taxable years beginning after December 31, 1986, dividend
23 income on stock issued by Kansas Venture Capital, Inc.
- 24 (xii) For taxable years beginning after December 31, 1989, amounts
25 received by retired employees of a board of public utilities as pension and
26 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249
27 and amendments thereto.
- 28 (xiii) For taxable years beginning after December 31, 2004, amounts
29 contributed to and the amount of income earned on contributions de-
30 posited to an individual development account under K.S.A. 2005 Supp.
31 74-50,201, et seq., and amendments thereto.
- 32 (xiv) For all taxable years commencing after December 31, 1996, that
33 portion of any income of a bank organized under the laws of this state or
34 any other state, a national banking association organized under the laws
35 of the United States, an association organized under the savings and loan
36 code of this state or any other state, or a federal savings association or-
37 ganized under the laws of the United States, for which an election as an
38 S corporation under subchapter S of the federal internal revenue code is
39 in effect, which accrues to the taxpayer who is a stockholder of such
40 corporation and which is not distributed to the stockholders as dividends
41 of the corporation.
- 42 (xv) For all taxable years beginning after December 31, 1999,
43 amounts not exceeding \$2,000, or \$4,000 for a married couple filing a

1 joint return, for each designated beneficiary which are contributed to a
2 family postsecondary education savings account established under the
3 Kansas postsecondary education savings program for the purpose of pay-
4 ing the qualified higher education expenses of a designated beneficiary
5 at an institution of postsecondary education. For all taxable years begin-
6 ning after December 31, 2004, amounts not exceeding \$3,000, or \$6,000
7 for a married couple filing a joint return, for each designated beneficiary
8 which are contributed to a family postsecondary education savings ac-
9 count established under the Kansas postsecondary education savings pro-
10 gram for the purpose of paying the qualified higher education expenses
11 of a designated beneficiary at an institution of postsecondary education.
12 The terms and phrases used in this paragraph shall have the meaning
13 respectively ascribed thereto by the provisions of K.S.A. 2005 Supp. 75-
14 643, and amendments thereto, and the provisions of such section are
15 hereby incorporated by reference for all purposes thereof.

16 (xvi) For the tax year beginning after December 31, 2004, an amount
17 not exceeding \$500; for the tax year beginning after December 31, 2005,
18 an amount not exceeding \$600; for the tax year beginning after December
19 31, 2006, an amount not exceeding \$700; for the tax year beginning after
20 December 31, 2007, an amount not exceeding \$800; for the tax year
21 beginning December 31, 2008, an amount not exceeding \$900; and for
22 all taxable years commencing after December 31, 2009, an amount not
23 exceeding \$1,000 of the premium costs for qualified long-term care in-
24 surance contracts, as defined by subsection (b) of section 7702B of public
25 law 104-191.

26 (xvii) For all taxable years beginning after December 31, 2004,
27 amounts received by taxpayers who are or were members of the armed
28 forces of the United States, including service in the Kansas army and air
29 national guard, as a recruitment, sign up or retention bonus received by
30 such taxpayer as an incentive to join, enlist or remain in the armed services
31 of the United States, including service in the Kansas army and air national
32 guard, and amounts received for repayment of educational or student
33 loans incurred by or obligated to such taxpayer and received by such
34 taxpayer as a result of such taxpayer's service in the armed forces of the
35 United States, including service in the Kansas army and air national guard.

36 (xviii) For all taxable years beginning after December 31, 2004,
37 amounts received by taxpayers who are eligible members of the Kansas
38 army and air national guard as a reimbursement pursuant to K.S.A. 48-
39 281, and amendments thereto, and amounts received for death benefits
40 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to sec-
41 tion 1 or section 2 of chapter 207 of the 2005 session laws of Kansas, and
42 amendments thereto, to the extent that such death benefits are included
43 in federal adjusted gross income of the taxpayer.

1 (d) There shall be added to or subtracted from federal adjusted gross
2 income the taxpayer's share, as beneficiary of an estate or trust, of the
3 Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and
4 amendments thereto.

5 (e) The amount of modifications required to be made under this sec-
6 tion by a partner which relates to items of income, gain, loss, deduction
7 or credit of a partnership shall be determined under K.S.A. 79-32,131,
8 and amendments thereto, to the extent that such items affect federal
9 adjusted gross income of the partner.

10 Sec. 16. K.S.A. 66-1,158, 66-1,159, 66-1,159a, 66-1,161, 66-1,162,
11 66-1,169a and 66-1,169b and K.S.A. 2005 Supp. 66-1,160 and 79-32,117
12 are hereby repealed.

13 Sec. 17. This act shall take effect and be in force from and after its
14 publication in the statute book.