

House Concurrent Resolution No. 5042

By Representatives Neufeld and Merrick

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9 A CONCURRENT RESOLUTION authorizing the legislative coordi-
10 nating council to hire private legal counsel for the purpose of bringing
11 suit against the governor on the grounds of violation by the executive
12 branch of the constitutional doctrine of separation of powers based on
13 the governor's and the executive branch's actions relating to the au-
14 thorization of a coal-fired power plant in this state.
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16 WHEREAS, The governor and the executive branch of state govern-
17 ment have made questionable legal decisions in dealing with the matter
18 of the application of sunflower electric power corporation to build and
19 construct a coal-fired power plant in the Holcomb, Kansas, area of the
20 state; and

21 WHEREAS, These decisions and other actions by the executive
22 branch of this state have raised numerous legal and constitutional ques-
23 tions concerning the actions taken by the executive branch, including
24 questions relating to the constitutional doctrine of separation of powers
25 between the executive and legislative branches of state government; and

26 WHEREAS, The attorney general of this state is new to the position
27 of attorney general and to request the attorney general to bring a legal
28 action in this matter pursuant to K.S.A. 75-702 would place the attorney
29 general as a member of the executive branch in an untenable ethical
30 position; and

31 WHEREAS, Statutes of this state exist which have been enacted by
32 the legislature over the years which have been ignored and misinterpreted
33 by the governor and the executive branch of this state: Now, therefore,

34 *Be it resolved by the House of Representatives of the State of Kansas,*
35 *the Senate concurring therein:* That the legislative coordinating council
36 is authorized to hire private legal counsel pursuant to K.S.A. 2007 Supp.
37 46-1222a to bring suit against the governor and other executive branch
38 officers as appropriate on the grounds of violation by the executive branch
39 of the constitutional doctrine of separation of powers and such other legal
40 grounds as may be appropriate based on the governor's and the executive
41 branch's actions relating to the authorization of a coal-fired power plant
42 to be located in the Holcomb, Kansas, area of the state; and

43 *Be it further resolved:* That the secretary of state be directed to pro-

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- 1 vide an enrolled copy of this resolution to the chairperson of the legislative
- 2 coordinating council.