

## HOUSE BILL No. 2127

By Committee on Energy and Utilities

1-28

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9 AN ACT concerning utilities; establishing the renewable energy stan-  
10 dards act; establishing the net metering and easy connection act; re-  
11 lating to energy efficiency for state buildings; amending K.S.A. 2008  
12 Supp. 66-1,184 and repealing the existing section.  
13

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

15 New Section 1. Sections 1 through 7, and amendments thereto, shall  
16 be known and may be cited as the renewable energy standards act.

17 New Sec. 2. As used in the renewable energy standards act:

18 (a) "Affected utility" means any electric public utility, as defined in  
19 K.S.A. 66-101a, and amendments thereto, but does not include any por-  
20 tion of any municipally owned or operated electric utility.

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

22 (c) "Net renewable generation capacity" means the gross generation  
23 capacity of the renewable energy resource located over a four-hour period  
24 when not limited by ambient conditions, equipment, operating or regu-  
25 latory restrictions less auxiliary power required to operate the resource,  
26 and refers to resources located in the state or resources serving ratepayers  
27 in the state.

28 (d) "Peak demand" means the demand imposed by the affected util-  
29 ity's retail load in the state.

30 (e) "Renewable energy credit" means a credit representing energy  
31 produced by renewable energy resources issued as part of a program that  
32 has been approved by the state corporation commission.

33 (f) "Renewable energy resources" means net renewable generation  
34 capacity from:

- 35 (1) Wind;
- 36 (2) solar thermal sources;
- 37 (3) photovoltaic cells and panels;
- 38 (4) dedicated crops grown for energy production;
- 39 (5) cellulosic agricultural residues;
- 40 (6) plant residues;
- 41 (7) methane from landfills or from wastewater treatment;
- 42 (8) clean and untreated wood such as pallets;
- 43 (9) hydropower, not including pumped storage, that does not require

1 a new diversion or impoundment of water and that has a nameplate rating  
2 of 10 megawatts or less;

3 (10) fuel cells using hydrogen produced by one of the above-named  
4 renewable energy resources; and

5 (11) other sources of energy, not including nuclear power, that be-  
6 come available after the effective date of this section, and that are certified  
7 as renewable by rules and regulations established by the commission,  
8 pursuant to section 7, and amendments thereto.

9 New Sec. 3. (a) The commission shall establish by rules and regula-  
10 tions a portfolio requirement for all affected utilities to generate or pur-  
11 chase electricity generated from renewable energy resources or purchase  
12 renewable energy credits. For the purposes of calculating the capacity  
13 from renewable energy credit purchases, the affected utility shall use its  
14 actual capacity factor from its owned renewable generation from the im-  
15 mediately previous calendar year. Renewable energy credits may only be  
16 used to meet a portion of portfolio requirements for the years 2010, 2016  
17 and 2020, unless otherwise allowed by the commission. Such portfolio  
18 requirement shall provide net renewable generation capacity that shall  
19 constitute the following portion of each affected utility's peak demand:

20 (1) Not less than 10% of the affected utilities' peak demand for cal-  
21 endar years 2010 through 2015, based on the average demand of the prior  
22 three years of each year's requirement;

23 (2) not less than 15% of the affected utilities' peak demand for cal-  
24 endar years 2016 through 2019, based on the average demand of the prior  
25 three years of each year's requirements; and

26 (3) not less than 20% of the affected utilities' peak demand for each  
27 calendar year beginning in 2020, based on the average demand of the  
28 prior three years of each year's requirement.

29 (b) The portfolio requirements described in subsection (a) shall apply  
30 to all power sold to Kansas retail consumers whether such power is self-  
31 generated or purchased from another source in or outside of the state.  
32 The capacity of all net metering systems interconnected with the affected  
33 utilities under the net metering and easy connection act in section 8 et  
34 seq., and amendments thereto, shall count toward compliance.

35 (c) Each megawatt of eligible capacity in Kansas installed after Jan-  
36 uary 1, 2005, shall count as 1.25 megawatts for purposes of compliance.

37 (d) The commission shall establish rules and regulations required in  
38 this section within six months of the effective date of this act.

39 New Sec. 4. The commission shall allow affected utilities to recover  
40 reasonable costs incurred to meet the new renewable energy resource  
41 requirements required in the renewable energy standards act.

42 New Sec. 5. For each affected utility, the commission shall deter-  
43 mine whether investment in renewable energy resources required to

1 meet the renewable portfolio requirement, as required by section 3, and  
2 amendments thereto, causes the affected utility's total revenue require-  
3 ment to increase one percent or greater. The retail rate impact shall be  
4 determined net of new nonrenewable alternative sources of electricity  
5 supply reasonably available at the time of the determination.

6 New Sec. 6. (a) The commission shall establish rules and regulations  
7 for the administration of the renewable energy standards act, including  
8 reporting and enforcement mechanisms necessary to ensure that each  
9 affected utility complies with this standard and other provisions governing  
10 the imposition of administrative penalties assessed after a hearing held  
11 by the commission. Administrative penalties should be set at a level that  
12 will promote compliance with the renewable energy standards act, and  
13 shall not be limited to penalties set forth in K.S.A 66-138 and 66-177,  
14 and amendments thereto.

15 (b) For the calendar years 2010 and 2011, the commission is not  
16 required to assess penalties if the affected utility can demonstrate it made  
17 a good faith effort to comply with the portfolio standards requirement.  
18 The commission shall exempt an affected utility from administrative pen-  
19 alties for an individual compliance year if the utility demonstrates that  
20 the retail rate impact described in section 5, and amendments thereto,  
21 has been reached or exceeded and the utility has not achieved full com-  
22 pliance with section 3, and amendments thereto. In imposing penalties,  
23 the commission shall have discretion to consider mitigating circum-  
24 stances. Under no circumstances shall the costs of administrative penalties  
25 be recovered from Kansas retail customers.

26 (c) The commission shall establish rules and regulations required in  
27 this section within six months of the effective date of this act.

28 New Sec. 7. (a) The commission shall establish rules and regulations  
29 for the administration of a certification process for use of renewable en-  
30 ergy resources not currently listed in the renewable energy standards act  
31 for purposes of fulfilling the requirements of section 3, and amendments  
32 thereto. Criteria for the certification process for renewable energy gen-  
33 eration facilities shall be determined by factors that include, but are not  
34 limited to: Fuel type, technology and the environmental impacts of the  
35 renewable energy generation facility. Renewable energy facilities shall not  
36 cause undue or adverse air, water or land use impacts, including impacts  
37 associated with the gathering of generation feedstocks.

38 (b) The commission shall establish rules and regulations required in  
39 this section within six months of the effective date of this act.

40 New Sec. 8. Sections 8 through 16, and amendments thereto, shall  
41 be known and may be cited as the net metering and easy connection act.

42 New Sec. 9. As used in the net metering and easy connection act:

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

- 1 (b) “Customer-generator” means the owner or operator of a net me-  
2 tered facility which:
- 3 (1) Is powered by a renewable energy resource;
  - 4 (2) is located on a premises owned, operated, leased or otherwise  
5 controlled by the customer-generator;
  - 6 (3) is interconnected and operates in parallel phase and synchroni-  
7 zation with an affected utility and is in compliance with the standards  
8 established by the affected utility;
  - 9 (4) is intended primarily to offset part or all of the customer-gener-  
10 ator’s own electrical energy requirements;
  - 11 (5) contains a mechanism, approved by the utility, that automatically  
12 disables the unit and interrupts the flow of electricity back onto the sup-  
13 plier’s electricity lines in the event that service to the customer-generator  
14 is interrupted.
- 15 (c) “Peak demand” shall have the meaning ascribed thereto in section  
16 2, and amendments thereto.
- 17 (d) “Renewable energy resources” shall have the meaning ascribed  
18 thereto in section 2, and amendments thereto.
- 19 (e) “Utility” means investor-owned electric utility.
- 20 New Sec. 10. Each utility shall:
- 21 (a) Make net metering available to customer-generators on a first-  
22 come, first-served basis, until the total rated generating capacity of all net  
23 metered systems equals or exceeds one percent of the utility’s peak de-  
24 mand during the previous year. The commission may increase the total  
25 rated generating capacity of all net metered systems to an amount above  
26 one percent after conducting a hearing pursuant to K.S.A. 66-101d, and  
27 amendments thereto;
  - 28 (b) offer to the customer-generator a tariff or contract that is identical  
29 in electrical energy rates, rate structure and monthly charges to the con-  
30 tract or tariff that the customer would be assigned if the customer were  
31 not an eligible customer-generator and shall not charge the customer-  
32 generator any additional standby, capacity, interconnection or other fee  
33 or charge that would not otherwise be charged if the customer were not  
34 an eligible customer-generator;
  - 35 (c) provide a residential class bidirectional meter to the customer-  
36 generator at no charge, but may charge the customer-generator for the  
37 cost of any additional metering or distribution equipment necessary to  
38 accommodate the customer-generator’s facility; and
  - 39 (d) disclose annually the availability of the net metering program to  
40 each of its customers with the method and manner of disclosure being at  
41 the discretion of the utility.
- 42 New Sec. 11. (a) If the electricity supplied by the utility exceeds the  
43 electricity generated by the customer-generator during a billing period,

1 the customer-generator shall be billed for the net electricity supplied by  
2 the utility in accordance with normal practices for customers in the same  
3 rate class.

4 (b) If a customer-generator generates electricity in excess of the cus-  
5 tomer-generator's monthly consumption, all such net excess energy  
6 (NEG), expressed in kilowatt-hours, shall be carried forward from month-  
7 to-month and credited at a ratio of one-to-one against the customer-gen-  
8 erator's energy consumption, expressed in kilowatt-hours, in subsequent  
9 months.

10 (c) Any net excess generation credit remaining in a net-metering cus-  
11 tomer's account at the end of each calendar year shall expire.

12 New Sec. 12. Each utility shall allow:

13 (a) Residential customer-generators to generate electricity subject to  
14 net metering up to 25 kilowatts; and

15 (b) commercial, industrial, school, local government, state govern-  
16 ment, federal government, agricultural and institutional customer-gen-  
17 erators to generate electricity subject to net metering up to 200 kilowatts.

18 Customer-generators shall appropriately size their generation to their  
19 expected load.

20 New Sec. 13. (a) Net metered facilities must meet all applicable  
21 safety, performance, interconnection and reliability standards established  
22 by the national electrical code, the national electrical safety code, the  
23 institute of electrical and electronics engineers, underwriters laboratories,  
24 the federal energy regulatory commission and any local governing au-  
25 thorities. A utility may require that a customer-generator's system contain  
26 a switch, circuit breaker, fuse or other easily accessible device or feature  
27 located in immediate proximity to the customer-generator's metering  
28 equipment that would allow a utility worker the ability to manually and  
29 instantly disconnect the unit from the utility's electric distribution system.

30 (b) A utility may not require a customer-generator whose net meter-  
31 ing facility meets the standards in subsection (a) to comply with additional  
32 safety or performance standards or perform or pay for additional tests or  
33 purchase additional liability insurance. A utility shall not be liable directly  
34 or indirectly for permitting or continuing to allow an attachment of a net  
35 metered facility or for the acts or omissions of the customer-generator  
36 that cause loss or injury, including death, to any third party.

37 New Sec. 14. The commission shall, within 12 months from the ef-  
38 fective date of the net metering and easy connection act, establish rules  
39 and regulations necessary for the administration of the act, which shall  
40 include rules and regulations ensuring that simple contracts are used for  
41 interconnection and net metering. For systems less than 25 kilowatts, the  
42 application process shall use an all-in-one document that includes a sim-  
43 ple interconnection request, simple procedures and a brief set of terms

1 and conditions.

2 New Sec. 15. Reasonable costs incurred by a utility under the net  
3 metering and easy connection act shall be recoverable in the utility's rate  
4 structure.

5 New Sec. 16. The estimated generating capacity of all net metered  
6 facilities operating under the provisions of this act shall count toward the  
7 affected utility's compliance with the renewable energy standards act in  
8 sections 1 through 7, and amendments thereto.

9 New Sec. 17. (a) On and after July 1, 2009, all new state buildings,  
10 including all state agencies, departments, offices, boards, commissions  
11 and public universities, shall be designed, constructed, operated and  
12 maintained to achieve maximum energy efficiency, to the extent this can  
13 be accomplished on a cost-effective basis, considering construction and  
14 operating costs over the life cycle of the building.

15 (b) The department of administration shall develop by rules and reg-  
16 ulations design standards for all new state buildings which require the  
17 analysis of the cost-effectiveness of building with the goal of achieving  
18 energy efficiency. "Energy efficiency" shall be demonstrated through de-  
19 sign which achieves:

20 (1) A silver rating under the United States green building council's  
21 leadership in energy and environmental design (LEED) rating system;

22 (2) a two globes rating level under the green globes rating system; or

23 (3) an equivalent rating under an equivalent rating system that is ac-  
24 credited by the American national standards institute.

25 (c) Renovation or repair of all existing state buildings shall be de-  
26 signed to achieve maximum energy efficiency, to the extent this can be  
27 accomplished on a cost-effective basis, considering construction and op-  
28 erating costs over the life cycle of the building. The design may be based  
29 on LEED, green globes or an equivalent rating system.

30 Sec. 18. K.S.A. 2008 Supp. 66-1,184 is hereby amended to read as  
31 follows: 66-1,184. (a) ~~Except as provided in subsection (b),~~ Every public  
32 utility which provides retail electric services in this state shall enter into  
33 a contract for parallel generation service with any person who is a cus-  
34 tomer of such utility, upon request of such customer, whereby such cus-  
35 tomer may attach or connect to the utility's delivery and metering system  
36 an apparatus or device for the purpose of feeding excess electrical power  
37 which is generated by such customer's energy producing system into the  
38 utility's system. No such apparatus or device shall either cause damage  
39 to the public utility's system or equipment or present an undue hazard  
40 to utility personnel. Every such contract shall include, but need not be  
41 limited to, provisions relating to fair and equitable compensation on such  
42 customer's monthly bill for energy supplied to the utility by such  
43 customer.

1       ~~(b) (1) For purposes of this subsection:~~

2       ~~—(A) “Utility” means an electric public utility, as defined by K.S.A. 66-~~  
3 ~~101a, and amendments thereto, any cooperative, as defined by K.S.A. 17-~~  
4 ~~4603, and amendments thereto, or a nonstock member-owned electric~~  
5 ~~cooperative corporation incorporated in this state, or a municipally owned~~  
6 ~~or operated electric utility;~~

7       ~~—(B) “school” means Cloud county community college and Dodge City~~  
8 ~~community college.~~

9       ~~—(2) Every utility which provides retail electric services in this state~~  
10 ~~shall enter into a contract for parallel generation service with any person~~  
11 ~~who is a customer of such utility, if such customer is a residential customer~~  
12 ~~of the utility and owns a renewable generator with a capacity of 25 kilo-~~  
13 ~~watts or less, or is a commercial customer of the utility and owns a re-~~  
14 ~~newable generator with a capacity of 200 kilowatts or less or is a school~~  
15 ~~and owns a renewable generator with a capacity of 1.5 megawatts or less.~~  
16 ~~Such generator shall be appropriately sized for such customer’s anti-~~  
17 ~~ci-pated electric load. A commercial customer who uses the operation of a~~  
18 ~~renewable generator in connection with irrigation pumps shall not request~~  
19 ~~more than 10 irrigation pumps connected to renewable generators be~~  
20 ~~attached or connected to the utility’s system. At the customer’s delivery~~  
21 ~~point on the customer’s side of the retail meter such customer may attach~~  
22 ~~or connect to the utility’s delivery and metering system an apparatus or~~  
23 ~~device for the purpose of feeding excess electrical power which is gen-~~  
24 ~~erated by such customer’s energy producing system into the utility’s sys-~~  
25 ~~tem. No such apparatus or device shall either cause damage to the utility’s~~  
26 ~~system or equipment or present an undue hazard to utility personnel.~~  
27 ~~Every such contract shall include, but need not be limited to, provisions~~  
28 ~~relating to fair and equitable compensation for energy supplied to the~~  
29 ~~utility by such customer. Such compensation shall be not less than 100%~~  
30 ~~of the utility’s monthly system average cost of energy per kilowatt hour~~  
31 ~~except that in the case of renewable generators with a capacity of 200~~  
32 ~~kilowatts or less, such compensation shall be not less than 150% of the~~  
33 ~~utility’s monthly system average cost of energy per kilowatt hour. A utility~~  
34 ~~may credit such compensation to the customer’s account or pay such~~  
35 ~~compensation to the customer at least annually or when the total com-~~  
36 ~~pen-sation due equals \$25 or more.~~

37       ~~—(e) The following terms and conditions shall apply to contracts en-~~  
38 ~~tered into under subsection (a) or (b):~~

39       (1) The utility will supply, own, and maintain all necessary meters  
40 and associated equipment utilized for billing. In addition, and for the  
41 purposes of monitoring customer generation and load, the utility may  
42 install at its expense, load research metering. The customer shall supply,  
43 at no expense to the utility, a suitable location for meters and associated

1 equipment used for billing and for load research;

2 (2) for the purposes of insuring the safety and quality of utility system  
3 power, the utility shall have the right to require the customer, at certain  
4 times and as electrical operating conditions warrant, to limit the produc-  
5 tion of electrical energy from the generating facility to an amount no  
6 greater than the load at the customer's facility of which the generating  
7 facility is a part;

8 (3) the customer shall furnish, install, operate, and maintain in good  
9 order and repair and without cost to the utility, such relays, locks and  
10 seals, breakers, automatic synchronizer, and other control and protective  
11 apparatus as shall be designated by the utility as being required as suitable  
12 for the operation of the generator in parallel with the utility's system. In  
13 any case where the customer and the utility cannot agree to terms and  
14 conditions of any such contract, the state corporation commission shall  
15 establish the terms and conditions for such contract. In addition, the  
16 utility may install, own, and maintain a disconnecting device located near  
17 the electric meter or meters. Interconnection facilities between the cus-  
18 tomer's and the utility's equipment shall be accessible at all reasonable  
19 times to utility personnel. Upon notification by the customer of the cus-  
20 tomer's intent to construct and install parallel generation, the utility shall  
21 provide the customer a written estimate of all costs that will be incurred  
22 by the utility and billed to the customer to accommodate the intercon-  
23 nection. The customer may be required to reimburse the utility for any  
24 equipment or facilities required as a result of the installation by the cus-  
25 tomer of generation in parallel with the utility's service. The customer  
26 shall notify the utility prior to the initial energizing and start-up testing  
27 of the customer-owned generator, and the utility shall have the right to  
28 have a representative present at such test;

29 (4) the utility may require a special agreement for conditions related  
30 to technical and safety aspects of parallel generation; and

31 (5) the utility may limit the number and size of renewable generators  
32 to be connected to the utility's system due to the capacity of the distri-  
33 bution line to which such renewable generator would be connected, and  
34 in no case shall the utility be obligated to purchase an amount greater  
35 than 4% of such utility's peak power requirements.

36 ~~(b)~~ (c) Service under any contract entered into under subsection (a)  
37 ~~or (b)~~ shall be subject to either the utility's rules and regulations on file  
38 with the state corporation commission, which shall include a standard  
39 interconnection process and requirements for such utility's system, or the  
40 current federal energy regulatory commission interconnection procedu-  
41 res and regulations.

42 ~~(c) In any case where the owner of the renewable generator and the~~  
43 ~~utility cannot agree to terms and conditions of any contract provided for~~

1 by this section, the state corporation commission shall establish the terms  
2 and conditions for such contract.

3 ~~—(f) The governing body of any school desiring to proceed under this~~  
4 ~~section shall, prior to taking any action permitted by this section, make a~~  
5 ~~finding that either: (1) Net energy cost savings will accrue to the school~~  
6 ~~from such renewable generation over a 20-year period; or (2) that such~~  
7 ~~renewable generation is a science project being conducted for educational~~  
8 ~~purposes and that such project may not recoup the expenses of the project~~  
9 ~~through energy cost savings. Any school proceeding under this section~~  
10 ~~may contract or enter into a finance, pledge, loan or lease purchase agree-~~  
11 ~~ment with the Kansas development finance authority as a means of fi-~~  
12 ~~naning the cost of such renewable generation.~~

13 ~~—(g) For the purpose of meeting the governor's stated goal of produ-~~  
14 ~~cing 10% of the state's electricity by wind power by 2010 and 20% by 2020,~~  
15 ~~the parallel generation of electricity provided for in this section shall be~~  
16 ~~included as part of the state's energy generation by wind power.~~

17 Sec. 19. K.S.A. 2008 Supp. 66-1,184 is hereby repealed.

18 Sec. 20. This act shall take effect and be in force from and after its  
19 publication in the statute book.