

HOUSE BILL No. 2422

By Committee on Energy and Utilities

1-12

9 AN ACT concerning energy; creating a Kansas energy science authority
10 and providing for the powers and duties thereof; amending K.S.A.
11 2009 Supp. 79-213 and repealing the existing section.
12

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

14 New Section 1. Sections 1 through 21, and amendments thereto,
15 shall be known and may be cited as the Kansas energy science authority
16 act.

17 New Sec. 2. (a) The legislature of the state of Kansas hereby finds
18 and declares the mission of the Kansas energy science authority is to:

19 (1) Identify innovative energy technologies that can subsequently be
20 developed, manufactured and produced in the state;

21 (2) evaluate and fund energy research by public and private-sector
22 scientists and entrepreneurs, in cooperation with other state agencies in-
23 cluding, but not limited to, the Kansas bioscience authority, the Kansas
24 technology enterprise corporation, Kansas, Inc. and the department of
25 commerce;

26 (3) attract investors and energy businesses to the state;

27 (4) assist entrepreneurs and businesses in securing venture capital;
28 and

29 (5) assist existing businesses in the state in expanding and attracting
30 other units of a parent company.

31 (b) The exercise of the powers permitted by this act are deemed to
32 be an essential governmental function in matters of public necessity in
33 the provision of energy science, education, research, development and
34 commercialization.

35 New. Sec. 3. As used in this act, the following words and phrases
36 shall have the following meanings unless a different meaning clearly ap-
37 pears from the context:

38 (a) "Authority" means the Kansas energy science authority created
39 by this act.

40 (b) "Authority employee" means an employee of the authority who
41 performs services for the authority and whose salary is paid in whole or
42 in part by the authority. "Authority employee" does not mean a state
43 employee, as such term is defined in this act or in any other statute or

1 regulation.

2 (c) “Energy science” means a multipurpose, scientific research effort
3 designed to expand the scientific foundations for new and improved en-
4 ergy technologies and for understanding and mitigating the environmen-
5 tal impacts of energy use. “Energy science” also means the support of
6 work in the natural sciences, chemistry, geosciences and aspects of bio-
7 sciences, and the support of fundamental research to understand, predict
8 and control matter and energy at the electronic, atomic and molecular
9 levels in order to provide the foundations for new energy technologies
10 that support the authority’s missions in energy, and the support of work
11 to improve the efficient use of energy in a more environmentally respon-
12 sible manner.

13 (d) “Energy science company” means any company which researches,
14 manufactures or modifies technologies and equipment that utilize energy
15 to work for mankind or to produce energy.

16 (e) “Energy science development and investment fund” means the
17 fund created by section 13, and amendments thereto.

18 (f) “Kansas technology enterprise corporation” or “KTEC” means the
19 Kansas technology enterprise corporation created under K.S.A. 74-8101
20 et seq., and amendments thereto.

21 (g) “Postsecondary educational institution” means any institution
22 with the meaning ascribed thereto by K.S.A. 74-3201b, and amendments
23 thereto.

24 (h) “President” means the chief executive officer of the authority.

25 (i) “Principal operation” means the operation of the authority re-
26 quiring at least 75% of the total number of authority employees at all
27 times.

28 (j) “Public utility” means any public utility defined in K.S.A. 66-104,
29 and amendments thereto, and includes any municipally owned or oper-
30 ated utility and cooperatives.

31 (k) “State” means the state of Kansas.

32 (l) “State employee” means a person employed by the state of Kansas
33 whether or not a classified or unclassified employee in the state personnel
34 system. Authority employees shall not be considered state employees, as
35 such term is defined in this act or in any other statute or rule and
36 regulation.

37 (m) “This act” means the Kansas energy science authority act.

38 New Sec. 4. (a) There is hereby established a body politic and cor-
39 porate, with corporate succession, to be known as the Kansas energy
40 science authority. The authority shall be an independent instrumentality
41 of the state.

42 (b) The authority shall be headquartered and establish the authority’s
43 principal operation in the county of the state selected by the state board

1 of regents in close proximity to one or more research institutions with
2 ongoing research in energy production and utilization, with experience
3 achieving partnerships with private sector energy companies obtaining
4 grants and other financial research awards and commercializing intellec-
5 tual properties.

6 (c) The authority shall continue until terminated by law, except that
7 no such law shall take effect so long as the authority has debts or obli-
8 gations outstanding, unless adequate provision has been made for the
9 payment or retirement of such debts or obligations. Upon any such dis-
10 solution of the authority, all property, funds and assets thereof shall be
11 vested in the state, energy science research institutions, or both as de-
12 signed by the board, or any other public institution or private enterprise
13 engaged in the business of energy science, or any combination thereof,
14 as designated by the board and approved by an act of the legislature.

15 New Sec. 5. (a) The authority shall be governed by an eleven-mem-
16 ber board of directors, appointed as follows:

17 (1) (A) Two members shall be appointed by the governor;

18 (B) two members shall be appointed by the speaker of the house of
19 representatives;

20 (C) two members shall be appointed by the president of the senate;

21 (D) one member shall be appointed by the minority leader of the
22 house of representatives;

23 (E) one member shall be appointed by the minority leader of the
24 senate; and

25 (F) one member shall be appointed by the chief executive officer of
26 the Kansas technology enterprise corporation.

27 Such members shall be voting members and shall be representatives
28 of the general public who are recognized for outstanding knowledge and
29 leadership in the fields of energy production, technology research, energy
30 technology manufacturing, business development, finance, basic re-
31 search, legal affairs or product commercialization, education or govern-
32 ment, and shall be voting members of the board. Of the nine voting
33 members, six shall be residents of the state; and

34 (2) two nonvoting members of the board shall be appointed by the
35 state board of regents.

36 Such members shall be representatives of postsecondary educational
37 institutions and shall have energy research expertise. Such members shall
38 serve at the pleasure of the state board of regents.

39 (b) Except as provided in subsection (k) for appointments to the in-
40 itial board, voting members shall be appointed for terms of four years
41 which expire on March 15, and until successors are appointed and qual-
42 ified. If a vacancy occurs in the membership of the board before the
43 expiration of the term of office, a successor shall be appointed for the

1 remainder of the unexpired term. Any voting member of the board is
2 eligible for reappointment, but such member shall not be eligible to serve
3 more than three consecutive four-year terms.

4 (c) No more than three voting members shall be from any one con-
5 gressional district.

6 (d) The board shall annually elect a voting member as chairperson
7 and at least one other as vice-chairperson. The board shall also elect a
8 secretary and treasurer for terms to be determined by the board. The
9 board may elect the same person to serve as both secretary and treasurer.
10 The board shall establish an executive committee, nominating committee
11 and other standing or special committees, and prescribe their duties and
12 powers. Any executive committee of the board may exercise all such pow-
13 ers and duties of the board as the board may delegate.

14 (e) Members of the board are entitled to compensation and expenses
15 as provided in K.S.A. 75-3223, and amendments thereto. Members of the
16 board attending board meetings or subcommittee meetings authorized
17 by the board, shall be paid mileage and all other applicable expenses,
18 provided such expenses are consistent with policies established from
19 time-to-time by the board and as required by subsection (h).

20 (f) No part of the funds of the authority shall inure to the benefit of,
21 or be distributed to, any officers or members of the board or authority
22 employees, except that the authority may make reasonable payments for
23 expenses incurred on the authority's behalf relating to any of the author-
24 ity's lawful purposes. The authority shall be authorized and empowered
25 to pay reasonable compensation for services rendered to or for the au-
26 thority's benefit relating to any of the authority's lawful purposes, includ-
27 ing to pay authority employees reasonable compensation.

28 (g) Any member of the board other than a nonvoting member may
29 be removed by an affirmative vote by six members of the board for mal-
30 feasance or misfeasance in office, regularly failing to attend meetings or
31 for any cause which renders the member incapable of or unfit to discharge
32 the duties of member.

33 (h) The board shall meet at least four times per calendar year and
34 at such other times as deemed appropriate, or upon call by the president
35 or the chairperson or upon written request of a majority of the members
36 of the board. The board may adopt, repeal and amend such rules, pro-
37 cedures and bylaws, not contrary to law or inconsistent with this act, as
38 the board deems expedient for the board's own governance and for the
39 governance and management of the authority. A majority of the total
40 voting membership of the board shall constitute a quorum for meetings.
41 The board may act by a majority of those at any meeting where a quorum
42 is present, except upon issues as the board may determine shall require
43 a vote of six members of the board for approval. The board shall meet

1 for the initial meeting upon call by the member of the board appointed
2 by the chief executive officer of the Kansas technology enterprise cor-
3 poration, who shall act as temporary chairperson until officers of the
4 board are elected pursuant to subsection (d).

5 (i) The board shall appoint a president who shall serve at the pleasure
6 of the board. The president shall serve as the chief executive officer of
7 the authority. The president's salary shall be set by the board. The board
8 may negotiate and enter into an employment agreement with the indi-
9 vidual selected as president of the authority, which may provide for com-
10 pensation allowances, benefits and expenses as may be included in such
11 agreement. The president shall direct and supervise administrative affairs
12 and the general management of the authority.

13 (j) The board may provide supplemental benefits to the president and
14 other authority employees designated by the board in addition to the
15 benefits provided under this act.

16 (k) Members appointed to the initial board shall be appointed on or
17 before August 1, 2010. The voting members shall be appointed as follows:

18 (1) Two members shall be appointed by the governor for terms which
19 shall expire on March 15, 2014;

20 (2) two members shall be appointed by the speaker of the house of
21 representatives for terms which shall expire on March 15, 2013;

22 (3) two members shall be appointed by the president of the senate
23 for terms which shall expire on March 15, 2013;

24 (4) one member shall be appointed by the minority leader of the
25 house of representatives for a term which shall expire on March 15, 2012;

26 (5) one member shall be appointed by the minority leader of the
27 senate for a term which shall expire on March 15, 2012; and

28 (6) one member shall be appointed by the chief executive officer of
29 the Kansas technology enterprise corporation for a term which expires
30 on March 15, 2011.

31 New Sec. 6. (a) The board shall establish an executive committee of
32 the authority, to be composed of the chairperson, the vice-chairperson,
33 the secretary, the treasurer and two additional members of the board to
34 be chosen by the chairperson from the remaining voting members.

35 (b) The executive committee, in intervals between meetings of the
36 board, may transact any business of the board that has been delegated to
37 the executive committee.

38 New Sec. 7. (a) All resolutions and orders of the board shall be re-
39 corded and authenticated by the signature of the secretary of the board.
40 The book of resolutions, orders, minutes of open meetings, annual reports
41 and annual financial statements of the authority shall be public records
42 as defined by K.S.A. 45-215 et seq., and amendments thereto. All public
43 records shall be subject to regular audit as provided in K.S.A. 46-1106,

1 and amendments thereto.

2 (b) (1) Notwithstanding any provision of K.S.A. 45-215 et seq., and
3 amendments thereto, to the contrary, the following records of the au-
4 thority shall not be subject to the provisions of the open records act, when
5 in the opinion of the board, the disclosure of the information in the re-
6 cords would be harmful to the competitive position of the authority:

7 (A) Proprietary information gathered by or in the possession of the
8 authority from third parties pursuant to a promise of confidentiality;

9 (B) contract cost estimates prepared for confidential use in awarding
10 contracts for research development, construction, renovation, commer-
11 cialization or the purchase of goods or services; and

12 (C) data, records or information of a proprietary nature produced or
13 collected by or for the authority, officers or members of the authority's
14 board or authority employees; financial statements not publicly available
15 that may be filed with the authority from third parties; the identity, ac-
16 counts or account status of any customer of the authority; consulting or
17 other reports paid for by the authority to assist the authority in connection
18 with strategic planning and goals; and the determination of marketing and
19 operational strategies where disclosure of such strategies would be harm-
20 ful to the competitive position of the authority.

21 (2) The provisions of this subsection shall expire on July 1, 2015. Prior
22 to such date the legislature shall review the provisions of this subsection.

23 (c) Notwithstanding any provision of this section to the contrary, the
24 authority may claim the benefit of any other exemption to the open re-
25 cords act listed in K.S.A. 42-215 et seq., and amendments thereto.

26 New Sec. 8. (a) The board shall not transact business except at a
27 regular or special meeting at which a quorum consisting of at least a
28 majority of the total voting membership of the board is present.

29 (b) Notwithstanding any provision of K.S.A. 75-4317 et seq., and
30 amendments thereto, to the contrary, in the case of the authority, dis-
31 cussion and consideration on any of the following may occur in executive
32 session, when in the opinion of the board, disclosure of the items would
33 be harmful to the competitive position of the authority:

34 (1) Plans that could affect the value of property, real or personal,
35 owned or desirable for ownership by the authority;

36 (2) the condition, acquisition, use or disposition of real or personal
37 property; and

38 (3) contracts for energy science research, energy science product
39 manufacturing or commercialization, construction and renovation of en-
40 ergy science facilities and marketing or operational strategies.

41 (c) Notwithstanding any provision of this section to the contrary, the
42 authority may claim the benefit of any other exemption to the open meet-
43 ings act listed in K.S.A. 75-4317 et seq., and amendments thereto.

1 New Sec. 9. (a) Any officers or members of the board or authority
2 employees, other agents or advisors, who have a direct or indirect interest
3 in any contract or transaction with the authority, shall disclose this interest
4 to the authority in writing. This interest shall be set forth in the minutes
5 of the authority, and no officer, member, authority employee, other agent
6 or advisor having such interest shall participate on behalf of the authority
7 in the authorization of any such contract or transaction, except that, the
8 provisions of this section shall not be construed to prohibit any employee
9 of energy science research institutions, or any public institution or private
10 enterprise engaged in the business of energy science who is a member
11 of the board, who has no personal interest, from voting on the authori-
12 zation of any such contract or transaction between the authority and such
13 employee's employer.

14 (b) All members of the board and all officers of the authority shall
15 file a written statement of substantial interest pursuant to K.S.A. 46-247
16 et seq., and amendments thereto, within the meaning of K.S.A. 46-229,
17 and amendments thereto, that each member may hold. Any employee,
18 other agent or advisor of the authority who has a substantial interest in
19 any contract or transaction with the authority within the meaning of
20 K.S.A. 46-229, and amendments thereto, shall file a written statement of
21 substantial interest pursuant to K.S.A. 46-247 et seq., and amendments
22 thereto.

23 New Sec. 10. (a) Except as otherwise provided by this act, the au-
24 thority shall have all the powers necessary to carry out the purposes and
25 provisions of this act, including, but not limited to:

26 (1) Adopting, amending and repealing bylaws, rules and regulations
27 for the management of the authority's affairs;

28 (2) having the duties, privileges, immunities, rights, liabilities and dis-
29 abilities of a body politic and corporate and independent instrumentality
30 of the state;

31 (3) having perpetual existence and succession;

32 (4) adopting, having and using a seal and to alter the same at the
33 authority's pleasure;

34 (5) suing and being sued in the authority's own name;

35 (6) making and executing contracts, guarantees or any other instru-
36 ments and agreements necessary or incidental for performance of the
37 authority's duties and the execution of the authority's powers under this
38 act;

39 (7) borrowing money and pledging all or any part of the authority's
40 assets therefore;

41 (8) purchasing, leasing, trading, exchanging or otherwise acquiring,
42 maintaining, holding, improving, mortgaging, selling and disposing of per-
43 sonal property, whether tangible or intangible, and any interest thereto;

- 1 and purchasing, leasing, trading, exchanging or otherwise acquiring real
2 property or any interest therein, and maintaining, holding, improving,
3 mortgaging, selling, leasing and otherwise transferring such real property
4 to postsecondary educational institutions, public institutions and private
5 enterprises in the state, so long as such transactions do not conflict with
6 the mission of the authority as specified in this act;
- 7 (9) owning, acquiring, constructing, renovating, equipping, improv-
8 ing, operating, maintaining, selling or leasing any land, buildings or facil-
9 ities in the state that can be used in researching, developing, sponsoring
10 or commercializing energy science in the state;
- 11 (10) incurring or assuming indebtedness to, and entering into con-
12 tracts with the Kansas development finance authority, which is authorized
13 to borrow money, issue bonds and provide financing for the authority;
- 14 (11) developing policies and procedures generally applicable to the
15 procurement of goods, services and construction, based upon sound busi-
16 ness practices;
- 17 (12) soliciting, studying and assisting in the preparation of business
18 plans and proposals of new or established businesses to advance energy
19 science in the state;
- 20 (13) owning and possessing patents, copyrights, trademarks and prop-
21 rietary technology and entering into any contracts for the purposes of
22 commercializing and establishing charges for the use of such patents,
23 copyrights, trademarks and proprietary technology involving energy
24 science;
- 25 (14) contracting for and accepting any gifts, grants and loans of funds,
26 property or any other aid in any form from the federal government, the
27 state, any state agency or any other source, or any combination thereof,
28 and complying with the provisions of the terms and conditions thereof;
- 29 (15) acquiring space, equipment, services, supplies and insurance
30 necessary to carry out the purposes of this act;
- 31 (16) depositing any moneys of the authority in any banking institution
32 within or without the state or in any depository authorized to receive such
33 deposits, one or more persons to act as custodians of the moneys of the
34 authority;
- 35 (17) procuring such insurance, participating in such insurance plans
36 or providing such self-insurance or both as the authority deems necessary
37 or convenient to carry out the purposes and provisions of this act, where
38 the purchase of insurance, participation in an insurance plan or creation
39 of a self-insurance fund by the authority shall not be deemed as a waiver
40 or relinquishment of any sovereign immunity to which the authority or
41 the authority's officers, members, employees, agents or advisors are oth-
42 erwise entitled;
- 43 (18) appointing, supervising and setting the salary and compensation

1 of the president, who shall be appointed by and serve at the pleasure of
2 the board;

3 (19) fixing, revising, charging and collecting rates, rentals, fees and
4 other charges for the services or facilities furnished by or on behalf of the
5 authority, and establishing policies and procedures regarding any such
6 service rendered for the use, occupancy or operation of any such facility,
7 where such charges and policies and procedures are not subject to su-
8 pervision or regulation by any commission, board, bureau or agency of
9 the state; and

10 (20) doing any and all things necessary or convenient to carry out the
11 authority's purposes and exercise the powers given in this act.

12 (b) The authority may create, own in whole or in part, or otherwise
13 acquire or dispose of any entity organized for a purpose related to or in
14 support of the mission of the authority.

15 (c) The authority may participate in joint ventures and collaborate
16 with any taxpayer, governmental body or agency, insurer, postsecondary
17 educational institution or any other entity to facilitate any activities or
18 programs consistent with the purpose and intent of this act.

19 (d) (1) The authority may create a nonprofit entity or entities for the
20 purpose of soliciting, accepting and administering grants, outright gifts
21 and bequests, endowment gifts and bequests, and gifts and bequests in
22 trust, which entity or entities shall not engage in trust business. The non-
23 profit entity created in this subsection may expend such funds through
24 grants or loans to further the purpose of authority activities including, but
25 not limited to, issuing grants to high schools for the purpose of creating
26 energy or technology academies and to postsecondary educational insti-
27 tutions for the purposes of increasing the number of students majoring
28 in engineering, science, math and technology, and for the purposes of
29 establishing majors in energy science. The authority may set requirements
30 for curricula, teaching credentials and any other items and procedures
31 incidental to establishing grant programs.

32 (2) Grants made pursuant to this subsection shall be based on
33 requirements established by the nonprofit entity and may include, but
34 not be limited to, requirements for eligibility, grant applications, organi-
35 zational characteristics and standards for eligibility and accountability as
36 are deemed advisable by the nonprofit entity.

37 (3) The authority may not create any political action committee or
38 contribute to any political action committee.

39 (e) In carrying out the activities authorized by this act, the authority
40 may provide appropriate assistance, including the making of loans and
41 providing time of authority employees, to any taxpayer, governmental
42 body or agency, insurer, postsecondary educational institution or any
43 other entity, whether or not any such taxpayer, governmental body or

1 agency, insurer, postsecondary educational institution or any other entity
2 is owned or controlled in whole or in part, directly or indirectly, by the
3 authority.

4 (f) Notwithstanding any provision of law to the contrary, the authority
5 may, on an independent basis or from time-to-time through a contractual
6 relationship with KTEC, invest the funds received from gifts, grants, do-
7 nations and other operations of the authority in such investments as would
8 be lawful for a private corporation having purposes similar to the authority
9 including preseed, seed capital and venture capital funds whose purpose
10 is to commercialize energy science intellectual property, and in any ob-
11 ligations or securities as authorized by the board. Prior to making any
12 investments, the board shall adopt written investment guidelines.

13 (g) Except as provided in this act, all moneys earned or received by
14 the authority, including all funds derived from the commercialization of
15 energy science products of the authority, or any affiliate or subsidiary
16 thereof, or from the energy science development and investment fund,
17 shall belong exclusively to the authority.

18 (h) The authority shall prepare an annual report to the legislature and
19 the governor on all distributions from the energy science development
20 and investment fund, and income, investment and income tax credits and
21 exemptions attributed to authority activity. The authority, with assistance
22 from the department of revenue, shall prepare an annual report sum-
23 marizing the growth of energy science research and industry in the state.

24 (i) The authority shall be subject to review by Kansas, Inc. In the
25 review, Kansas, Inc. shall evaluate and report on the effectiveness of the
26 activities of the authority in the manner provided in K.S.A. 74-8010, and
27 amendments thereto.

28 (j) All intellectual properties resulting wholly or in part from funding
29 provided by the authority shall be licensed for development.

30 New Sec. 11. (a) Subject to the provisions of this act, the initial ob-
31 jectives of the authority shall be as follows:

32 (1) Establish a carbon reduction and capture research center in co-
33 operation with electric public utilities, cement manufacturers, petroleum
34 and ethanol refiners and other businesses located in the state as are
35 appropriate;

36 (2) seek donation of a carbon-emitting facility, in or outside of the
37 state, as a test-bed for technologies to capture carbon or contract for such
38 facility;

39 (3) promote research and development of energy storage
40 technologies;

41 (4) promote research on minimizing consumptive water use to pro-
42 duce energy, including that used for flooding oil fields; and

43 (5) promote research and development of improved efficiency of sta-

1 tionary generators and the use of alternative fuels in partnership with the
2 United States department of defense and private sector businesses.

3 (b) The authority shall establish a center of excellence for alternative
4 and cleaner fossil fuel energy research at a postsecondary educational
5 institution. The center shall primarily undertake ongoing research on en-
6 ergy technology for alternative and cleaner fossil fuels with the primary
7 focus being those that will have long-run potential for commercial de-
8 velopment and investments in businesses and research that result in mar-
9 ketable products and services, with the state of Kansas receiving at least
10 one to five percent of gross profits based upon the investment by the
11 state. The center shall build on institutional strengths and be in areas of
12 research where the institution has achieved or has true promise of attain-
13 ing a standard of excellence as recognized by national and international
14 peers.

15 New Sec. 12. (a) The Kansas development finance authority is
16 hereby authorized to issue bonds pursuant to the Kansas development
17 finance authority act, K.S.A. 74-8901 et seq., and amendments thereto,
18 to finance:

19 (1) Facilities, as defined in K.S.A. 74-8902, and amendments thereto,
20 for the conduct of energy science programs, activities and research of the
21 authority, an energy science company or an energy science research
22 institute;

23 (2) energy science programs, activities and research of the authority,
24 an energy science company or an energy science research institute; and

25 (3) sufficient funds for the authority that are necessary or convenient
26 to carry out the authority's purposes and powers under this act.

27 No bonds may be issued pursuant to this section unless the Kansas
28 development finance authority has received a resolution of the board of
29 the authority requesting the issuance of such bonds. Bonds issued pur-
30 suant to this section shall not be subject to the notice requirements of
31 subsection (c) of K.S.A. 74-8905, and amendments thereto.

32 (b) Any resolution by the board requesting bonds to be issued by the
33 Kansas development finance authority may:

34 (1) Contain such requirements, parameters and provisions as deemed
35 appropriate by the board for the purpose of carrying out the authority's
36 purposes under this act; and

37 (2) authorize such contracts or obligations of the authority deemed
38 appropriate by the board to secure the payment of such bonds, including
39 a pledge of all or any part of the revenues and assets of the authority,
40 including without limitation moneys in the energy science development
41 and investment fund.

42 (c) The state does hereby pledge to, and agree with, the holders of
43 any bonds issued under this act that the state will not limit or alter the

1 rights hereby vested in the authority to fulfill the terms of any agreements
2 made with the Kansas development finance authority or in any way impair
3 the rights and remedies of the Kansas development finance authority with
4 respect to such bonds, or any holders of such bonds until the payment of
5 principal and interest on such bonds and all costs and expenses in con-
6 nection with any action or proceeding by or on behalf of such holders is
7 fully paid and discharged. The authority is authorized to include this
8 pledge and agreement of the state in any agreement with the Kansas
9 development finance authority and the Kansas development finance au-
10 thority is authorized to include this pledge and agreement in an agree-
11 ment for the benefit of the holders of such bonds. Nothing in this section
12 shall be construed to limit the constitutional powers of the legislature.

13 New Sec. 13. (a) (1) There is hereby established in the state treas-
14 ury the energy science development and investment fund administered
15 by the board of regents in accordance with this act. The board of regents
16 shall remit all moneys received for the energy science development and
17 investment fund by the board of regents in revenue. All expenditures
18 from the energy science development and investment fund shall be made
19 in accordance with appropriation acts upon warrants of the director of
20 accounts and reports issued pursuant to vouchers approved by the chair-
21 person of the board or by the person or persons designated by the
22 chairperson.

23 (2) Funding in the energy science development and investment fund
24 not awarded for grants shall be retained in the fund until the board iden-
25 tifies a suitable project.

26 (b) The state corporation commission shall assess each public utility
27 an energy science development and investment fee annually, which shall
28 not exceed an aggregate amount of \$750,000, allocated to public utilities
29 based on net profit. The commission shall remit all moneys received by
30 or for the commission for the assessment imposed under this section to
31 the state treasurer in accordance with the provisions of K.S.A. 75-4215,
32 and amendments thereto. Upon receipt of such remittance, the state trea-
33 surer shall deposit the entire amount in the energy science development
34 and investment fund.

35 (c) The board shall be authorized to use funds from the energy sci-
36 ence development and investment fund for the following purposes:

- 37 (1) Reasonable compensation for authority employees;
- 38 (2) grants for energy technology research;
- 39 (3) grants to private businesses for research and for relocation to Kan-
40 sas to research and develop energy science technology; and
- 41 (4) match funds acquired by federal or private sector grants.

42 New Sec. 14. (a) The authority may employ such employees as the
43 authority may require and upon such terms and conditions as the au-

1 authority may establish. The authority shall establish personnel, payroll,
2 benefit and other such systems as authorized by the board and such sys-
3 tems shall be established or contracted as designated by the board. The
4 authority shall determine the qualifications and duties of authority em-
5 ployees. The board shall develop and adopt policies and procedures that
6 will afford authority employees grievance rights, ensure that employment
7 decisions shall be based upon merit and fitness of applicants and shall
8 prohibit discrimination due to race, religion, color, sex or national origin.

9 (b) Nothing in this act or any act of which it is amendatory shall be
10 construed as placing any authority officer, member of the board or em-
11 ployee in the classified or the unclassified service under the Kansas civil
12 service act.

13 (c) The authority is authorized to establish a health insurance plan
14 for the benefit of authority employees.

15 New Sec. 15. The authority may, at the election of the board, affiliate
16 with the Kansas public employees retirement system with respect to any
17 or all authority employees employed on or after the effective date of this
18 act, in accordance with the provisions of K.S.A. 74-4910, and amendments
19 thereto. The authority may, at the election of the board, adopt, in ac-
20 cordance with requirements of the federal internal revenue code, a re-
21 tirement plan or plans sponsored by the authority with respect to au-
22 thority employees on or after the effective date of this act. The authority
23 may, at the discretion of the board, provide death and disability benefits
24 as provided in K.S.A. 74-4927a and 74-4927g, and amendments thereto.

25 New Sec. 16. Nothing in this act should be construed as allowing the
26 board to sell the authority or substantially all of the assets of the authority,
27 or to merge the authority with another institution, without prior legislative
28 authorization by statute.

29 New Sec. 17. The president may adopt, subject to the approval of
30 the authority and legislature, rules and regulations for the administration
31 of this act.

32 New Sec. 18. The authority shall be exempt from any real and per-
33 sonal property taxes upon any property of the authority acquired and used
34 for the authority's public purposes, and from any taxes or assessments
35 upon any projects or upon any operations of the authority or the income
36 therefrom, and from any taxes or assessments upon any project or any
37 property or local obligation acquired or used by the authority under the
38 provisions of this act or upon the income therefrom. Purchases by the
39 authority to be used for the authority's public purposes shall not be sub-
40 ject to sales or use tax under K.S.A. 79-3601 et seq., K.S.A. 79-3701 et
41 seq. and subsection (b) of K.S.A. 79-3606 et seq., and amendments
42 thereto. The exemptions hereby granted shall not extend to persons or
43 entities conducting business on the authority's property for which pay-

1 ment of state and local taxes would otherwise be required.

2 New Sec. 19. Notwithstanding any other provision of law to the con-
3 trary, the authority, authority officers, members, employees, agents and
4 advisors shall be subject to and covered by the Kansas tort claims act as
5 provided in K.S.A. 75-6101 et seq., and amendments thereto.

6 New Sec. 20. Insofar as the provisions of this act are inconsistent
7 with the provisions of any other law, general, specific or local, the pro-
8 visions of this act shall be controlling.

9 New Sec. 21. If any provision of this act, or the application thereof
10 is held invalid, the invalidity shall not affect other provisions or applica-
11 tions of the act, which can be given effect without the invalid provision
12 or application, and to this end the provisions of this act are severable.

13 Sec. 22. K.S.A. 2009 Supp. 79-213 is hereby amended to read as
14 follows: 79-213. (a) Any property owner requesting an exemption from
15 the payment of ad valorem property taxes assessed, or to be assessed,
16 against their property shall be required to file an initial request for ex-
17 emption, on forms approved by the state court of tax appeals and provided
18 by the county appraiser.

19 (b) The initial exemption request shall identify the property for which
20 the exemption is requested and state, in detail, the legal and factual basis
21 for the exemption claimed.

22 (c) The request for exemption shall be filed with the county appraiser
23 of the county where such property is principally located.

24 (d) After a review of the exemption request, and after a preliminary
25 examination of the facts as alleged, the county appraiser shall recommend
26 that the exemption request either be granted or denied, and, if necessary,
27 that a hearing be held. If a denial is recommended, a statement of the
28 controlling facts and law relied upon shall be included on the form.

29 (e) The county appraiser, after making such written recommenda-
30 tion, shall file the request for exemption and the recommendations of the
31 county appraiser with the state court of tax appeals.

32 (f) Upon receipt of the request for exemption, the court shall docket
33 the same and notify the applicant and the county appraiser of such fact.

34 (g) After examination of the request for exemption, and the county
35 appraiser's recommendation related thereto, the court may fix a time and
36 place for hearing, and shall notify the applicant and the county appraiser
37 of the time and place so fixed. A request for exemption pursuant to: (1)
38 Section 13 of article 11 of the Kansas constitution; or (2) K.S.A. 79-201a
39 *Second*, and amendments thereto, for property constructed or purchased,
40 in whole or in part, with the proceeds of revenue bonds under the au-
41 thority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto,
42 prepared in accordance with instructions and assistance which shall be
43 provided by the department of commerce, shall be deemed approved

1 unless scheduled for hearing within 30 days after the date of receipt of
2 all required information and data relating to the request for exemption,
3 and such hearing shall be conducted within 90 days after such date. Such
4 time periods shall be determined without regard to any extension or con-
5 tinuance allowed to either party to such request. In any case where a
6 party to such request for exemption requests a hearing thereon, the same
7 shall be granted. Hearings shall be conducted in accordance with the
8 provisions of the Kansas administrative procedure act. In all instances
9 where the court sets a request for exemption for hearing, the county shall
10 be represented by its county attorney or county counselor.

11 (h) Except as otherwise provided by subsection (g), in the event of a
12 hearing, the same shall be originally set not later than 90 days after the
13 filing of the request for exemption with the court.

14 (i) During the pendency of a request for exemption, no person, firm,
15 unincorporated association, company or corporation charged with real
16 estate or personal property taxes pursuant to K.S.A. 79-2004 and 79-
17 2004a, and amendments thereto, on the tax books in the hands of the
18 county treasurer shall be required to pay the tax from the date the request
19 is filed with the county appraiser until the expiration of 30 days after the
20 court issued its order thereon and the same becomes a final order. In the
21 event that taxes have been assessed against the subject property, no in-
22 terest shall accrue on any unpaid tax for the year or years in question nor
23 shall the unpaid tax be considered delinquent from the date the request
24 is filed with the county appraiser until the expiration of 30 days after the
25 court issued its order thereon. In the event the court determines an ap-
26 plication for exemption is without merit and filed in bad faith to delay
27 the due date of the tax, the tax shall be considered delinquent as of the
28 date the tax would have been due pursuant to K.S.A. 79-2004 and 79-
29 2004a, and amendments thereto, and interest shall accrue as prescribed
30 therein.

31 (j) In the event the court grants the initial request for exemption, the
32 same shall be effective beginning with the date of first exempt use except
33 that, with respect to property the construction of which commenced not
34 to exceed 24 months prior to the date of first exempt use, the same shall
35 be effective beginning with the date of commencement of construction.

36 (k) In conjunction with its authority to grant exemptions, the court
37 shall have the authority to abate all unpaid taxes that have accrued from
38 and since the effective date of the exemption. In the event that taxes have
39 been paid during the period where the subject property has been deter-
40 mined to be exempt, the court shall have the authority to order a refund
41 of taxes for the year immediately preceding the year in which the ex-
42 emption application is filed in accordance with subsection (a).

43 (l) The provisions of this section shall not apply to: (1) Farm machin-

1 ery and equipment exempted from ad valorem taxation by K.S.A. 79-201j,
2 and amendments thereto; (2) personal property exempted from ad valo-
3 rem taxation by K.S.A. 79-215, and amendments thereto; (3) wearing
4 apparel, household goods and personal effects exempted from ad valorem
5 taxation by K.S.A. 79-201c, and amendments thereto; (4) livestock; (5) all
6 property exempted from ad valorem taxation by K.S.A. 79-201d, and
7 amendments thereto; (6) merchants' and manufacturers' inventories ex-
8 empted from ad valorem taxation by K.S.A. 79-201m and amendments
9 thereto; (7) grain exempted from ad valorem taxation by K.S.A. 79-201n,
10 and amendments thereto; (8) property exempted from ad valorem taxa-
11 tion by K.S.A. 79-201a *Seventeenth* and amendments thereto, including
12 all property previously acquired by the secretary of transportation or a
13 predecessor in interest, which is used in the administration, construction,
14 maintenance or operation of the state system of highways. The secretary
15 of transportation shall at the time of acquisition of property notify the
16 county appraiser in the county in which the property is located that the
17 acquisition occurred and provide a legal description of the property ac-
18 quired; (9) property exempted from ad valorem taxation by K.S.A. 79-
19 201a *Ninth*, and amendments thereto, including all property previously
20 acquired by the Kansas turnpike authority which is used in the adminis-
21 tration, construction, maintenance or operation of the Kansas turnpike.
22 The Kansas turnpike authority shall at the time of acquisition of property
23 notify the county appraiser in the county in which the property is located
24 that the acquisition occurred and provide a legal description of the prop-
25 erty acquired; (10) aquaculture machinery and equipment exempted from
26 ad valorem taxation by K.S.A. 79-201j, and amendments thereto. As used
27 in this section, "aquaculture" has the same meaning ascribed thereto by
28 K.S.A. 47-1901, and amendments thereto; (11) Christmas tree machinery
29 and equipment exempted from ad valorem taxation by K.S.A. 79-201j,
30 and amendments thereto; (12) property used exclusively by the state or
31 any municipality or political subdivision of the state for right-of-way pur-
32 poses. The state agency or the governing body of the municipality or
33 political subdivision shall at the time of acquisition of property for right-
34 of-way purposes notify the county appraiser in the county in which the
35 property is located that the acquisition occurred and provide a legal de-
36 scription of the property acquired; (13) machinery, equipment, materials
37 and supplies exempted from ad valorem taxation by K.S.A. 79-201w, and
38 amendments thereto; (14) vehicles owned by the state or by any political
39 or taxing subdivision thereof and used exclusively for governmental pur-
40 poses; (15) property used for residential purposes which is exempted pur-
41 suant to K.S.A. 79-201x from the property tax levied pursuant to K.S.A.
42 72-6431, and amendments thereto; (16) from and after July 1, 1998, ve-
43 hicles which are owned by an organization having as one of its purposes

1 the assistance by the provision of transit services to the elderly and to
2 disabled persons and which are exempted pursuant to K.S.A. 79-201
3 *Ninth*; (17) from and after July 1, 1998, motor vehicles exempted from
4 taxation by subsection (e) of K.S.A. 79-5107, and amendments thereto;
5 (18) commercial and industrial machinery and equipment exempted from
6 property or ad valorem taxation by K.S.A. 2009 Supp. 79-223, and amend-
7 ments thereto; (19) telecommunications machinery and equipment and
8 railroad machinery and equipment exempted from property or ad valo-
9 rem taxation by K.S.A. 2009 Supp. 79-224, and amendments thereto; ~~and~~
10 (20) property exempted from property or ad valorem taxation by K.S.A.
11 2009 Supp. 79-234, and amendments thereto; *and (21) property of the*
12 *Kansas energy science authority exempted from real or personal property*
13 *taxation by section 18, and amendments thereto.*

14 (m) The provisions of this section shall apply to property exempt pur-
15 suant to the provisions of section 13 of article 11 of the Kansas
16 constitution.

17 (n) The provisions of subsection (k) as amended by this act shall be
18 applicable to all exemption applications filed in accordance with subsec-
19 tion (a) after December 31, 2001.

20 Sec. 23. K.S.A. 2009 Supp. 79-213 is hereby repealed.

21 Sec. 24. This act shall take effect and be in force from and after its
22 publication in the statute book.