

**SENATE BILL No. 324**

By Committee on Utilities

1-12

1 AN ACT concerning property; relating to easements and leases involving  
2 wind or solar resources and technologies; providing circumstances for  
3 termination of such instruments; amending K.S.A. 2021 Supp. 58-2272  
4 and repealing the existing section.

5  
6 WHEREAS, This act shall be known and may be cited as the Kansas  
7 renewable energy abandonment prevention act.

8 Now, therefore:

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

10 Section 1. K.S.A. 2021 Supp. 58-2272 is hereby amended to read as  
11 follows: 58-2272. (a) Every instrument that conveys any estate or interest  
12 created by any lease or easement involving wind or solar resources and  
13 technologies to produce and generate electricity shall include:

14 (1) A description of the real property subject to the easement and a  
15 description of the real property benefitting from the wind or solar lease or  
16 easement;

17 (2) a description of the vertical and horizontal angles, expressed in  
18 degrees, and distances from the site of the wind or solar power system in  
19 which an obstruction to the wind or solar system is prohibited or limited;

20 (3) all terms or conditions under which the lease or easement is  
21 granted or may be terminated, except that if the instrument is recorded  
22 under K.S.A. 58-2221, and amendments thereto, any compensation  
23 received by the owner of the real property may be excluded; and

24 (4) any other provisions necessary or desirable to execute the  
25 instrument.

26 (b) No person other than the surface owner of a tract of land shall  
27 have the right to use such land for the production of wind or solar  
28 generated energy unless granted such right by the lawful owner of the  
29 surface estate by lease or easement for a definite period.

30 (c) The provisions of subsection (b) shall not apply to any lease or  
31 easement filed of record prior to July 1, 2011, with the register of deeds of  
32 the county in which the tract is located.

33 (d) *A lease or easement involving wind or solar resources to produce  
34 and generate electricity shall be:*

35 (1) *Void if, within five years after the lease or easement commences,  
36 the property that is the subject of the lease or easement does not have a:*

1       (A) Certificate of site compatibility or conditional use permit issued,  
2 if required; and

3       (B) transmission interconnection request that is in process and not  
4 under suspension; and

5       (2) presumed to be abandoned if a period of 36 consecutive months  
6 has passed with no construction or operation of the wind or solar electric  
7 generation facility. If the entity that holds such lease or easement for the  
8 construction or operation of such facility does not file a plan with the  
9 board of county commissioners of the county in which the real property is  
10 located outlining the steps and schedule for continuing construction or  
11 operation of the facility within such 36-month period, the landowner may  
12 provide, by certified mail or other personal delivery to the holder of such  
13 lease or easement, a 60-day written notice of the intent to terminate the  
14 lease or easement. If, within 60 days of the receipt of such notice, the  
15 holder of such lease or easement fails to provide a written objection to the  
16 notice by certified mail or other personal delivery, the landowner may file  
17 a notice of termination with the register of deeds in the county in which  
18 the real property is located. Termination of the lease or easement shall  
19 become effective when the notice of termination is filed and recorded with  
20 the register of deeds.

21       (e) Except as otherwise provided in this section, nothing in this  
22 section shall be construed to affect any otherwise enforceable restriction  
23 on the use of any tract of land for the production of wind or solar energy  
24 whether or not such restriction is in the form of an easement for a definite  
25 term.

26       Sec. 2. K.S.A. 2021 Supp. 58-2272 is hereby repealed.

27       Sec. 3. This act shall take effect and be in force from and after its  
28 publication in the statute book.