A CONCURRENT RESOLUTION urging the United States Congress to
preserve the primacy of the Kansas Corporation Commission to
regulate hydraulic fracturing in compliance with state regulations and
not to enact any future legislation that would remove this primacy.

WHEREAS, The Safe Drinking Water Act (SDWA) was originally
passed by Congress in 1974 to protect public health by regulating the
nation's public drinking water supply; and

WHEREAS, Since the 1974 enactment of the Safe Drinking Water
Act, the Environmental Protection Agency (EPA) has never interpreted
hydraulic fracturing as constituting "underground injection" within the
definitions of the SDWA; and

WHEREAS, The United States 11th Circuit Court of Appeals ruled
contrary to the argument of the EPA that hydraulic fracturing constituted
"underground injection" under the SDWA, Legal Environmental
Assistance Foundation v. United States Environmental Protection
Agency, 118 F.3d 1467 (11th Cir. 1997); and

WHEREAS, In 2004, the EPA published a final report summarizing a
study that evaluated the potential threat to underground drinking water
sources from hydraulic fracturing of coal bed methane production wells
and the EPA concluded that "the injection of hydraulic fracturing fluids
into coal bed methane wells poses minimal threat" to underground
sources of drinking water and that "additional or further study is not
warranted at this time"; and

WHEREAS, Any federal rule-making concerning the states' sovereign
right in permitting the quantity of water used for hydraulic fracturing
would be outside the EPA's purview; and

WHEREAS, In the Energy Policy Act of 2005, the United States
Congress explicitly exempted hydraulic fracturing from the provisions of
the Safe Drinking Water Act; and

WHEREAS, Hydraulic fracturing is a proven technology with a long
history of environmentally safe use in the completion of oil and gas
wells; and

WHEREAS, The oil and gas producing states regulate hydraulic
fracturing as a component of their regulatory programs for the drilling,
completion, operation and plugging of oil and gas wells; and
WHEREAS, The reservoirs that produce oil and gas are highly variable geologically and separated geographically across the oil and gas producing states such that state regulatory agencies are best suited by local expertise and experience to effectively regulate hydraulic fracturing; and

WHEREAS, State regulatory agencies are the most appropriate regulatory bodies to provide oversight and protection of hydrologically and environmentally sensitive localities as they relate to hydraulic fracturing; and

WHEREAS, The SDWA was never intended to grant the federal government authority to regulate oil and gas drilling and production operations, such as "hydraulic fracturing," under the Underground Injection Control program; and

WHEREAS, The regulation of hydraulic fracturing under the Federal Safe Drinking Water Act would add burdensome and unnecessary regulatory requirements to the drilling and completion of oil and gas wells, thereby increasing costs of producing domestic natural gas resources without any ancillary benefit to public health, safety or the environment; and

WHEREAS, The increased cost of producing domestic natural gas resources will reduce domestic supplies of oil and natural gas, increase utility prices and other costs to consumers, reduce tax and royalty revenues for local, state and federal governments and increase the nation’s dependence on foreign energy imports; and

WHEREAS, Domestic production of oil and natural gas will ensure that the United States continues on the path to energy security; and

WHEREAS, The Interstate Oil and Gas Compact Commission (IOGCC) conducted a survey of oil and gas producing states and set forth its opposition to federal regulation of hydraulic fracturing under the underground injection control program in Resolution 09.011, dated January 7, 2009, “Urging Congress Not to Remove Exemption of Hydraulic Fracturing from Provisions of the Safe Drinking Water Act”; and

WHEREAS, The states’ public utility commissioners represented by The National Association of Regulatory Utility Commissioners adopted a similar resolution in July 2009: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That we support continued jurisdiction of the states to conserve and properly regulate oil and gas production in their unique geological and geographical circumstances; and

Be it further resolved: That we urge the United States Congress to take such actions as are necessary to preserve and maintain the exemption from the Safe Drinking Water Act for hydraulic fracturing; and
Be it further resolved: That the Secretary of State provide an enrolled copy of this resolution to the Speaker of the United States House of Representatives, the Majority Leader of the United States House of Representatives, the Minority Leader of the United States House of Representatives, the Majority Leader of the United States Senate, the Minority Leader of the United States Senate and to each member of the Kansas Congressional Delegation.