

MINUTES OF THE SENATE UTILITIES COMMITTEE.

The meeting was called to order by Chairman Senator Stan Clark at 9:30 a.m. on March 1, 2001 in Room 231-N of the Capitol.

All members were present except: Senator Tyson, excused

Committee staff present:     Raney Gilliland, Legislative Research  
                                  Bruce Kinzie, Revisor of Statutes  
                                  Lisa Montgomery, Revisor of Statutes  
                                  Ann McMorris, Secretary

Conferees appearing before the committee:

Susan Cunningham, Acting General Counsel, KCC  
Natalie Haag, Chief Legal Counsel, Director of Governmental Affairs  
Bruce Snead, City Commissioner and Mayor Pro-Tem, Manhattan

Others attending:     See attached list.

**Approval of Committee Minutes**

Moved by Senator Emler, seconded by Senator Brownlee and Senator Taddiken, the minutes of the meetings of the Senate Utilities Committee on February 20, 2001, February 27, 2001 and February 28, 2001 be approved. Motion carried.

Chair opened hearing on:

**Substitute for H.B. 2244 - Energy Resources Coordination Act**

Neutral

Susan Cunningham, Acting General Counsel, Kansas Corporation Commission, presented the general concerns of the KCC. (Attachment 1)

Members of the committee inquired whether KCC has the authority to do energy planning and Susan responded only as it relates to public utilities. Jim Ploger of the KCC Energy Planning Office answered questions regarding funding. He indicated funds are all federal and matching funds to obtain continued federal support would be needed in two years. More information was requested on funding. Staff provided background information on this office and how it was transferred to KCC.

Proponents:

Natalie Haag, Chief General Counsel, Director of Governmental Affairs, offered an alternate substitute bill to Substitute for HB 2244 that incorporates the existing KCC energy division with an advisory council on energy. The draft is being prepared by the Revisor's Office and will be distributed to the Senate Utilities Committee on completion. (Attachment 2)

A member asked for information on the current powers of the Governor to establish an energy agency.

Bruce Snead, City Commissioner and Mayor Pro-Tem of City of Manhattan, spoke in favor of this bill and responded to the proposed alternate substitute bill changes. (Attachment 3)

Written testimony was received from: (1) Bruce Graham, Kansas Electric Power Cooperative, Inc. (Attachment 4) and (2) Kansas Department of Health & Environment (Attachment 5)

Chairman announced hearings will be continued on Substitute for **HB 2244** during the week of March 12 when the Governor's alternate substitute bill would be available.

Next meeting of the Senate Utilities Committee will be held on Monday, March 5.

Adjournment.

Respectfully submitted

Ann McMorris, Secretary

Attachments - 5

# SENATE UTILITIES COMMITTEE GUEST LIST

DATE: MARCH 1, 2001

Name	Representing
- Lee Gebhard	KANSAS Geological Survey
Bill Harrison	KS GEOL. Survey
Bruce SNEAD	CITY OF MANHATTAN
LEE EISENHAEUER	PROPANE MARKETERS ASSN.
Scott Anglemeyer	KDOCH
Bob Andersen	ATMOS ENERGY CORP.
Floyd Rumsey	Dept. of Revenue
Karl Muehlenner	KDHE
TOM DAV	KCC
Bob Kuehbiel	KIOGA
Whitney Damron	KS Gas Service
Jack Gilave	Wake-RIT & KM

**TESTIMONY ON SUBSTITUTE FOR HOUSE BILL 2244  
BEFORE THE SENATE UTILITIES COMMITTEE  
BY THE KANSAS CORPORATION COMMISSION  
MARCH 1, 2001**

Chairman Clark and Members of the Committee. I am Susan Cunningham, the Acting General Counsel for the Kansas Corporation Commission ("Commission" or "KCC") and I appreciate the opportunity to testify before you on Substitute for House Bill 2244.

Substitute for House Bill 2244 would create a state energy resources coordinating council. The council would formulate a comprehensive state plan to coordinate the management, conservation and development of energy resources. Currently a number of agencies and organizations (KCC, KDHE, KDC&H, among others) have duties relating to energy issues. The KCC supports coordination on state energy issues, although we recognize that most energy issues are resolved at the federal level. The KCC had a number of concerns with the bill as it was originally proposed, many of which have been addressed in this substituted version. I would like to briefly recap for you the Commission's general concerns.

First, the Commission wants to ensure that the charge of this new coordinating council does not duplicate existing efforts of other agencies, but specifically the KCC. Second, the Commission wants to ensure that the provisions of this proposed legislation do not limit or eliminate the KCC's existing authority. Third, the Commission is interested in the fiscal impact of its required "cooperation" with the coordinating council ("cooperate" is undefined). Finally, the Commission wants to ensure that none of the policies or directives from this new coordinating council are in conflict with its own obligations to ensure that all ratepayers in Kansas receive sufficient and efficient service at just and reasonable rates.

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## OFFICE OF THE GOVERNOR

**Before the Senate Utilities Committee  
March 1, 2001**

**Testimony by Natalie G. Haag  
Chief Legal Counsel  
Director of Governmental Affairs  
House Bill 2244**

Thank you for the opportunity to testify on Substitute for House Bill 2244. Governor Graves supports the formation of a group tasked with providing the State of Kansas a plan for ensuring sufficient energy resources for the future of our state. We thank Representative Holmes and the House Committee on Utilities for the work they did to bring this issue to the forefront.

As many of you may know, there is currently a division within the Kansas Corporation Commission already responsible for a number of the tasks set forth in Substitute for House Bill 2244. Rather than duplicate services, the Governor's office has worked with Representative Holmes to draft an alternative substitute bill that incorporates the existing KCC energy division with an advisory council on energy. We believe this alternative proposal will reduce the fiscal impact and improve the focus of the work currently performed by the energy division of the KCC.

Let me briefly explain Substitute for House Bill 2244 as passed by the House. The council created by this bill would develop a comprehensive state energy plan, policies regarding energy resource development initiatives, and policies regarding energy conservation and management. The council would also develop recommendations for the implementation of these plans and policies. The alternative bill would require governor and legislative approval of the council's energy plan, policies and initiatives for implementation of the plan. The director of the energy division would implement the approved plan, policies and initiatives.

The alternative bill also directs the council be responsible for developing guidelines for: (1) determining when an energy resource emergency exists within the state; (2) issuing an energy resource emergency proclamation; and (3) developing procedures to be followed in case of an energy resources emergency. The guidelines for an energy resource emergency and any other matters related to the division and the council will be reported to the legislature on the first day of the regular legislative session.

Support staff for the council will include the director of the energy policy division of the KCC and employees of that division. The director will be appointed by the Governor and serve in the unclassified service as set forth in Section 1 of the alternative substitute bill.

Members of the council appointed by the governor will remain the same as those set forth in the version of HB2244 passed by the House, with the additional clarification that the three energy consumers shall include one large consumer, one small consumer and one residential consumer. The nonvoting *ex officio* members of the council include all of the agencies in the version passed by the House Bill plus the Kansas Department of Health and Environment and the Kansas Department of Transportation. Adding these two agencies as nonvoting members of the council will expand the information base available to the council.

The legislative representatives on the council remain the same, but the alternative substitute bill makes these members nonvoting members. It also provides for the election of chairman and vice-chairman by the council. These changes are made to address potential Constitutional issues under the separation of powers doctrine. To ensure the intent of the original bill is followed, council members will submit recommendations to the legislature. The legislature and the governor will make the final determination about adoption of the proposed energy plans and policies. The governor will submit any recommended modifications to the plan for the legislature's approval by resolution.

We request your support for the proposed alternative known as Substitute for Substitute for House Bill 2244.

**Utilities Committee  
Kansas Senate  
Written Testimony of Bruce Snead, City Commissioner and Mayor Pro-tem  
City of Manhattan, KS  
March 1, 2001**

**Substitute for HB 2244**

Thank you. I am here today to speak in favor of the substitute for HB2244 (with a few reservations but in the spirit of making it better) because one of our city's legislative goals this year was to support the development of an energy policy for Kansas. Our commissioners put forward this goal after seeing the dysfunction associated with Kansas cities in conflict over rate parity, due in no small part to the energy policy vacuum, regulatory decisions, and lack of long-term vision which guided energy choices in the past.

I attended all the Special Committee on Utilities meetings last year, and want to salute those of you who are carrying through with the effort started there, and also recognize the support of other legislative leaders who have spoken about the need for a Kansas energy policy. It is clear from the level of legislative activity that decisions which impact the energy future of Kansas will be made in this session without a state energy policy as guidance. That is why this bill and the mechanism it establishes are so important.

Many of us here have been part of energy policy development efforts in the past and have not seen significant implementation. This bill has the necessary annual reporting and recommendation requirements that will increase the attention to key issues and take them beyond crisis reaction mode. It is very important that adequate funding be appropriated to conduct the activities described in this bill. We should not use any federal pass-through funds which provide research, demonstration and educational

Whatever you do, please take every opportunity to commit to current and future energy efficiency investments and requirements. As a response to the alarm sounded last summer on natural gas bills, myself and others with Engineering Extension at Kansas State prepared the packet of energy fact sheets which you have in front of you and distributed those widely throughout the state. We also provided support to the KCC in their efforts to identify resources which are available to citizens. Through a television PSA, radio interviews, and our web site we have promoted all of these fact sheets. The low-cost no-cost tips sheet has the best information we have to help people make informed decisions about what they can do to try to cut their winter heating costs. Nothing can take the pressure off natural gas more effectively than efficiency – this will save and stretch what we have - buying time for the home heating and power technology transition to electricity and other sources. I would urge you to take action securing from \$10 to \$20 million dollars, perhaps from the property tax refund settlement if possible, and commit it to a revolving loan fund for energy efficiency improvements in Kansas' homes and businesses. There is a successful model of a dozen years of savings to the north in Nebraska. All the energy raters who serve that program happen to be trained in Manhattan at the Kansas Building Science Institute, so we have the expertise here in the state. Energy efficiency programs should be considered at a minimum to be "least-cost reliability insurance" that is well worth investing in.

At the Riley County United Way Emergency Food and Shelter Board meeting last month, I and the heads of our social service agencies struggled with allocating \$30,000 from the National United Way to either food and milk programs or utility assistance. In recognition of the real surge in the numbers of homeless that will result from current overwhelming utility costs, we dedicated more to utility assistance in an inadequate attempt to stem that future tide. As a city we have been trying to maximize the

much easier to bring energy supply and economic development to rural Kansas incrementally through investing in biomass energy, wind energy, solar power and other distributed capacity. These technologies can be put up with much greater speed, easier siting, and greater public acceptance than the centralized fossil fuel plant approach. Don't fall prey to a California crisis driven response based on a failed deregulation approach. The investor owned utilities will try to use this moment to justify whatever they propose to meet future energy demand. We cannot stake our energy future on the increasingly short term approach they bring. Public sentiment is here for efficiency and the renewables. Look to other states where deregulation is proceeding successfully.

Kansas has the resources for the long term. We can transition wisely to a more energy-efficient, diverse energy base - we have people here who can work hard to make it happen through the provisions of this bill - the public recognizes the value of energy efficiency and renewable power and prefers investments there over the other alternatives. Respond to the immediate crisis in a measured way -but please consider and do something to chart a course for the future that does not leave our energy fate in the hands of narrow interests and puts Kansans at risk. Thank you and I would be happy to respond to any questions.

Bruce Snead

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# **Kansas Electric Power Cooperative, Inc.**

## ***Testimony on Substitute HB 2244***

**Before the Senate Utilities Committee – March 1, 2001**

**Bruce Graham, KEPCo's Vice President,  
Member Services & External Affairs**

This testimony is on behalf of Kansas Electric Power Cooperative (KEPCo), the Kansas Electric Cooperatives, and Sunflower Electric Power Corporation.

Substitute House Bill 2244 to create an Energy Resources Coordinating Council is a policy with good intention and we support the bill as amended by the House.

We have heard Governor Graves, Speaker Glasscock and other legislative leaders call for the development of a State energy policy. Energy policy and recommendations are a moving target and priorities change. Last year at this time, the cost of gas was a public crisis, but it was the cost of gasoline, not natural gas and propane. The Energy Resources Coordinating Council as currently outlined in Sub. HB 2244 has a broad range of responsibilities that will enable the group to address short-term and long-term issues of concern.

One of the most important amendments made by the House was to change the Council's funding from an assessment on jurisdictional utilities to funding by the State of Kansas. We believe that amendment was important to assure that the Council is accountable and efficient as it works to maintain the state's history of reliable and affordable energy service.

Thank you for the opportunity to present this testimony and hope you can support Sub. HB 2244.

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Mr. Chairman and members of the Utilities Committee.

This testimony is submitted by the Kansas Department of Health and Environment.

Thank you for the opportunity to present written testimony regarding House Bill 2244 as amended by the House Committee of the Whole. The Kansas Department of Health and Environment (KDHE) has concerns regarding the make-up of the Kansas Energy Resources Coordinating Council, the membership of which is discussed in section 2, paragraph (a).

One responsibility of the Kansas Energy Resources Coordinating Council is to formulate a comprehensive state plan for coordination of the management, conservation and development of energy resources. It is the position of KDHE that a realistic plan for the management, conservation and development of energy resources can not be formulated without significant participation by KDHE. KDHE implements federal regulatory requirements that affect the construction, operation and modification of electrical utilities. Additional regulation of air emissions from electrical generating units is the subject of debate at the national level. In fact, one of President Bush's campaign pledges was to develop a "four pollutant" control strategy primarily directed toward emissions from electrical generating units. Failure to consider current and anticipated environmental regulatory requirements during the initial planning stage can result in unnecessary delays in implementation of the comprehensive plan.

Therefore, to help assure the formulation of an effective and responsible state plan, the secretary of health and environment or the secretary's designee should be included as a member of the Kansas Energy Resources Coordinating Council.

KDHE would propose affecting this proposal by making the following amendments to H.B. 2244 as amended:

1. At page 1, line 37, strike the word "and"
2. At page 1, line 39, strike the period and add, "; and"
3. At page 1, line 40, insert the following, "(8) the secretary of health and environment or the secretary's designee."

Thank you.