

MINUTES OF THE HOUSE UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9:00 A.M. on February 10, 2006 in Room 231-N of the Capitol.

All members were present except:
Vaughn Flora- Absent

Committee staff present:
Mary Galligan, Kansas Legislative Research
Dennis Hodgins, Kansas Legislative Research
Mary Torrence, Revisor's Office
Rena Hansen, Committee Secretary

Conferees appearing before the committee:
Bruce Sneed, Kansas Energy Council
Dave Holthous, Kansas Electric Cooperatives, Inc.
Kimberly Gincer, Aquila
Mark Schreiber, Westar

Others attending:
See attached list.

Bruce Sneed, offered comments about the amendments in **HB 2657** and how those changes would help encourage the utilities companies to begin to offer help in energy conservation education. He stated that the bill built upon statute 26-2784.

Continued Hearing on:

HB 2657 **Recovery of certain amounts spent by electric or natural gas public utility for customer energy efficiency and conservation programs.**

During the question and comment period Dave Holthous, Kimberly Gincer and Mark Schreiber were also asked questions. Mary Torrence gave some interpretation of the statutes.

Questions were asked by Representatives: Tom Sloan, Forrest Knox, Tom Hawk, Virginia Beamer, Rob Olsen, Peggy Mast, Oletha Faust-Goudeau, and Lynne Oharah.

Hearing Closed.

Action on:

HB 2703 **Nuclear generating facility, security guards.**

Representative Tom Sloan presented a balloon amendment, (Attachment 1).

Representative Peggy Mast moved to accept the amended version of HB 2703. Seconded by Representative Jim Morrison.

Discussion followed with questions and comments by Representatives: Josh Svaty, Jason Watkins, Carl Krehbiel, Don Myers, Tom Hawk, Forrest Knox, Judy Morrison, Annie Kuether, and Mitch Holmes. Comments about the bill were also expressed by Revisor Mary Torrence.

Representative Mast closed.

Motion Passed.

Representative Josh Svaty asked that his No vote to the amendment be recorded.

CONTINUATION SHEET

MINUTES OF THE House Utilities Committee at 9:00 A.M. on February 10, 2006 in Room 231-N of the Capitol.

Representative Peggy Mast to move the amended **HB 2703** favorably from committee. Seconded by Representative Rob Olsen.

Discussion followed with comments and questions by Representatives: Josh Svaty, Carl Krehbiel, Margaret Long, Annie Kuether, Forrest Knox, Oletha Faust-Goudeau,

Representative Mast closed on the bill.

Motion Carried.

Representative Carl Krehbiel will carry the bill on the house floor.

Action on:

HB 2657 **Recovery of certain amounts spent by electric or natural gas public utility for customer energy efficiency and conservation programs.**

Representative Sloan moved to strike section C of the balloon amendment. Seconded by Representative Annie Kuether.

Discussion followed with comments and questions by Representatives: Jason Watkins, Carl Krehbiel, Lynne Oharah, and Peggy Mast.

Representative Sloan closed the discussion.

Motion Unanimously passed.

Representative Carl Krehbiel moved to change 1. section d. and have a period after the word programs and strike the remainder of the sentence from the word explicit, 2. Section e. take out “, by order,” 3. Section f. add as long as KCC pays for such reviews with appropriated funds. Seconded by Representative Jason Watkins.

Representative Tom Sloan made a comment that the KCC is not funded through the State General Funds that are appropriated but through fees paid by the utilities and suggested that Representative Krehbiel might want to take that portion of the amendment off his motion.

Representative Carl Krehbiel withdrew his amendment.

Representative Carl Krehbiel moved to change 1. section d. and have a period after the word programs and strike the remainder of the sentence from the word explicit, 2. Section e. take out “, by order,”. Seconded by Representative Jason Watkins. Motion unanimously passed.

Comments were made by Representatives: Annie Kuether and Tom Sloan.

Representative Annie Kuether moved to exclude from the order all the Kansas cooperatives including the five regulated cooperatives. Seconded by Representative Josh Svaty.

Questions and comments were made by Representatives: Lynne Oharah, Carl Holmes, Forrest Knox, Tom Hawk, and Oletha Faust-Goudeau.

One comment alluded to the fact that if these cooperatives chose to promote energy efficiency would they still qualify to get their said rate of return and it was decided that if they were taken out of the bill they would not then be eligible to meet their rate of return if lowered because of the cost of the energy efficiency programs.

Representative Kuether closed.

CONTINUATION SHEET

MINUTES OF THE House Utilities Committee at 9:00 A.M. on February 10, 2006 in Room 231-N of the Capitol.

A voice count was taken and a division was called.

Motion failed 8-9.

Representative Lynne Oharah moved to change section b wording from "shall" to "may". Seconded by Representative Tom Hawk.

Comments and questions were posed by Representatives: Carl Krehbiel, Annie Kuether, Lynne Oharah, Forrest Knox, Mitch Holmes, and Don Myers.

Representative Oharah closed.

Motion Failed.

Representative Tom Sloan moved to pass out of committee amended **HB 2657**. Seconded by Representative Don Myers.

Comments were made by Representative Jason Watkins.

Representative Sloan closed.

Motion passed.

Representative Forrest Knox will carry the bill to the House floor.

Action on:

HB 2642 **Energy policy advisory group established; state energy plan.**

Representative Tom Sloan moved to take **HB 2642** off the table. Seconded by Representative Annie Kuether. Motion passed unanimously.

Representative Tom Sloan moved to amend **HB 2642** by 1. Changing line 24 page 1, to "three" representatives of other energy producers from "two", 2. Changing line 25 sub-point D page 1, to "two" from "three" representatives of the energy consuming general public, 3. Line 34-38, the number of legislators from "6" to a total of "2" with one being appointed by the Speaker of the House and one from the President of the Senate, and 4. Line 42, strike sub-point H that continues onto page 2, and 5. Line 21 page 2, to "one" from "two" research staff members. Seconded by Representative Annie Kuether.

Comments and questions were asked by Representatives: Melody Miller, Josh Svaty, Annie Kuether, Carl Krehbiel, Lynne Oharah, and Forrest Knox.

Representative Tom Sloan Closed.

Motion to amend passed.

Representative Josh Svaty moved to amend the amended **HB 2642** Lines 34-38 to include 2 members from the House of Representative and 2 members from the Kansas Senate, one from the minority party and one from the majority party from each body. Seconded by Representative Melody Miller.

Comments were made by Representatives: Carl Krehbiel and Lynne Oharah.

Motion passed.

CONTINUATION SHEET

MINUTES OF THE House Utilities Committee at 9:00 A.M. on February 10, 2006 in Room 231-N of the Capitol.

Representative Carl Krehbiel moved to amend **HB 2642** page 2 line 17 from September 1, 2006 to January 1, 2007. Seconded by Representative Rob Olson.

Comments and questions were asked by Representatives: Annie Kuether, Tom Sloan, Forrest Knox, and Carl Krehbiel.

Motion passed.

Representative Annie Kuether moved to pass **HB 2642** as amended favorably to the house floor. Seconded by Representative Oletha Faust-Goudeau.

Comments were made by Representatives: Carl Krehbiel, Tom Sloan, Don Myers, Forrest Knox, Mitch Holmes, and Jason Watkins.

Closing comments were made by Representative Kuether.

The question was called on the vote.

Motion carried 12-6.

Representative Tom Sloan will carry the bill to the House floor.

The next meeting is scheduled for February 14, 2006 where we will hear continued information from KAN-ED.

Meeting adjourned.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 10, 2006

NAME	REPRESENTING
DAVE HOLTMAUS	KEC
PHIL WAGG	KBPC
Kimberly Cochran	Aquila
Steve Johnson	KGS
Larry Berg	Midwest
Roger Randall	KCPL
Mark Schreiber	Westar
Tom Day	KCC

1 either:

2 (1) Knowingly entering or remaining unlawfully in or on a nuclear
3 generating facility; or

4 (2) knowingly entering or remaining unlawfully within a structure or
5 fenced yard of a nuclear generating facility.

6 (b) Criminal trespass on a nuclear generating facility is a severity level
7 6, person felony.

8 New Sec. 4. (a) An armed nuclear security guard is justified in using
9 physical force against another person at a nuclear generating facility or
10 structure or fenced yard of a nuclear generating facility if the armed
11 nuclear security guard reasonably believes that such force is necessary to
12 prevent or terminate the commission or attempted commission of crim-
13 inal damage to property under K.S.A. 21-3720 (a)(1), and amendments
14 thereto, criminal use of weapons under K.S.A. 21-4201, and amendments
15 thereto, or criminal trespass on a nuclear generating facility under section
16 3, and amendments thereto.

17 (b) Notwithstanding the provisions of K.S.A. 21-3211, 21-3212, 21-
18 3213, 21-3215 and 21-3216, and amendments thereto, an armed nuclear
19 security guard is justified in using physical force up to and including
20 deadly physical force against another person at a nuclear generating fa-
21 cility or structure or fenced yard of a nuclear generating facility if the
22 armed nuclear security guard reasonably believes that such force is nec-
23 essary to:

24 (1) Prevent the commission of manslaughter under K.S.A. 21-3403
25 or 21-3404, and amendments thereto, murder in the first degree under
26 K.S.A. 21-3401, and amendments thereto, murder in the second degree
27 under K.S.A. 21-3402, and amendments thereto, aggravated assault under
28 K.S.A. 21-3410, and amendments thereto, kidnapping under K.S.A. 21-
29 3420, and amendments thereto, aggravated kidnapping under K.S.A. 21-
30 3421, and amendments thereto, aggravated burglary under K.S.A. 21-
31 3716, and amendments thereto, arson under K.S.A. 21-3718, and
32 amendments thereto, aggravated arson under K.S.A. 21-3719, and
33 amendments thereto, aggravated robbery under K.S.A. 21-3427, and
34 amendments thereto; or

35 (2) defend oneself or a third person from the use or imminent use of
36 deadly physical force.

37 (c) Notwithstanding any other provision of this act, an armed nuclear
38 security guard is justified in threatening to use physical or deadly physical
39 force if and to the extent a reasonable armed nuclear security guard be-
40 lieves it necessary to protect oneself or others against another person's
41 potential use of physical force or deadly physical force.

42 ~~(d) An armed nuclear security guard is not subject to civil liability for~~
43 ~~engaging in conduct that is otherwise justified pursuant to this act.~~

No armed nuclear security guard, employer of an armed nuclear security guard or owner of a nuclear generating facility shall be subject to civil liability for conduct of an armed nuclear security guard which is

HOUSE UTILITIES

DATE: 2/10/06

ATTACHMENT 1

1 New Sec. 5. (a) An armed nuclear security guard, with reasonable
 2 belief, may detain in or on a nuclear generating facility or a structure or
 3 fenced yard of a nuclear generating facility in a reasonable manner and
 4 for a reasonable time any person who is suspected of or attempting to
 5 commit any of the crimes specified under subsection (a) or (b) of section
 6 4, and amendments thereto, for the purpose of summoning a law enforce-
 7 ment officer.

8 (b) Reasonable belief of an armed nuclear security guard is a defense
 9 to a civil or criminal action against an armed nuclear security guard ~~for~~
 10 false arrest, false or unlawful imprisonment or wrongful detention.

, such guard's employer or any owner of the nuclear generating facility where such guard is employed

11 Sec. 6. K.S.A. 2005 Supp. 21-3721 is hereby amended to read as
 12 follows: 21-3721. (a) Criminal trespass is:

13 (1) Entering or remaining upon or in any land, nonnavigable body of
 14 water, structure, vehicle, aircraft or watercraft, other than railroad prop-
 15 erty as defined in K.S.A. 2005 Supp. 21-3761, and amendments thereto,
 16 *or nuclear generating facility as defined in section 1, and amendments*
 17 *thereto*, by a person who knows such person is not authorized or privi-
 18 leged to do so, and:

19 (A) Such person enters or remains therein in defiance of an order
 20 not to enter or to leave such premises or property personally communi-
 21 cated to such person by the owner thereof or other authorized person;
 22 or

23 (B) such premises or property are posted in a manner reasonably
 24 likely to come to the attention of intruders, or are locked or fenced or
 25 otherwise enclosed, or shut or secured against passage or entry; or

26 (C) such person enters or remains therein in defiance of a restraining
 27 order issued pursuant to K.S.A. 60-31a05, 60-31a06, K.S.A. 60-1607, 60-
 28 3105, 60-3106 or 60-3107 or K.S.A. 38-1542, 38-1543 or 38-1563, and
 29 amendments thereto, and the restraining order has been personally
 30 served upon the person so restrained; or

31 (2) entering or remaining upon or in any public or private land or
 32 structure in a manner that interferes with access to or from any health
 33 care facility by a person who knows such person is not authorized or
 34 privileged to do so and such person enters or remains thereon or therein
 35 in defiance of an order not to enter or to leave such land or structure
 36 personally communicated to such person by the owner of the health care
 37 facility or other authorized person.

38 (b) As used in this section:

39 (1) "Health care facility" means any licensed medical care facility,
 40 certificated health maintenance organization, licensed mental health cen-
 41 ter, or mental health clinic, licensed psychiatric hospital or other facility
 42 or office where services of a health care provider are provided directly to
 43 patients.