Approved: March 15, 2006
Date

MINUTES OF THE HOUSE UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9:00 A.M. on February 17, 2006 in Room 231-N of the Capitol.

All members were present except:
Jason Watkins- excused

Committee staff present:
Mary Galligan, Kansas Legislative Research
Mary Torrence, Revisor's Office
Renae Hansen, Committee Secretary
Heather Klaasen, Research Intern

Conferees appearing before the committee:
Mary Galligan, Kansas Research

Others attending:
See attached list.

Hearing on:

HB 2589 **Requirements for state agency use of electricity generated from renewable resources; treatment of certain public utility revenues from wholesale off-system sales.**

Representative Tom Sloan presented a balloon, (Attachment 1), amendment to **HB 2589**.

Representative Tom Sloan moved to adopt the amendments to **HB 2589.** Seconded by Representative Margaret Long.

Discussion followed with questions by Representatives: Josh Svaty, Forrest Knox, and Lynne Oharah.

Representative Sloan closed on the motion to amend.

Motion to amend Failed.
The question was called on the vote. Motion Failed with 5 yes votes and 12 no votes.

Representative Rob Olson moved to table **HB 2589**. Motion to table passed unanimously.

Mary Galligan, Kansas State Research office, presented (Attachment 2), a report on the Joint Committee on Energy to the House Utilities committee. Additionally, she offered a document, (Attachment 3), that charted all the bills that were introduced to either chamber as a result of the committee.

Questions were asked by Representatives: Tom Sloan, Forrest Knox, Josh Svaty, Carl Holmes, and Don Myers.

The next meeting is scheduled for February 20, 2006.

Meeting Adjourned.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 17, 2006

NAME	REPRESENTING
HARRY BERG	MIDWEST ENERGY
Kimberly Lucas	Aquila
Mark Schreiber	Westar Energy
Lindsay Douglas	Hein Law Firm
[illegible]	CGR
David Springe	Curb
Jennifer Lyon	Finegar, Smith, and Associates
Steve Johnson	Kansas Gas Service/ONEOK
PHIL WAGES	KEPCo
LON STANTON	NORTHERN NATURAL GAS Co

Session of 2006

HOUSE BILL No. 2589

By Committee on Utilities

1-11

AN ACT concerning electricity; placing certain requirements on certain state agencies and certain electric service providers ~~and providing penalties for noncompliance; relating to certain revenues of electric public utilities; amending K.S.A. 66-1,184a and repealing the existing section~~.

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

2008

~~New~~ Section 1. (a) On and after January 1, ~~2007~~, and before January 1, 2010, not less than 2.5% of the total amount of electricity consumed by each state agency shall be generated from renewable energy resources or technologies, as defined in K.S.A. 79-201, and amendments thereto. On and after January 1, 2010, not less than ~~10%~~ of the total amount of electricity consumed by each state agency shall be generated from such resources or technologies. Only electricity generated at facilities placed in service after December 31, 2006, shall apply towards the percentages required by this subsection.

estimated

5%

(b) The requirements of subsection (a) shall apply regardless of the provider of the agency's electric service and the electricity shall be provided at the provider's standard rates for electric service. The agency head, in the agency head's discretion, may determine that: (1) The requirements of this subsection shall apply to each facility under the control of such agency; or (2) such requirements shall apply to the aggregate consumption of all facilities under the control of such agency, with greater consumption attributable to some facilities under the control of such agency being offset by lesser consumption attributable to other facilities under the control of such agency.

(c) The requirements of subsection (a) shall apply only to energy consumption in buildings at institutions under the state board of regents, the building housing the state corporation commission and the Docking, Landon, Curtis, Mills and Eisenhower buildings

(d)

~~(c)~~ If a state agency and its electric service provider are unable to meet the requirements of subsection (a), the agency and utility may apply to the state corporation commission for an extension of the date for compliance by not more than 12 months.

~~(d) Failure to comply with the requirements of this section shall render the state agency and the electric provider liable for civil fines assessed by the commission for each day of noncompliance.~~

(e) The provisions of this section shall not apply to any state agency which is funded solely by user fees.

~~Sec. 2. K.S.A. 66-1,184a is hereby amended to read as follows: 66-~~

HOUSE UTILITIES

DATE: 2/17/06

ATTACHMENT 1

~~1,184a. (a) As used in this section:~~

~~(1) "Electric public utility" has the meaning provided by K.S.A. 66-101a, and amendments thereto.~~

~~(2) "Renewable attributes" means tradeable renewable energy credits (with or without other features), tradeable emissions credits, emission offsets or other market instruments created or obtained by use of renewable energy resources or technologies.~~

~~(3) "Renewable resources or technologies" means wind, solar, thermal, photovoltaic, biomass, hydropower, geothermal, waste incineration and landfill gas resources or technologies located in Kansas.~~

~~(b) Upon application of an electric public utility, the state corporation commission may authorize such utility to:~~

~~(1) Retain 65% of the utility's net revenues from wholesale off-system sales of electricity generated from renewable resources or technologies or from sales of renewable attributes if such electricity or attributes are purchased by the utility at not less than the average price paid by such utility for electricity or renewable attributes purchased pursuant to contracts of five or more years' duration; and~~

~~(2) retain 50% of the utility's net revenues from all other wholesale off-system sales of purchased electricity generated from renewable resources or technologies or from sales of purchased renewable attributes from renewable energy procured or constructed principally to serve Kansas retail customers; *and*~~

~~*(3) retain 50% of the utility's net revenues from wholesale off-system sales of electricity generated by capacity placed in service on or after January 1, 2008.*~~

~~Sec. 3. K.S.A. 66-1,184a is hereby repealed.~~

3 Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Sec. 2 (a) There shall be allowed a tax credit against the income tax liability imposed upon a taxpayer pursuant to the Kansas income tax act, in an amount equal to the amount certified by the commission pursuant to subsection (b).
(b) A public utility may apply to the state corporation commission for a determination of the impact of compliance with the provisions of section 1, and amendments thereto, on the utility's rate of return during the utility's taxable year. If the commission determines that compliance with such provisions caused the utility's rate of return to fall below the level allowed the utility by the commission, the commission shall determine the amount required to restore the utility's rate of return to the level allowed by the commission for the utility's taxable year and shall certify such amount to the director of taxation.
(c) If the amount of a tax credit allowed pursuant to this section exceeds the taxpayer's income tax liability for the year in which the expenditures were incurred, the amount thereof which exceeds such tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credits have been deducted from tax liability, except that no such tax credits shall be carried over for deduction after the fourth taxable year succeeding the taxable year in which the expenditures are made.
(d) The secretary of revenue may adopt rules and regulations to implement the provisions of this section.

Reports of the Joint Committee on Energy to the 2006 Kansas Legislature

CHAIRPERSON: Representative Tom Sloan

VICE-CHAIRPERSON: Senator Jay Scott Emler

OTHER MEMBERS: Senators Janis Lee, Carolyn McGinn, and Mark Taddiken; and Representatives Joann Freeborn, Tom Hawk, Carl Holmes, Forrest Knox, and Annie Kuether

STUDY TOPICS

Energy Fuels

State Entity for Long-Term Energy Policy Development and Monitoring

February 2006

Select Joint Committee on Energy

Report

Conclusions and Recommendations

The Committee conducted four and one half days of hearings and discussions of a broad range of energy issues impacting the citizens and the economy of Kansas. The Committee recommended creation of a permanent process to examine energy issues with both long and short term policy options specified within the categories of: energy conservation and efficiency, extending the productive life of existing oil and gas fields, and increasing opportunities for rural economic development through bio-fuels and the generation of electricity from renewable resources. The Committee also identified topics for additional study.

In addition, the Committee recommended introduction of bills that would:

- Establish in statute the Kansas Energy Policy Advisory Group to conduct energy research and to develop and update a state energy plan and make long-term energy policy recommendations to the Governor and Legislature. The Committee anticipates that $500,000 from the State General Fund would be necessary to establish the Council in FY 2007.

- Provide for creation of Education-Energy Cooperatives and Municipal-Energy Cooperatives in which one or more cities, school districts, community colleges, technical colleges, or universities develop or contract for renewable energy that is appropriately sized to meet their electricity needs. The traditional electric supplier for the educational institution or the municipality would be required to purchase any surplus power at wholesale market rates or act as the broker on behalf of the cooperative to sell the surplus power. Any such energy sales would financially benefit both the cooperative and the local utility.

- Provide for a 12 year property tax exemption for rail terminals dedicated to transportation of biofuels and provide for KDFA financing assistance for those facilities.

- Require that all gasoline sold in Kansas contain ten percent ethanol and that all diesel fuel sold in the state contain at least two percent biodiesel beginning January 1, 2010.

- Amend existing law to require sellers of new housing to disclose energy efficiency information at the time the house is offered for sale rather than at closing.

- Provide a five-year property tax exemption to Kansas producers of biodiesel for property acquired or constructed after December 31, 2005 if that property is used regularly in the production of biodiesel. In addition, provide a two-year property tax exemption to Kansas retailers of biodiesel for property acquired after December 31, 2005 to sell diesel fuel containing biodiesel.

- Provide for a sales tax exemption for equipment purchased to enable a facility to sell diesel fuel containing biodiesel.

- Provide an income tax credit for direct costs incurred after December 1, 2005 to adapt

or add equipment to retrofit an existing facility or adapt a new facility in Kansas to produce or blend diesel fuel containing biodiesel.

- Provide for a maximum $0.30 per gallon incentive for biodiesel producers by instituting a program parallel to that currently in place for ethanol producers (KSA 79-34,161, *et seq.*). The maximum available through the program would be $875,000 per quarter beginning July 1, 2007.

- Amend existing law to specifically permit renewable energy generation developers to enter into agreements with counties to make payments in lieu of property taxes.

- Provide for a property tax credit for Kansas based biofuels mixing facilities. The credit would be the same as that currently available for fueling stations under KSA 79-32,201.

- Create in statute a Joint Committee on Energy as a permanent Committee that would be specifically charged with reviewing state agency energy expenditures and energy conservation measures and making other energy policy recommendations to the Legislature.

- Make all existing and new renewable and alternative fuel tax credits salable.

- Create :

  - A $100 tax incentive for each additional 4 inches of attic insulation installed per dwelling unit;

  - A $200 tax credit for each 5 percent increase in heating, ventilation, and air conditioning (HVAC) system efficiency for a single family dwelling or duplex, and a $100 tax credit for each multiple-family dwelling unit served by that HVAC unit; and

  - A $100 tax credit for installation for $2,000 of energy conservation exterior doors and windows per dwelling unit.

- Provide that any utility that sells to a federal facility renewable energy produced in Kansas would be eligible to receive a tax credit, under certain circumstances, in an amount certified by the KCC.

- Earmark the greater of $1.2 million or one percent of annual severance tax revenue for use by the Kansas Energy Research Center for development of enhanced petroleum and natural gas production technologies and demonstration projects

Finally, the committee recommended introduction of resolutions that would:

- Encourage the Kansas Turnpike Authority to include in its contracts with operators of service stations on the Turnpike a requirement for the sale of biofuels.

- Urge Congress to support further development of natural gas production in US coastal waters.

- Urge Congress to ban the use of methyl tertiary-butyl ether (MTBE) as a gasoline additive by 2010.

Proposed Legislation: The Committee recommends the introduction of sixteen bills and three resolutions.

BACKGROUND

The Legislative Coordinating Council (LCC) appointed the ten-member Select Joint Committee on Energy at the Council's October 2005 meeting in response to a request by Representatives Wilk and Sloan. The Committee was allocated five meeting days during which it was to conduct a review of the current status of Kansas energy policy including a review of energy production, distribution, and pricing within the state, with an emphasis on energy fuels. The Committee also was directed to study the possibility of creating an entity to develop long-term energy policy for Kansas. Within that general charge, the Committee was specifically instructed to study:

- The current economic situation as it pertains to energy including pricing, distribution, production capacity, utilization, and tax policy on gasoline, home heating fuels, diesel fuel, biodiesel, ethanol, and other alternative fuels;

- Current weatherization and conservation practices as they pertain to reducing the demand for energy fuels; and

- Issues relating to access to Kansas wholesale markets by independent oil and gas producers.

In the context of each of those issues, the Committee was directed to examine resource pricing and production costs, consumer prices, production incentives and capacity, transportation costs, state and local governments' conservation and energy purchasing practices, energy fuel production, and ethanol usage.

The Committee also was directed by the LCC to review and recommend the appropriate type of legislative or executive entity to formulate and make recommendations regarding long-term state energy policy. This entity would review, monitor, and recommend a coordinated and well considered statewide, long-term energy policy. The Select Committee was required to prepare and submit a report to the Legislature no later than February 1, 2006.

COMMITTEE ACTIVITIES

The Select Joint Committee met on December 14-15, 2005; January 5-6, 2006; and January 13, 2006.

December 14-15, 2005

The Committee received testimony at its first meeting from the following conferees.

Representative Kenny Wilk, who with Representative Tom Sloan requested creation of the Committee, presented his perspective on energy issues. He said, that at this time it is possible, economically, to encourage development and use of renewable energy resources.

Representative Carl Holmes presented extensive information on global energy production and consumption trends and the impact of those trends on domestic energy pricing. His testimony included recommendations for Committee consideration.

Edward P. Cross of the Kansas Independent Oil & Gas Association presented information about the economics of the global oil and gas markets. He stated that oil and gas prices are controlled by

world demand and the reality of limited supply, so that an increase in demand has a nearly immediate effect on price. He noted that the future of energy would include many resources that are not based on oil and gas.

Dick Brewster, BP, provided an overview of the economics of the oil and natural gas industry and presented information relating to the cost of adding new domestic refinery capacity. That information showed that it is approximately 50 percent less expensive to add crude oil processing capacity to existing refineries than to build new refineries.

Tom Palace, representing the Petroleum Marketers and Convenience Store Association of Kansas, presented the Committee with information about the impact of recent natural disasters and other situations on the price of motor fuels.

Curt Wright, Taylor Oil, Inc., Wellsville, discussed strategies that individual retail gasoline marketers use to price their gas at the pump.

Marvin Spees, Capitol City Oil, Inc., Topeka, discussed the challenges his company faces establishing prices for diesel fuel in the market place and his company's role in offering bio-diesel fuel to consumers. Capitol City Oil opened the first B20 biodiesel pump in the state and the third E85 fueling station, both in Shawnee County.

Steve Johnson, Kansas Gas Service Company, provided an overview of the natural gas business, including data regarding supply and demand trends and factors that effect the natural gas market.

Terry D. Holdren, Kansas Farm Bureau, presented testimony regarding the impact on farmers of recent fuel and fertilizer price spikes.

Greg Krissek, United Bio Energy, presented testimony on recent trends in the bio-energy field and his assessment of where growth would occur over the next twenty-four months.

Dr. Richard Nelson, Kansas State University, discussed biodiesel fuel and described how it is manufactured and how various types of biodiesel fuels are blended.

Patty Clark, Director of the Agriculture Marketing Division of the Kansas Department of Commerce, described current activities and plans for additional support from the Department for individuals, companies, and local governments who wish to enter the field of ethanol production, distribution, and consumption.

Chuck Banks, State Director for Rural Development of the United States Department of Agriculture, described various agency programs that may be used to assist with development of alternative fuel production within Kansas.

Bill Pracht, Chairman of the Board, East Kansas Agri-Energy, described how the Garnett ethanol plant has benefitted from and been affected by the Kansas ethanol producer incentive program and other related programs.

Bob Rhoton, representing the Lawrence Chamber of Commerce Agribusiness Network, discussed recent activities of a group of people from the Lawrence area who conducted a feasibility study to determine the viability of a biodiesel facility in Eastern Kansas. He presented his ideas of how to stimulate production of biodiesel in Kansas in a way that would make it competitive with biodiesel produced in surrounding states.

Colin Hansen, Chairman of the Kansas Energy Council, presented the Council's recommendations for 2006 legislative and executive action to encourage renewable energy output in the State of Kansas.

Richard Cram, Kansas Department of Revenue, presented information outlining

existing non-property tax-related incentives connected to energy production.

Tony Folsom, also from the Kansas Department of Revenue, presented information on energy-related property tax reductions and exemptions primarily for energy company property.

Mike Crow, Kansas Department of Transportation, described the Department's use of alternative fuels in its vehicles and energy-conservation efforts at its facilities.

Lt. John Eichkorn, Kansas Highway Patrol, described energy conservation practices of the Highway Patrol.

Kim Winn, League of Kansas Municipalities, described the results of an informal survey of cities regarding energy conservation efforts in city facilities.

George Werth, Chief Engineer of the Division of Facilities Management in the Department of Administration, described energy conservation efforts in state buildings comprising the Capitol Complex.

Chris Howe, Director of the Division of Purchases in the Kansas Department of Administration, described conservation issues involving fuel purchases, vehicle purchases, and computer and electricity consumption.

Bill Griffith, Chapter Chair of the Kansas Sierra Club, discussed energy efficiency and reviewed the role of renewable energy in meeting Kansas' future energy needs.

Eric King, Director of Facilities for the Kansas Board of Regents, outlined specific energy conservation efforts of each of the six state universities.

Duane Simpson, representing the Kansas Association of Ethanol Processors, described how the State could have a positive influence on ethanol sales and production.

Kenlon Johannes, Kansas Soybean Commission, suggested policies that would enhance the usage of biodiesel by increasing demand for the fuel and also would lead to increased production. Additionally, he discussed other states' policies that have a positive influence on the biodiesel usage.

Joe Spease and Troy Helming, Kansas Unbound, suggested ways that alternative fuel might create jobs, boost the economy, help schools, help farms, and clean the environment. They project that energy could be exported from the state with the proper investments. In addition, they discussed barriers to the use of wind power in Kansas and the benefits of using hydrogen as a renewable energy resource.

The Committee received a policy paper prepared by Kansas, Inc. which discussed the possibilities for new oil refineries in the State of Kansas.

January 5-6, 2006

At the opening of the first January meeting, the Chairperson presented for discussion a number of items, based on previous testimony and Committee members' questions, that might be included in Committee recommendations to the Legislature. Those items included:

Energy Planning

One of the Committee's charges was to identify the most appropriate means of stimulating development of an energy policy. This is both a structural and a policy matter. The proposal presented for discussion would establish the Energy Policy Advisory Group in statute. The existing Kansas Energy Council, which performs the energy planning function for the State, is authorized by Executive Order. The permanent entity could be housed at the Kansas Corporation Commission (KCC) in same manner as the Citizens Utility Ratepayer Board. The Advisory Group would have dedicated staff that would conduct energy research, develop and update a long-term state energy policy,

and make recommendations to the Governor and Legislature that would impact energy production and consumption.

The KCC's existing statutory responsibility to collect and compile data on energy resources and to monitor energy resource supplies would be unchanged, but the Advisory Group would be assigned data analysis responsibilities. The statutory requirement for the KCC to develop a comprehensive state energy conservation plan would be repealed. (Those requirements are codified at KSA 74-616.) The Energy Policy Advisory Group would be responsible for developing energy conservation strategies.

The proposal would establish a 30-member Energy Policy Advisory Group. The Governor would appoint most members and name the chairperson. The Speaker of the House and President of the Senate each would name two legislators and the Minority Leaders of the Legislature each would name one legislator to the Advisory Group. Legislators and *ex officio* state agency representatives would be non-voting members of the Advisory Group.

Generation of Electricity from Renewable Sources

State Agencies Assuming a Market Leadership Role. If the generation of electricity from renewable resources from wind, hydro-electric, biomass, landfill gas, solar, and other renewable sources is a desired public policy, one option is to require state agencies to secure renewable energy from their electricity supplier within the utility's KCC-approved rates. Aquila, Empire District Electric Company, and Kansas City Power and Light (KCP&L) all are including their wind-generated power resources within their existing rate structure. State agencies could aggregate their power needs or keep each location separate; community wind and commercial projects could both be included; new wind-powered electric generation capacity could be required to further stimulate the rural and construction economies.

Education/Municipal – Energy Cooperatives. To compliment a requirement for state agencies to purchase energy produced from renewable resources, the Committee could recommend legislation that would provide for creation of Education-Energy Cooperatives in which one or more school districts, community colleges, technical colleges, or universities develop or contract for renewable energy that is appropriately sized for their electricity needs. The traditional electric supplier for the educational institution would be required to purchase any surplus power at wholesale market rates or act as the broker to sell the surplus power. Such energy sales would financially benefit both the educational institutions and the local utility. Similarly, Municipal-Energy Cooperatives could involve several communities developing or contracting for renewable energy and with the traditional electric supplier purchasing or marketing the surplus power in the same manner. Power purchases from an Educational or Municipal Energy Cooperative would not constitute breach of an existing full service power supply contract.

Military Use of Renewable Energy. President Clinton issued an Executive Order directing federal agencies to acquire renewable energy and achieve improvements in energy conservation. President Bush reauthorized that Executive Order. The Executive Order establishes targets for the use of renewable energy (5 percent) by 2010 and energy conservation. The Order permits renewable energy to count against both the renewable energy portion of the target and against the energy conservation requirement. Thus, each kW of renewable energy acquired by a federal agency (*e.g.*, Ft. Riley, Ft. Leavenworth, McConnell Airbase) effectively counts as two for their purposes of complying with the Presidential Executive Order.

Kansas-based military facilities could be authorized to purchase renewable energy

from the Kansas supplier of their choice and have that energy delivered to them by their certificated electric provider. This is the same concept by which large natural gas customers (*e.g.*, Goodyear) purchases natural gas and has it delivered by the interstate pipeline company and the local distribution company (LDC). The expectation is that a Kansas-based renewable energy generator will be able to fill the military posts' needs, thus providing the rural economic benefits that we desire; rather than having energy dollars flow to another state.

Bio-Fuels

Enhancing energy exports to other markets. The State should consider facilitating construction of one or more rail terminals where unit trains could be loaded with product trucked from the many ethanol and bio-diesel plants in that are currently in operation or that may be opened. To establish Kansas as the center of bio-fuels production, the State could provide incentives for large capacity plants (*i.e.*, greater than 100,000 gallons per year) similar to those provided for electric generation plants. Those incentives would include a twelve-year property tax exemption, a KDFA financing option, sales tax exemptions on boilers and pollution control devices, and other similar incentives. Consideration could be given to structuring incentives so that owners of bio fuel production facilities also could be Kansas agricultural producers and partners. Perhaps consideration could be given to allowing KDFA to issue bonds to provide capital for use by the Department of Commerce to assist with financing of construction of bio-fuel plants.

Market Development. The State could consider requiring that all gasolines sold in the state contain 10 percent ethanol and that all diesel fuels contain at least 20 percent biodiesel. In addition or alternatively, the state could provide incentives for switch yard railroad engines to use a biodiesel blend.

E-85 and Bio-Diesel. The Committee might recommend adoption of a joint resolution calling upon the Kansas Turnpike Authority to require service stations located on the Turnpike to sell E 85 and five percent biodiesel fuel when the next contract is negotiated. The Committee also might consider providing an incentive to the first service station that installs E-85 and five percent biodiesel fuel tanks in each county. An example of such an incentive might be a five-year property tax exemption on the equipment.

Energy Efficiency and Conservation

Energy Assistance to Low Income Kansans. In response to concerns voiced by Committee members regarding the State's role in providing assistance to persons who are least able to afford increasing energy bills, especially when a portion of the increase could be prevented, possible state action could include seeking a federal waiver from Low Income Energy Assistance Program (LIEAP) requirements so that less money goes to pay overdue utility bills and more is invested in energy conservation to reduce future energy bills.

Investment Incentives. Authorize utilities to earn their KCC-approved rate of return on their demand side management investments that are made in partnership with their customers (House approved in 2005). Expand the state's FCIP program to individual residences and apartment complexes with $100 tax credit for each 5 percent increase in HVAC energy efficiency installed by certified, authorized provider, for installation of at least 4 inches of attic insulation, or for installation of windows, doors, or insulated siding with an appropriate energy efficiency value.

Residential Conservation. It is impossible for the State to mandate investments by citizens in energy efficiency and conservation, even if that was determined to be the best course of action for the State's long term energy strategy. However, there are options for increasing the

information available to residents before they make financial decisions regarding housing options and incentives that might be provided to encourage specific investment in energy conservation measures.

One option would be to require property owners who place residences on the market and home inspectors to provide to prospective buyers information about the amount of insulation in attics and walls, window and door energy ratings or types (*e.g.*, single or double pane), and furnace and air conditioner efficiency ratings for all houses. Landlords could be required to provide the same information to prospective tenants prior to rental or lease of residential property. Such disclosure would be beneficial to consumers interested in making decisions based on energy efficiency.

Another option would be to expand the state's Facility Conservation Improvement Program (FCIP) program to individual residences and apartment complexes. That could be done by providing a $100 tax credit for each five percent increase in heating and air conditioning system energy efficiency installed by a certified, authorized provider; for installation of at least four inches of attic insulation; and for installation of windows, doors, or insulated siding with an appropriate energy efficiency value.

Guide to Policy-Making

Adopt a resolution encouraging the KCC to coordinate a deliberative poll that will determine public support for specific state policies promoting or requiring consumers to use renewable energy (electricity, bio-fuels), providing production incentives for renewable energy suppliers, providing incentives to increase the export of renewable energy products, and providing energy efficiency and conservation incentives for energy consumers. The intent would be to determine what, if any, state investment levels and mandated consumer actions are deemed appropriate in developing a long term, viable and dynamic state energy strategy.

Continued Testimony

Additional conferees provided testimony to the Committee during the January 5-6, 2006 meeting. A brief description of their testimony follows.

Jay Caspary, Director of Engineering for the Southwest Power Pool, discussed the SPP's efforts to identify and plan for electrical transmission system reliability and economic benefit upgrades.

Dr. Richard Nelson, Kansas State University, Associate Professor and Head of the Kansas Industrial Extension Service; and Mike Volker, Midwest Energy, Hays, discussed Renewable Portfolio Standards (RPS). The Committee learned that 21 states have required utilities in their states to obtain a specified percentage of electrical power from renewable sources. The Committee also learned that there is no uniform method for calculating how those standards are met, so comparisons of those state programs are not easily made.

Greg Dana, Vice President of Environmental Affairs for the Alliance of Automobile Manufacturers presented information about the use of alternative fuels in various automobiles. Mr. Ed Wallace of General Motors also responded to questions about the use of alternative fuels.

Bruce Snead, Energy Efficiency and Conservation Representative on the Kansas Energy Council, discussed issues surrounding energy efficiency and conservation. The Committee learned that other states have programs that promote energy conservation and efficiency and that those programs could serve as models for Kansas. The Committee was told that implementing energy efficiency is one of the lowest cost means of lowering residents' energy expenditures.

Jeff Serfass, President, National Hydrogen Association, Washington, D.C. presented information regarding the use of hydrogen as an energy source.

Tim Carr and Dave Newell of the Kansas Geological Survey discussed recent activities to produce coalbed methane in the state. There has been significant development of coalbed methane production in most of eastern Kansas where there are numerous coal seams from which methane gas can be economically extracted.

Mike Sloan, Virtus Energy Research Associates of Austin, Texas, discussed a number of issues including the use of deliberative polling to determine the public's willingness to pursue various policy alternatives. Deliberative polling has been used in Texas to gauge support for a variety of energy policies. During the course of the January Committee meeting, the Committee was informed that the Kansas Energy Council is preparing a request for proposals for conduct of a deliberative poll.

Dr. Richard Nelson, Kansas State University, Associate Professor and Head of the Kansas Industrial Extension Service; Kenlon Johannes representing the Kansas Soybean Commission; and Jere White representing the Kansas Corn Growers and Kansas Grain Sorghum Producers discussed the energy balance of ethanol and biodiesel fuels. In addition, they presented information regarding the cost per unit of energy used in order to determine the economics of alternative fuel production.

Stan Riemann, Chief Operating Officer for Coffeyville Resources, LLC, discussed coke gasification. Coke is a by-product of the oil refining process and the facility in Coffeyville is unique in this process in North America. The Coffeyville plant uses petroleum coke which is a waste byproduct from petroleum refining to produce anhydrous ammonia (NH3) and urea ammonium nitrate (UAN) through gasification. Normally, a refinery would sell petroleum coke to power plants for energy recovery. Coffeyville Resources is the only nitrogen fertilizer facility in North America that uses petroleum coke rather than natural gas as a feedstock to produce nitrogen fertilizer.

Representatives of the Kansas Department of Transportation discussed numerous transportation issues. However, most of the discussion centered around rail transportation and how access to the rail transportation system is critical to siting decisions for alternative fuel manufacturing facilities.

Kate Burke, of the National Conference of State Legislatures, presented case studies of other states' energy planning structures and processes. She told the Committee that when she visits other states to discuss energy planning, she frequently points to Kansas as one state that has a good process.

January 13 and 20, 2006

The Committee held two short meetings to review its draft report and finalize recommendations to the 2006 Legislature.

Conferee Policy Recommendations

During the Committee's three and one-half days of hearings, numerous recommendations were presented for its consideration. The following material summarizes by topic area those recommendations. The conferee who presented the recommendation is noted in each instance.

Energy Efficiency

Provide an income tax credit for residential furnaces upgraded to 95 percent efficiency (Representative Carl D. Holmes).

- Adopt a tax credit for homeowners to make energy efficiency upgrades to their homes including the services of a certified home energy rater, and cap the tax credit at $2,000 per year (Bill Griffith, Sierra Club).

- Adopt a tax credit for landlords to encourage energy-efficient upgrades to the rental housing industry (Bill Griffith, Sierra Club).

- Develop a program for the insulation of rental property (Representative Carl D. Holmes).

- Provide a sales tax exemption for Energy Star appliances (Representative Carl D. Holmes).

- Provide a sales tax exemption for installed insulation (Representative Carl D. Holmes).

- Set a state goal to reduce energy usage 15 percent for all government buildings, including state, city, county, K-12, and higher education by 2010 (Representative Carl D. Holmes).

- Review the energy efficiency loan program for all governmental buildings (Representative Carl D. Holmes).

- Make grants available to finance the retrofitting of existing city facilities (Kimberly Winn, Director of Policy Development and Communications, League of Kansas Municipalities).

- Promote energy conservation in cities by highlighting and celebrating those renovation and construction projects that have produced successful energy-conserving measures in city facilities (Kimberly Winn, Director of Policy Development and Communications, League of Kansas Municipalities).

- Make Leadership in Energy Environment Design certified design required for buildings connected with any agencies receiving state funding (Joe Spease, Kansas Unbound).

- Implement a comprehensive set of regulatory, institutional, and market reforms that would increase the state's reliance on energy efficiency as a resource, together with other beneficial demand side and distributed resources (Bruce Snead, Efficiency and Conservation Representative, Kansas Energy Council).

- Establish state goals for energy efficiency—10 percent by 2010 and 20 percent by 2020 (Bruce Snead, Efficiency and Conservation Representative, Kansas Energy Council).

- Establish tax policies to encourage energy efficiency rather than production and consumption (Bruce Snead, Efficiency and Conservation Representative, Kansas Energy Council).

- Adopt a revolving loan program for consumers and small businesses modeled after Nebraska's program in which loans can be used to make energy-efficient upgrades in homes and businesses and the savings can be used to pay back the loans (Bill Griffith, Sierra Club; Bruce Snead, Efficiency and Conservation Representative, Kansas Energy Council).

- Require utilities to integrate energy efficiency options into resource planning and procurement decisions and pursue energy efficiency whenever it is the least cost resource option (Bill Griffith, Sierra Club; referenced by Bruce Snead, Efficiency and Conservation Representative, Kansas Energy Council).

- Direct the Kansas Corporation Commission to evaluate energy efficiency and conservation in rate cases and establish utility rate structures and programs to encourage efficiency (Bruce Snead, Efficiency and Conservation Representative, Kansas Energy Council).

- Develop a Public Benefits Fund to fund state energy initiatives that would draw from all utilities for a statewide energy program with options for Munis and Renewable Energy Credits (Bruce Snead, Efficiency and Conservation Representative, Kansas Energy Council).

- Require that electricity distribution companies in Kansas dedicate at least 2.5 percent of revenues toward ratepayer-

funded energy efficiency programs (Bill Griffith, Sierra Club).

- Add 10 percent state funds to weatherization and target structures of greatest need, and add flexibility to the program (Bruce Snead, Efficiency and Conservation Representative, Kansas Energy Council).

- Evaluate the potential for an "Efficiency Kansas" program modeled after Vermont, Maine, and others (Bruce Snead, Efficiency and Conservation Representative, Kansas Energy Council).

Demand Side Management Programs

- Establish minimum energy savings requirements, or set a target goal of saving 3-5 percent of projected electricity sales in 2010 through Demand Side Management programs (Western Governor's Association Energy Efficiency Task Force report from September 2005; provided in the testimony of Bill Griffith, Sierra Club; also referenced by Bruce Snead, Efficiency and Conservation Representative, Kansas Energy Council).

- Require utilities, or alternative Demand Side Management program implementers, to undertake thorough energy savings monitoring and verification, and program cost effectiveness analysis (Western Governor's Association Energy Efficiency Task Force Report from September 2005; provided in the testimony of Bill Griffith, Sierra Club; also referenced by Bruce Snead, Efficiency and Conservation Representative, Kansas Energy Council).

- Decouple electricity sales and revenues so that reduced sales do not affect utility profits and rewards are in place for utilities that implement successful Demand Side Management programs (Bill Griffith, Sierra Club).

Hybrid Vehicles

- Reduce transportation fuels usage by using hybrid electric rental cars (Representative Carl D. Holmes).

- Encourage improved vehicle mileage using technology currently in production (e.g. Diesel Europe, hybrid gasoline-electric, lightweight carbon composite construction) ("Oil and Security" by George Shultz and James Woolsey, cited in Representative Carl D. Holmes' testimony).

- Encourage the commercialization of alternative transportation fuels that are compatible with existing infrastructure and derived from waste (e.g. biomass [cellulosic] ethanol, biodiesel and renewable diesel) (Representative Carl D. Holmes).

- Promote plug-in hybrids and battery improvements, since most driving is short distances, and the cost of residential electricity is about 40 percent of the cost of gasoline per mile (Representative Carl D. Holmes).

Methane Recovery

- Propose legislation for landfills allowing state and federal funds leveraged with Kansas Demand Finance Authority (KDFA) for revolving loan program for methane recovery (Representative Carl D. Holmes).

- Propose legislation for wastewater lagoons to use state and federal funds leveraged with KDFA for methane recovery (e.g. Chicago, Kansas City, Liberal, and Dodge City) (Representative Carl D. Holmes).

- Introduce a Kansas Feedlot Waste Energy Act that includes legislation providing for property tax exemption for "waste to energy" from confined feeding operations

for the production of methane (Representative Carl D. Holmes).

Coalbed and Shale Gas Recovery

- Fund, with state matching dollars, pilot/demonstration projects with universities and private industry (Timothy R. Carr and K. David Newell, Kansas Geological Survey).

Oil Refineries

- Introduce a Kansas Oil Refinery Act that includes legislation to provide for investment tax credits for the following: Kansas refinery expansion, new refineries, and modifying refineries for heavy oil (Representative Carl D. Holmes).

- Propose legislation providing a property tax exemption for new refinery construction or modifications of an existing refinery to process "heavy oil" (Representative Carl D. Holmes).

- Accelerate depreciation for refineries (Representative Carl D. Holmes).

- Pass a resolution to Congress that will define small refineries as under 250,000 BPD (Representative Carl D. Holmes).

- Authorize KDFA bonding (Representative Carl D. Holmes).

- Require the Department of Commerce to assist in refinery project planning (Representative Carl D. Holmes).

- Streamline permitting and siting procedures for the expansion of existing domestic refining capacity and for the construction of new grassroots refineries (Bill Douglas before Congress' House Committee on Energy and Commerce September 7, 2005; highlighted by Thomas M. Palace, Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas).

- Increase the state's current oil-refining capacity by developing new oil refineries on abandoned military bases, such as the air base outside of Liberal, Kansas (Ryan Kinder, Kansas, Inc.).

- Streamline the processes of constructing new oil refineries. Find companies willing to construct, offer incentives (such as tax breaks on land and equipment), prepare the site, and obtain the necessary permits. In order to comply with air quality standards set by the National Ambient Air Quality Standard, determine what emission rates are permissible and propose control technology that might be used to limit emissions (Ryan Kinder, Kansas, Inc.).

- Increase oil refining capacity by expanding existing facilities (Ryan Kinder, Kansas, Inc.).

- Support the expansion of the small refinery definition and make the definition consistent throughout the federal government. At least 3 different definitions for "small refinery" currently exist. Send a resolution to Congress that defines a small refinery as "refiners whose total operating and idle capacity of atmospheric crude oil distillation from all facilities does not exceed 250,000 barrels per calendar day." (Stan Riemann, Chief Operating Officer of Coffeyville Resources, LLC).

Gasoline

- Offer incentives to prolong the life of existing gas production fields and encourage new drilling where cost is high (E.R. [Dick] Brewster, BP America).

- Reduce the cost of gas production by lowering the Kansas severance tax and the property tax on gas reserves (E.R. [Dick] Brewster, BP America).

- Investigate the pricing policies of credit card companies whose charges make up an ever increasing portion of the price of gasoline at retail outlets, particularly when gasoline prices are high (Bill Douglas before Congress' House Committee on Energy and Commerce September 7, 2005; recommendation highlighted by Thomas M. Palace, Executive Director of the Petroleum Marketers and Convenience Store Association of Kansas).

- Propose legislation that will change a per-gallon tax to a BTU equivalency tax (Duane Simpson, Vice President of Government Affairs for the Kansas Association of Ethanol Processors).

- Allow for a tax credit of up to 25 percent of qualified capital cost in connection with preparing for the production of low sulfur distillate fuels (Stan Riemann, Chief Operating Officer of Coffeyville Resources, LLC).

Nuclear Power

- Propose legislation providing for a property tax exemption for new nuclear power plants for the construction period and 12 years thereafter (Representative Carl D. Holmes).

Coal

- Support IGCC and other clean-coal technologies by establishing policies that:
  - " Provide timely recovery of costs incurred during pre-construction, construction, and operation;
  - " Allow for an additional return on equity;
  - " Adjust rates based on actual or forecasted data, with reconciliation to follow;
  - " Allow accelerated depreciation or other tax incentives;
  - " Allow investment recovery even if a commission cancels the operating certificate; and
  - " Allow wires, charges, and credits linked to market prices in restructured states. (American Electric Power, "Clean-Coal Technology Can Help Meet Future Generation Needs").

- Introduce a Kansas Nitrogen Fertilizer Act including legislation to provide an investment tax credit and a property tax exemption for coke or Kansas coal gasification for the production of nitrogen fertilizer, and to provide for KDFA bonding authority (Representative Carl D. Holmes).

Electricity Generation

- Introduce a Kansas Electric Generation Act that includes legislation providing for investment tax credit and KDFA financing for "Kansas Coal" IGCC and IGCT power plants, and exempting new nuclear power plants from the Kansas Siting Act when they are built within five miles of an existing nuclear power plant (Representative Carl D. Holmes).

Alternative Electricity Generation

- Support incentive programs and initiatives that will increase the use of, and facilitate local ownership of, electrical generation from renewable resources (Terry D. Holdren, Local Policy Director, Kansas Farm Bureau Governmental Relations).

- Support the creation of tax credits for renewable energy and the development of both large-scale and community wind energy projects in the state (Terry D. Holdren, Local Policy Director, Kansas Farm Bureau Governmental Relations).

- Support the ability of local communities to improve their economies through the process of negotiating with wind developers and others interested in

developing alternative energy resources that utilize agricultural products. Clarify the ability of counties to negotiate payments in lieu of taxes in Kansas law (Terry D. Holdren, Local Policy Director, Kansas Farm Bureau Governmental Relations).

- Promote the voluntary development of 10,000 megawatts of new wind energy and related infrastructure by 2015 (Joe Spease, Executive Director of Kansas Unbound; Pristine Power).

- Require wind energy project owners/operators to obtain at least a five year power purchase agreement with a Kansas utility (Joe Spease, Executive Director of Kansas Unbound).

- Pass a state renewable energy tax credit similar to 2005 SB 280 which is currently in the Senate Assessment and Taxation Committee (Joe Spease, Executive Director of Kansas Unbound).

- Provide for risk mitigation via fuel surcharges on electric bills, thereby allowing "firm dispatchable wind" to receive a portion of these surcharges to reduce volatility and price increases in the fuel mix (Joe Spease, Executive Director of Kansas Unbound).

Alternative Fuels

- Look at incentives to encourage the production and use of alternative fuels and energy, but avoid state mandates which disrupt the market and increase costs (E.R. [Dick] Brewster, BP America).

- Do not mandate the purchase of alternative fuels for fleet vehicles when they are operated by an entity that has central fueling facilities (recommendation of Emporia State University, included in the testimony of Eric King, Director of Facilities, Kansas Board of Regents).

- Provide incentives for suppliers to sell alternative fuels to universities at a lower cost (recommendation of the University of Kansas, included in the testimony of Eric King, Director of Facilities, Kansas Board of Regents).

- Consider adopting sales tax and income tax credits for the construction costs, equipment purchases, and infrastructure improvements necessary for blenders and producers of alternative fuels (Bob Rhoton, Lawrence Chamber of Commerce Agribusiness Network and Kan AgriEnergy LLC).

- Support policies that will encourage and promote the sale of ethanol and biodiesel fuels (Terry D. Holdren, Local Policy Director, Kansas Farm Bureau Governmental Relations).

- Look at incentives for ethanol blends, biodiesel, hydrogen fuels, and wind and solar energy use (E.R. [Dick] Brewster, BP America).

- Assist the agricultural industry by promoting the development of ethanol, biodiesel, and wind energy (Bill Pracht, Chairman of the Board for East Kansas Agri Energy).

- Devise policy (such as biodiesel incentives, alternative fuel tax credits, 0 percent low- interest rate loans, and debt forgiveness for state-funded loans) to assist and promote the growth of alternative fuel production and manufacturing in the state (Bob Rhoton, Lawrence Chamber of Commerce Agribusiness Network and Kan Agri Energy LLC).

- Offer property tax abatement on projects which increase the production of transportation fuels and coke gasification production (Stan Riemann, Chief Operating Officer of Coffeyville Resources, LLC).

Ethanol

- Exempt university police departments that use E10 fuels in their patrol vehicles from being required to accumulate 100,000 miles on patrol cars and 140,000 miles on police SUVs before they can be replaced. Drop the required mileage from 100,000 to 80,000 for patrol cars that use E10 fuel and from 140,000 to 100,000 for police SUVs (recommendation of Wichita State University, included in the testimony of Eric King, Director of Facilities, Kansas Board of Regents).

- Require the Kansas Turnpike Authority to review its current contracts with gas stations, and mandate the availability of E10 and E85 in all future contracts (Duane Simpson, Vice President of Government Affairs for the Kansas Association of Ethanol Processors).

- Provide for KDFA financing for grain ethanol plant construction (Representative Carl D. Holmes).

- Consider raising the cap on incentives for ethanol producers so as to promote the expansion of the ethanol production industry (Bill Pracht, Chairman of the Board for East Kansas Agri Energy).

- Require 10 percent ethanol in all bulk fuel purchases for government vehicles (Representative Carl D. Holmes).

- Propose legislation to create a Kansas Ethanol Council that would represent stakeholders in the ethanol industry. The Council would focus on four key issues: (1) ethanol production and industry support; (2) market development; (3) research and technology; and (4) public policy development (Duane Simpson, Vice President of Government Affairs for the Kansas Association of Ethanol Processors).

- Encourage retailers to sell E85 rather than mandating E10 (Gregory Dana, Alliance of Automotive Manufacturers)

- Reject efforts to encourage the use of ethanol in diesel fuel at any concentration (Gregory Dana, Vice President, Environmental Affairs at the Alliance of Automobile Manufacturers, Inc.).

- Encourage state incentives for the provision of E85 at the pump (oral comment in Committee discussion; Gregory Dana, Vice President, Environmental Affairs at the Alliance of Automobile Manufacturers, Inc.; comment also made by Ed Wallace, General Motors).

Biodiesel

- Develop incentives for biodiesel (Representative Carl D. Holmes).

- Encourage the building of biodiesel production plants in Kansas so biodiesel can be made in Kansas with Kansas agricultural products (Myron Holder, Kansas Soybean Association Policy Committee).

- Draft a bill recommending to another committee or to the Legislature that Kansas adopt a minimum of $0.30-per-gallon subsidy for biodiesel produced in a Kansas-based biodiesel production facility (Myron Holder, Kansas Soybean Association Policy Committee).

- Offer tax abatements for equipment and other related items purchased for the construction of a biodiesel plant (Myron Holder, Kansas Soybean Association Policy Committee).

- Exempt biodiesel from the Kansas $0.26-per-gallon diesel fuel excise tax so as to stimulate the use of biodiesel (Myron Holder, Kansas Soybean Association Policy Committee).

- Assist the emerging biodiesel production industry with incentives similar to those given in surrounding states. To compete with Missouri, a $0.30-per-gallon subsidy would be required (Kenlon Johannes, Administrator of the Kansas Soybean Commission).

Hydrogen

- Create a diverse energy portfolio for feedstock and technologies as infrastructure for hydrogen fuel development (Jeff Serfass, National Hydrogen Association).

- Create a fueling infrastructure for hydrogen (Jeff Serfass, National Hydrogen Association).

- Offer sustainable government funding during the early stages of hydrogen production and make investment capital available throughout (Jeff Serfass, National Hydrogen Association).

Research and Education

- Continue research and development investment in alternative energy sources to meet the state's long-term needs (Edward P. Cross, Kansas Independent Oil and Gas Association).

- Educate public officials, business and technical specialists, and the buying public about the advantages of hydrogen as an alternative fuel source. Support education efforts at the middle and high school levels (Jeff Serfass, National Hydrogen Association).
- Propose legislation to capture tax receipts from ethanol plants completed after January 2006 to fund a research program for cellulosic ethanol. Any patents could be held by the State of Kansas for new ethanol research (Representative Carl D. Holmes).
- Research other financing alternatives for grain ethanol plant construction (Representative Carl D. Holmes).

- Encourage community colleges and technical schools to offer courses which would train individuals to make them qualified to work in the oil and gas fields (Edward P. Cross, Executive Vice President, Kansas Independent Oil and Gas Association).

Renewable Portfolio Standard

- Commission a study and consider adopting a renewable portfolio standard for Kansas. Support a statewide energy plan that adopts a renewable portfolio standard, as long as there is no significant increase in consumer prices (Terry D. Holdren, Local Policy Director, Kansas Farm Bureau Governmental Relations).

- Implement a Renewable Portfolio Standard in Kansas, but limit the state's role to certifying credits (a tradeable certificate of proof that one kWh of electricity has been generated by a renewable-fueled source), monitoring compliance, and imposing penalties if necessary (Bill Griffith, Sierra Club).

- Conduct an RPS study to determine the best-fitting RPS design components, if the state anticipates adopting an Renewable Portfolio Standard (RPS) (Richard G. Nelson and Michael J. Volker).

- Include a deliberative polling process in any RPS study (Mike Sloan, Virtus Energy Research Associates).

Net Metering

- Adopt a net metering program in the 2006 Session to encourage small

producers of renewable energy to invest in wind, solar, or biomass (Bill Griffith, Sierra Club).

- Propose legislation requiring net metering so as to support the development of the solar industry in Kansas and reduce energy bills for homes, businesses, and schools (Joe Spease, Kansas Unbound).

Institutional

- Establish a permanent, independent Kansas Energy Office (Bruce Snead, Efficiency and Conservation Representative, Kansas Energy Council).

Kansas Energy Council Recommendations Legislative Action

- Amend Article 9 of the Uniform Commercial Code to restore a priority creditor status for sellers of oil and gas production when a purchaser is in bankruptcy. Such an amendment would follow the language of the former K.S.A. 84-9-319, which was repealed in 2000.

- Amend legislation to include an assistance program to help retail petroleum marketers more effectively comply with new federal regulations for Spill Prevention, Control and Containment, to ensure that rural farm and commercial markets continue to have petroleum products available. It is estimated that the cost of compliance for small businesses may be high enough that some marketers will not be able to maintain their current array of petroleum products for local communities. The loss of regional supply sources for a given petroleum product could significantly impact local agricultural and commercial businesses.
- Legalize negotiations of payments in lieu of taxes (PILTs) between wind developers and counties after permitting has been granted in zoned counties. Furthermore, we ask the Attorney General or other legal counsel for legal clarification on when and how such negotiations can take place in counties without zoning regulations and in unzoned counties that have zoned cities or communities.

- Adopt a production tax credit for new renewable energy facilities or expansions of existing facilities, including wind, hydro, solar, and biomass up to and including 20 MW in size. Such a tax credit should have language similar to that of the Oklahoma tax credit, which has passed muster with the Internal Revenue Service.

- Endow and facilitate a revolving low-interest loan program to make energy-efficient upgrades (including renewable energy projects) in residential homes and small commercial businesses.

- Provide tax or other incentive benefits to landlords when they bring rental properties to minimum energy efficiency standards, in recognition of the fact that rental properties are often some of the least energy efficient housing units.

- Increase spending on current energy-related technical assistance and public education efforts that promote the efficient utilization of all energy resources.

Kansas Energy Council Recommendations Executive Action

- Develop a comprehensive Community Wind Support System for aggressively pursuing development of Community Wind (locally owned, commercially scaled) projects, which show great potential economic benefit for local communities and the state as a whole. These efforts should be primarily enabling mechanisms to encourage initiatives from within local communities with local leadership and

should include but not be limited to (1) educational activities and support from professionals—engineers, bankers, lawyers, grant writers, siting consultants, and others with expertise in developing Community Wind—to help communities move from no knowledge to turbines spinning, (2) creation of an ongoing revolving loan fund, loan guarantees, or both, from a State bonding pool that would encourage local financing, and (3) assistance in identifying and writing grants for Federal (especially USDA 9006 grants) and other grants available for Community Wind projects. The Kansas Departments of Commerce, Agriculture, and Wildlife and Parks, Kansas State Extension, Kansas Corporation Commission, Kansas Energy Office and the Governor's Rural Life Task Force should be active participants in this initiative.

- Set energy-efficiency goals for State agencies to reduce energy use by 10 percent, based on the average of the last three years, by the end of Fiscal Year 2007, where practical and cost effective.

- Require the use of energy efficient vehicles in the State fleet when cost-effective and appropriate for their intended use.

- Formalize the State's pursuit of Federal funding for energy-related projects by charging the appropriate State agencies to assist individuals, small businesses, and communities in obtaining Federal grants.

- Require all State agencies to purchase Energy Star appliances or equipment, where appropriate and cost-effective, when acquiring new energy-using products or replacing existing equipment.

CONCLUSIONS AND RECOMMENDATIONS

At the conclusion of four days of hearings and discussion, the Committee reached a number of conclusions and made several recommendations. Sixteen of the Committee's recommendations require legislation and three are in the form of concurrent resolutions.

The Committee noted that the Kansas Energy Council reported at the end of 2005 that the state continued to be a net energy importer, following a trend that began in the mid-1990s. The Committee concluded, based on voluminous information presented by staff and conferees, that a need exists to make public investments and policies that look out five years and beyond and to create a set of policy tools for use by Kansans to develop market opportunities. The Committee further concluded that ongoing efforts and certain existing policies put Kansas businesses and citizens in a good position to lead, or at least capitalize on, emerging energy market forces. The Committee also concluded that new energy fuel products and technologies would benefit from selective incentives and public support during market development. The Committee recommended introduction of a number of measures to provide incentives for development of alternative energy resources in sufficient quantities to enable the state to again become a net energy exporter.

The Committee recognized that achieving the goal of becoming a net energy exporter will require thoughtful, long-range strategic planning. The Committee also acknowledges the planning and data analysis effort of the Kansas Energy Council (KEC) and the possibility that a future Governor may not be as committed to Kansas' energy needs as have been the current and immediately past governors. Thus, the Committee concluded that establishment of a permanent energy planning entity would build upon the KEC's successes and strengthen the Legislature's and the Governor's abilities to systematically develop

and implement a long-term energy policy. In order to accomplish that goal, the Committee recommended establishment of an Energy Policy Advisory Group to guide energy planning efforts in the Executive Branch and creation of a Joint Committee on Energy to create and maintain a base of energy policy expertise in the Legislature. The Committee discussed, but did not recommend, a suggestion to the Governor that the energy policy planning agency be included in the cabinet.

Energy Policy Advisory Group. The Committee recommended elevation of energy planning to greater prominence by establishing the function in statute and expanding the number of viewpoints represented in the planning process. The latter would be accomplished by including more representatives of energy consumers, legislators, and key cabinet members on the advisory body charged with directing energy research and making policy recommendations.

- The Energy Policy Advisory Group envisioned by the Committee would be composed of the following gubernatorial appointees:
  - An energy economist affiliated with a state university;
  - Three representatives of fuel users (*e.g.*, electric utility, cement maker, fertilizer plant, tire manufacturer);
  - Three representatives of energy producers (*e.g.*, renewable energy generator, electric utility, bio-fuels plant operator, lease operator);
  - Three representatives of energy consumer interests (*e.g.*, consumers of electricity, natural gas, motor fuels, homeowners, renters);
  - Two representatives of agricultural interests, one representing commodity production, the other representing energy consumption;
  - A representative of energy conservation/efficiency interests;
  - A representative of a Kansas oil refinery;
  - Two representatives of other stakeholders in energy production, consumption, or efficiency in Kansas not otherwise represented (*e.g.*, petroleum marketer, natural gas pipeline operator, transmission operator, home energy auditor);
  - A tax specialist knowledgeable in federal and state energy tax matters;
  - A representative of environmental advocacy groups; and
- And, as *ex officio*, non-voting members:
  - Three State Representatives and 3 Senators with substantive knowledge of energy, agriculture, or business development;
  - The Secretary of Agriculture;
  - The Secretary of Commerce;
  - The Secretary of Administration;
  - The State Geologist;
  - The Chairperson of the KCC; and
  - The Consumer Counsel of CURB.

The state's ability to formulate and implement a strategic, long-range energy strategy also would be strengthened by the Committee's recommendation for creation of a state agency responsible for consolidating existing energy production and consumption databases, creating new energy resource databases, and implementing a scientifically valid, policy-relevant energy planning process. The Advisory Group described above would guide the research and planning activities of this staff. The research and planning effort would be conducted by an unclassified Executive Director, two classified researchers, and supported by a clerical position. The agency would be authorized to contract for services from the private sector and state agencies to augment its research and planning effort. The agency would be authorized to contract with another state agency for space and administrative services in order to enable resources to be concentrated on research and planning activities. The Committee anticipates that $500,000 from the State General Fund would be necessary to

establish the Council in FY 2007. The Committee is cognizant of current pressures on the State General Fund, but concluded that since benefits of comprehensive, long-range energy planning will benefit all Kansans, General Fund financing is appropriate.

Joint Committee on Energy. The Committee also recommended that the Legislature's energy policy making abilities be strengthened by creation of a Joint Committee on Energy as a permanent committee. That Committee would be authorized to meet anywhere in the state to ensure its ability to hear from all Kansans in regard to the economic impact on Kansas communities of energy costs, availability, and reliability.

Incentives for Energy Source Diversification. The Committee concluded that energy fuel source diversification in Kansas would have direct economic benefit for producers and their employees and indirect economic benefit to all Kansans. The indirect benefits would accrue as a diversified universe of energy resources become available to mitigate the price volatility inherent in dependence on a limited set of resources. In order to facilitate broadening of the base of energy resources available in the State, the Committee recommended a number of incentives.

The Committee recommended enactment of legislation that would provide for creation of Education-Energy Cooperatives and Municipal-Energy Cooperatives. As members of such a cooperative, one or more cities, school districts, community colleges, technical colleges, or universities would develop or contract for renewable energy that is appropriately sized for their electricity needs. The traditional electric supplier for the educational institution or the municipality would be required to purchase any surplus power at wholesale market rates or act as the broker on behalf of the cooperative to sell the surplus power. Sales of energy generated by the cooperative would financially benefit both the cooperative and the local utility.

The Committee's other energy source diversification recommendations also could be described as providing incentives for expanded value added agricultural production. One of those recommendations is for a five-year property tax exemption for Kansas producers of biodiesel. The exemption would be for property acquired or constructed after December 31, 2005 if that property is used regularly in the production of biodiesel. In addition, the recommendation provides for a two-year property tax exemption to Kansas retailers of biodiesel applicable to property acquired after December 31, 2005 in order to sell diesel fuel containing biodiesel. Another production incentive would be created by the Committee's recommendation of an income tax credit for direct costs incurred after December 1, 2005 to adapt or add equipment to retrofit an existing facility or adapt a new facility in Kansas to produce or blend diesel fuel containing biodiesel. Finally, the Committee recommended creation of an incentive for biodiesel production that would parallel the program created for ethanol producers. The biodiesel production incentive would provide a maximum $0.30 per gallon incentive for biodiesel. The maximum amount available for all producers through the program would be $875,000 per quarter beginning July 1, 2007.

The Committee recognizes that developers of wind energy resources frequently are able to make significant monetary contributions to the communities in which they are located by making payments in lieu of property taxes. A recent state district court ruling has served as a deterrent to those wind energy developers who are willing and able to make such contributions. For that reason, the Committee recommended that existing law be amended to specifically permit wind energy generation developers to enter into agreements with counties to make payments in lieu of property taxes.

Finally, the Committee recommended introduction of legislation that would make all existing and new renewable and alternative fuel tax credits salable.

Infrastructure Development. The Committee recognizes that the long term goal of once again being an energy exporting state is hindered to some extent by the realities of infrastructure limitations. The Committee learned of just a few of those limitations during its hearings. Among the most notable limitations are barriers presented by rail and electric transmission infrastructure. The Committee learned that Kansas is in the forefront of states who have taken steps to address improvement of electricity transmission capability. However, the State offers few incentives for development of adequate rail capacity to move raw materials into the state and biofuels out of the state to markets across the country. In recognition of that fact, the Committee recommended legislation to create a 12-year property tax exemption for rail terminals dedicated to transportation of biofuels and provide for KDFA financing assistance for those facilities.

Market Stimulation. The Committee recognizes the need to consider energy issues in more than just direct economic terms, such as the cost to consumers and tax revenues to state and local governments. The Committee examined how state and local governments can provide a customer base for emerging Kansas' energy suppliers as well serve as visionary partners by coupling traditional tax credits with technical assistance to help Kansas' businesses identify and meet emerging regional and national market opportunities. The Committee concluded that the economic benefits of many of the incentives it recommended will be multiplied if the local market for Kansas-produced fuels is stimulated. In order to create necessary local market stimulus, the Committee recommended that by January 1, 2010, all gasoline sold in Kansas contain ten percent ethanol and that all diesel fuel sold in the state contain at least two percent biodiesel. Retailers may be better able to meet that mandate if the Legislature enacts the recommended sales tax exemption for equipment purchased to enable a facility to sell diesel fuel containing biodiesel. Finally, the Committee recommended creation of a property tax credit for Kansas based biofuel mixing facilities. The credit would be the same as that currently available for fueling stations under K.S.A. 79-32,201. The Committee also recommended adoption of a resolution encouraging the Kansas Turnpike Authority to include in its contracts with operators of service stations on the Turnpike a requirement for the sale of biofuels. Finally, the Committee recommended that the Legislature adopt a resolution urging Congress to ban the use of methyl tertiary-butyl ether (MTBE) as a gasoline additive by 2010. The Committee notes that ethanol provides many of the benefits of MTBE, without most of the health and environmental side effects.

The Committee concluded that encouraging the state's electric utilities to provide to federal facilities Kansas-generated electricity from renewable resources would be in the state's best economic interest. Thus, the Committee recommended introduction of legislation that would provide that any utility that sells to a federal facility renewable energy produced in Kansas would be eligible to receive a tax credit in an amount to be certified by the KCC if the KCC determines that the impact of the renewable energy transaction would cause the utility's overall rate of return to fall below the level approved by the KCC. The amount of the tax credit would be determined retrospectively by the KCC so that the actual costs of the transaction and the utility's actual rate of return for the year during which the transaction occurred could be used to determine the amount necessary to compensate the utility for excess costs attributable to the transaction. The Committee noted that the approach embodied in this recommendation would make provision of Kansas-generated renewable energy optional for the utility serving the federal facility, but could prevent

federal facilities from purchasing renewable energy credits (RECs) from out-of-state suppliers.

Consumer Education and Incentives for Energy Efficiency. The Committee noted that the existing law requiring sellers of new homes to disclose energy efficiency information to prospective buyers may not be effective because of the timing of the required disclosure. Thus, the Committee recommended that the law be amended to require sellers of new housing to disclose energy efficiency information at the time the house is offered for sale.

The Committee concluded that incentives provided to energy consumers, in particular home owners and landlords, would be an effective means of encouraging greater energy efficiency. To that end, the Committee recommended introduction of legislation that would create :

- A $100 tax credit (to persons who document with an original sales receipt for product or service) for each additional 4 inches of attic insulation installed per dwelling unit;

- A $200 tax credit for each 5 percent increase in heating, ventilation, and air conditioning (HVAC) system efficiency (documented by the installer showing the previous manufacturer's name, unit identification, efficiency rating and the same information for the newly installed unit) for a single family dwelling or duplex, and a $100 tax credit for each multiple-family dwelling unit (apartment complex) served by that HVAC unit; and

- A $100 tax credit for installation (documented by an original sales receipt for product or installation) for $2,000 of energy conservation exterior doors and windows per dwelling unit.

The Committee expressed interest in educating the public on a variety of topics that were examined during the course of the Committee's work. In particular the Committee is interested in encouraging public education regarding the impact on energy conservation on residential heating and cooling bills and the cost of transportation and the broad impact of the use of renewable resources to generate electricity. The Committee learned during its hearings about deliberative polling and the potential value of that process as an educational tool for the public and for policy makers.

Finally, the Committee learned that the Facilities Conservation Improvement Program implemented by the KCC has been utilized by state and local units of government and unified school districts to undertake over $89 million of energy conservation capital improvements. The Committee also learned that those improvements are anticipated to result in nearly $8 million in energy cost savings.

Recognition of the Continued Need for Oil and Gas. The Committee concluded that while energy resource diversification is important, the country is in a period of transition and that the current natural gas price volatility will continue absent additional production. For that reason, the Committee recommended adoption of a resolution urging Congress to support further development of natural gas production in US coastal waters.

During the course of its hearings, the Committee learned that many small producers of oil and gas in Kansas do not have access to resources necessary to engage in research and development aimed at increasing and improving petroleum resource recovery. The Committee concluded that the recovery of oil and gas in Kansas could be enhanced by State support of expanded research and development efforts in cooperation with a variety of industry partners. In order to facilitate these partnerships, the Committee recommended introduction of legislation that would earmark the greater of $1.2 million or one percent of annual severance tax revenue for use by the Kansas Energy Research Center

for development of enhanced petroleum and natural gas production technologies and demonstration projects. Of that amount, 70 percent would be dedicated to demonstration projects utilizing technology not currently used in Kansas; 25 percent would be used as seed money for long range research projects; and five percent would be dedicated to program administrative costs. These funds could only be used as matching or cost-sharing funds for eligible projects. The Energy Center would be required to provide an annual report to the Legislature and the Governor regarding the use of these funds and the progress of projects supported by this effort.

Additional Study. The Committee recognized that it could not examine in depth the range of issues raised during the limited time available. For that reason, the Committee identified areas of further study for the LCC to consider assigning to the Joint Committee or to Special Committees during the 2006 interim. Those topics include:

- An examination of taxes related to fuels and energy production, processing, distribution and retail sale. Specifically, such a study should examine the tax structure to determine its suitability for an environment in which energy costs are high and fuels costs are extremely volatile. The committee undertaking this study also should be directed to ascertain whether production, severance, and property taxes, tax exemptions and incentives provide appropriate incentives to the energy production, refining, processing and distribution industries without resulting in windfall earnings.

- An examination of a potential method for providing renewable energy shares or credits that would encourage utilities to cooperate with and promote generation of energy from renewable resources. A portion of that study would be directed toward developing a consumer-driven mechanism to encourage development of renewable energy resources. Another aspect of the study would be identifying means of encouraging end user development of renewable energy for municipalities, school districts, residences, and commercial and industrial facilities. Policy options that might be examined as part of such a study include tax incentives (*e.g.*, sales tax exemptions, income tax credits, property tax abatements), realistic net metering, defining conservation measures as equivalent to use of energy from renewable resources (for a limited time), public education, and other economic incentives for utility companies.

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BILLS RECOMMENDED BY THE 2005 SELECT JOINT COMMITTEE ON ENERGY

Bill No.	Summary	Referral/Action as of 2/16/2006
SB 385	Amend existing law to specifically permit renewable energy generation developers to enter into agreements with counties to make payments in lieu of property taxes.	Assessment and Taxation
SB 387	Require that all gasoline sold in Kansas contain ten percent ethanol and that all diesel fuel sold in the state contain at least two percent biodiesel beginning January 1, 2010.	Agriculture Hearing: 1/31/2006
SB 388	Provide for a maximum $0.30 per gallon incentive for biodiesel producers by instituting a program parallel to that currently in place for ethanol producers (KSA 79- 34,161, *et seq.*). The maximum available through the program would be $875,000 per quarter beginning July 1, 2007.	Agriculture 2/15/2006 Amended by SCOW 02/16/2006 Senate Final Action: Passed as am.; Yeas 39 Nays 0
SB 389	Provide an income tax credit for direct costs incurred after December 31, 2005 to adapt or add equipment to retrofit an existing facility or adapt a new facility in Kansas to produce or blend diesel fuel containing biodiesel. Make all existing and new renewable and alternative fuel tax credits salable.	Agriculture Hearing: 2/1/2006 Assessment and Taxation

Bill No.	Summary	Referral/Action as of 2/16/2006
SB 390	Provide for a 12 year property tax exemption for rail terminals dedicated to transportation of biofuels and provide for KDFA financing assistance for those facilities.	Agriculture Hearing: 2/07/2006 Assessment and Taxation
SB 391	Make all existing and new renewable and alternative fuel tax credits salable. Provide an income tax credit for alternative-fuel fueling stations.	Assessment and Taxation
SB 393	Provide a five-year property tax exemption to Kansas producers of biodiesel for property acquired or constructed after December 31, 2005, if that property is used regularly in the production of biodiesel. In addition, provide a two-year property tax exemption to Kansas retailers of biodiesel for property acquired after December 31, 2005 to sell diesel fuel containing biodiesel. Provide for a sales tax exemption for equipment purchased to enable a facility to sell diesel fuel containing biodiesel. Provide for a income tax credit for Kansas based biodiesel production and selling facilities. The credit would be the same as that currently available for fueling stations under KSA 79-32,201.	Agriculture Hearing: 2/07/2006 Assessment and Taxation
SB 433	Earmark the greater of $1.2 million or one percent of annual severance tax revenue for use by the Kansas Energy Research Center for development of enhanced petroleum and natural gas production technologies and demonstration projects.	Ways and Means Hearing: 2/7/2006

Bill No.	Summary	Referral/Action as of 2/16/2006
HB 2636	Provide for creation of Education-Energy Cooperatives and Municipal-Energy Cooperatives in which one or more cities, school districts, community colleges, technical colleges, or universities develop or contract for renewable energy that is appropriately sized to meet their electricity needs. The traditional electric supplier for the educational institution or the municipality would be required to purchase any surplus power at wholesale market rates or act as the broker on behalf of the cooperative to sell the surplus power. Any such energy sales would financially benefit both the cooperative and the local utility.	Utilities Hearing: 1/26/2006
HB 2637	Create : • A $100 tax incentive for each additional 4 inches of ceiling insulation installed per dwelling unit; • A $200 tax credit for each 5 percent increase in heating, ventilation, and air conditioning (HVAC) system efficiency for a single family dwelling or duplex, and a $100 tax credit for each multiple-family dwelling unit served by that HVAC unit; and • A $100 tax credit for installation for $2,000 of energy conservation exterior doors and windows per dwelling unit.	Taxation Utilities
HB 2642	Establish in statute the Kansas Energy Policy Advisory Group to conduct energy research and to develop and update a state energy plan and make long-term energy policy recommendations to the Governor and Legislature.	Utilities 02/13/2006: Be passed as am. by Utilities

Bill No.	Summary	Referral/Action as of 2/16/2006
HB 2643	Create in statute a Joint Committee on Energy as a permanent committee that specifically would be charged with studying the current status of Kansas energy, and recommending long-term and short-term energy strategies and policies for the state of Kansas.	Calendar and Printing
HB 2644	Amend existing law to require sellers of new housing to disclose energy efficiency information at the time the house is offered for sale rather than at closing.	Commerce and Labor Hearing: 1/30/2006
HB 2723	Provide that any electric utility that sells to a federal facility renewable energy produced in Kansas would be eligible to receive an income tax credit, under certain circumstances, in an amount certified by the KCC.	Taxation, Utilities Hearing: Thurs., 2/9/2006 (joint meeting)
HCR 5028	Encourage the Kansas Turnpike Authority to include in its contracts with operators of service stations on the Turnpike a requirement for the sale of biofuels.	Environment Hearing: 1/26/2006
HCR 5029	Urge Congress to ban the use of methyl tertiary-butyl ether (MTBE) as a gasoline additive by January 1, 2010.	Environment 02/15/2006 Be adopted by Environment
HCR 5030	Urge Congress to support further development of natural gas production in US coastal waters.	Environment Hearing: Thurs., 2/9/2006