

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Pat Apple at 1:30 p.m. on February 25, 2009, in Room 545-N of the Capitol.

All members were present.

Committee staff present:

Mike Corrigan, Office of the Revisor of Statutes
Melissa Doeblin, Office of the Revisor of Statutes
Raney Gilliland, Kansas Legislative Research Department
Cindy Lash, Kansas Legislative Research Department
Ann McMorris, Committee Assistant

Conferees appearing before the committee: None

Others attending:

See attached list.

Chair continued hearing on:

SB 265 - Energy conservation and electric generation, transmission and efficiency and air emissions.

Chair asked if there were any others who wished to speak to the bill as proponents, opponents or neutrals. There were none.

Chair closed the hearing on **SB 265.**

Chair opened for discussion on the bill explanation for **Senate Bill 265** on major provisions of the bill by topic. (Attachment 1)

1. State purchase of products and equipment - New Sec. 2.
2. State energy use data - New Sec. 3. Senator Francisco offered some proposed new language and explained the reasons. (Attachment 2)

Senator Petersen suggested a change from 10% below to 2007 ASHRAE standard. He noted this language would need to be monitored by the legislature and updated in the future. Also need a date on IECC.

(3) Agency participation in the facilities conservation improvement program - New Sec. 4. Senator Emler recommended deletion of New Section 4 (b).

(4) State Building Construction and Renovation Standards - New Sec. 5. Referred to the date on page 1, line 41 - definition of new state building.

(5) Renewable Resources Requirement - New Sec. 6. A letter from the Governor's Wind Energy Coalition, dated February 18, 2009, was distributed and discussed. (Attachment 3) Suggested KCC look into reliability after 15% reached. Committee discussed federal standards, location and requirements in designated green eco system. Noted if property rights are taken legislation should be passed to provide some compensation.

(6) Parallel Generation - (Sec. 25) - the coop proposal included monthly netting of energy. Define actual commodity cost.

Chair announced continuation of the discussion on **SB 265** at the Senate Utilities Committee meeting on February 26, 2009. The meeting was adjourned at 2:30 p.m.

Respectfully submitted,
Ann McMorris Committee Assistant
Attachments - 3

GUEST LIST
SENATE UTILITIES COMMITTEE
FEBRUARY 25, 2009

<u>NAME</u>	<u>COMPANY</u>
Woody Moses	KAPA
Ton DAY	KCC
HARRY BEU	MIDWEST ENERGY
Nelson Knueger	PAR
Maril Harnett	CEP
PHIL WAGOS	ILPCO
Mari Tucker	Dept of Commerce
Scott Jones	KEPL
LOW STANTON	NORTHERN NATURAL GAS
Eric Stafford	Ka Livestock Assoc.
Eric Stafford	AGC of KS
Shahid Stafford	KS Grain & Feed Assn
Perch Klein	High Low Firm
Tim Brackner	AT&T
Mike Rees at	Haches Brader
KEITH PANGBURN	KEARNEY & ASSOCIATES
Kimberly Jones Saty	GSPA

Bill Explanation for Senate Bill 265

Senate Bill 265 is a comprehensive energy bill. Provisions of the bill enact new law and amend existing law related to several programs. Major provisions of the bill are summarized below, by topic area.

State Purchase of Products and Equipment

Requires the Secretary of Administration to adopt rules and regulations mandating that state agencies purchase products and equipment at least as energy efficient as similar products that qualify for Energy Star Certification. The requirement only applies if the projected cost savings over the life of the product is equal to or greater than the additional cost paid for the more efficient product. **(New Sec. 2)**

State Energy Use Data

Requires the Secretary of Administration to collect data on energy consumption and costs for all state-owned or leased real property. The Secretary must submit annual reports to the Legislature identifying properties that use an excessive amount of energy and are in violation of rules and regulations adopted by the Secretary concerning energy efficiency standards for state owned or leased property. Reports would be due on the first day of the Legislative Session in 2010 and annually thereafter.

Additionally, the Secretary of Administration could not approve a new lease or a renewal of an existing lease unless the lessor has submitted an energy audit of the property. The lessor would be required to make improvements to the property based on the audit. The Secretary would be required to adopt rules and regulations establishing energy efficiency performance standards. **(New Sec. 3)**

Agency Participation in the Facilities Conservation Improvement Program

Requires the Kansas Energy Office of the Kansas Corporation Commission (KCC), within the limits of appropriations, to develop and increase the participation of school districts and local governments in the Facilities Conservation Improvement Program (FCIP). The KCC shall strongly encourage state agencies that operate state-owned buildings to participate in FCIP if the agencies have not already done so. **(New Sec. 4)**

State Building Construction and Renovation Standards

Establishes energy efficiency performance standards for state buildings. All newly constructed and, to the extent possible, renovated state-owned buildings must be designed and constructed to achieve energy consumption levels that are at least 10 percent below the levels

established by ASHRAE or IECC, as prescribed in rules and regulations adopted by the Secretary of Administration. The regulations only apply if the levels are life-cycle cost-effective. The Secretary also would recommend that new and, to the extent possible, renovated school and municipal buildings meet the same requirements. **(New Sec. 5)**

Renewable Resources Requirement

Creates a renewable resources requirement for public electric utilities, excluding those owned or operated by municipalities. Requires that, by 2013, public utilities are able to generate or purchase an amount of energy from renewable resources that is equal to at least 10 percent of their three-year average (calendar years 2009, 2010, and 2011) peak load, expressed in megawatts, in the State of Kansas. The required amount of renewable resources would increase to 15 percent by 2017 and to 20 percent by 2021.

Renewable energy provided to a utility under the Net Metering and Easy Connection Act may be counted toward the utility's renewable resource requirement. The KCC is required to adopt rules and regulations to govern reporting requirements and prevention of duplication of the application of the renewable resources requirements.

Renewable resources for this requirement include wind, solar, photovoltaic, biomass, hydropower, geothermal, and landfill gases. **(New Sec. 6)**

Net Metering and Easy Connection Act

Enacts the Net Metering and Easy Connection Act which establishes a net metering procedure for small solar electricity generating units (100 kw maximum capacity) that are interconnected with a retail electricity supplier. Retail electric suppliers include any municipal electric utility, electric cooperative utility, or electric public utility that provides retail electric service in Kansas. **(New Sec. 7, 8)**

Net metering would be available to customer-generators on a first-come, first-served basis, but suppliers would not be required to make the net metering available if the total rated generating capacity exceeds certain parameters outlined in the bill. **(New Sec. 9)**

Customer-generators who produce more electricity than they receive from a supplier during a billing period will be billed for appropriate customer charges and will be credited an amount at least equal to 150 percent of the avoided energy cost for the excess kilowatt-hours generated. Unused credits expire without compensation 12 months after they are issued. **(New Sec. 12 (c,d))**

Retail electric suppliers are required to submit an annual net metering report either to the KCC or to the retail supplier's governing body. The KCC is required to adopt rules and regulations for administration of the Act for electric public utilities, within nine months of the effective date of the bill. Also within nine months after the effective date of the bill, the governing body of an electric cooperative utility or a municipal electric utility would be required to adopt policies establishing a simple contract to be used for interconnection and net metering. **(New Sec. 15 - 17)**

Costs incurred under the Net Metering and Easy Connection Act by a retail electric supplier are recoverable in the utility's rate structure. **(New Sec. 20)**

Home Rule Provisions

Prohibits counties from using home rule powers to opt-out of the Kansas Air Quality Act and makes technical changes to the statute. **(Sec. 24)**

Parallel Generation

Amends the parallel generation statute to allow a person operating a small solar electricity generating unit that is interconnected with a retail electricity supplier the option of participating under the parallel generation statute or the Net Metering and Easy Connection Act. Once made, the option selected could not be changed. **(Sec. 25 (b) (3))**

Renewable energy provided to a utility under a parallel generation contract may be counted toward the utility's renewable resource requirement. **(Sec. 25 (g))**

The Kansas Corporation Commission, upon request of a utility, may approve net metering tariffs for renewable generation from other resources in addition to solar. **(Sec. 25 (h))**

Powers of the Secretary Under the Kansas Air Quality Act

Asserts the policy of the state to regulate Kansas air quality and implement laws and regulations that are applied equally and uniformly throughout the state and consistent with those of the federal government. **(Sec 26 (b))**

Authorizes the Secretary of Health and Environment to promulgate rules and regulations to ensure Kansas is in compliance with the federal Clean Air Act, however the standards established cannot be any more stringent, restrictive or expansive than required by the federal Clean Air Act, and cannot be enforced prior to the time required by the federal Act. These restrictions do not apply to an implementation plan for a non-attainment area under the Clean Air Act. **(Sec. 26 (b) (1))**

Prohibits the Secretary from denying or delaying issuance of a permit required by federal or state law if the applicant has met the requirements of the Kansas Air Quality Act. **(Sec. 26 (b) (2))**

If requested by the applicant, the Secretary is required to reconsider an application for a permit filed after January 1, 2006, and prior to the effective date of this Act that remains pending in any administrative or judicial review proceeding. The application for reconsideration must be filed with the Secretary within 60 days of the effective date of this Act, and the Secretary has 15 days during which to act on the request. **(Sec. 26 (c))**

An applicant aggrieved by the Secretary's action may file a petition for review with the Kansas Court of Appeals within 30 days of the Secretary's determination. The Court's review must be conducted in accordance with the Act for Judicial Review and Civil Enforcement of

Agency Actions without the need to exhaust other administrative remedies. **(Section 26 (c))**

Approvals and Permits for Emission Stationary Sources

Requires the Secretary, after a public comment period or public hearing, to affirm the issuance of any permit that complies with all requirements of rules and regulations promulgated under the Kansas Air Quality Act. **(Sec. 27)**

Action to Protect Health or Environment

Authorizes the Secretary to issue a temporary order upon receiving evidence that emissions from an air pollution source or sources presents an imminent and substantial danger to public health, welfare or environment; or an imminent or actual violation of the Act or permit conditions required by the Act. The temporary order, limited to 72 hours, could direct the owner or operator of a facility or site to take steps as necessary to prevent the act or eliminate the practice. The Secretary may initiate action in the district court upon expiration of the temporary order. **(Sec. 28 (a,b))**

An owner or operator aggrieved by the Secretary's order is immediately entitled to judicial review of the agency action, upon filing a petition, without the need to exhaust administrative remedies. **(Sec. 28 (d))**

Severability

If any provisions of the act are held to be invalid, it shall not affect the validity of the remaining portions of the act. **(Sec. 29)**

Effective Date

The Act would take effect upon publication in the *Kansas Register*. **(Sec. 31)**

Section 3: The secretary of administration shall adopt rules and regulations establishing energy efficiency performance standards and requiring energy audits for all state owned and leased buildings.

(a) The secretary of administration shall require an energy audit to be conducted on each state owned building at least once every five years and shall submit a written report to the joint committee on state building construction on or before the first day of the 2010 regular session of the legislature and on or before the first day of each ensuing regular session of the legislature identifying the amounts of energy used in each building that was audited in the previous fiscal year.

(b) The secretary of administration shall not approve a new lease or renewal or extension of an existing lease of non-state owned real property unless the lessor has submitted an energy audit for such real property that is the subject of the lease, and the property proposed for lease meets the energy efficiency performance standards or will be improved to meet the standards within the 18 months of the leasing period.

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Governors'
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February 18, 2009

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Co-Chair

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Gov. Christine Gregoire

West Virginia
Gov. Joe Manchin, III

Wisconsin
Gov. Jim Doyle

The Honorable Barack Obama
President of the United States
The White House
Washington, DC 20500

Dear Mr. President:

We write today to begin a partnership with your Administration to address some of the nation's most pressing needs — jobs, energy, and climate — through the use of domestic renewable energy resources.

As a bipartisan group of 23 governors from diverse regions of the nation, we share a common concern that our dependence on imported energy sources too greatly risks the nation's energy and economic security. We offer our assistance in working with your Administration to achieve one of the principal goals identified during the campaign — energy independence and increasing the role that wind energy plays in meeting this challenge.

Wind energy is a clean, abundant, and affordable source of energy. According to the U.S. Department of Energy, with the right policies and investments, the United States can generate 20 percent of our electricity demand through wind and other renewable sources by 2030. Working toward this goal would spur new investments that can help stabilize our states' and nation's economies, reduce consumer energy costs, reduce dependence on foreign oil, lessen carbon emissions, and create thousands of good jobs.

There are a number of policy options that your new Administration and Congress should consider, including:

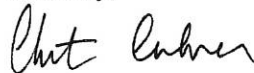
- **Adoption of a National Renewable Electricity Standard.** We recommend the adoption of a national renewable electricity standard requiring utilities to provide a minimum of 20 percent of their electricity from renewable sources such as wind and solar. The certainty and stability provided through a national standard would reduce overall costs of wind development for the nation's electricity consumers.
- **Support for the construction of New Interstate Electric Transmission Capacity.** The nation cannot be expected to fully develop our rich domestic wind resources without major improvements to the electric transmission system. National policy is needed to provide incentives for transmission developers and states to collaborate in the siting and construction of a modern transmission system. Implementation of this policy will also substantially increase the overall reliability of the nation's power system, reducing electricity costs to consumers.

Senate Utilities Committee
February 25, 2009
Attachment 3-1

- **Expansion of the U.S. Department of Energy's Work with States and the Wind Industry to Accelerate Innovation.** Wind power technology is one of the best economic development opportunities for our states. Production of wind energy components and systems can help revitalize the manufacturing sector, and will provide substantial benefits to the nation's economy through domestic and export markets. As governors, we look forward to expanded partnerships with the federal government and key stakeholders in order to maintain the U.S. wind industry's relative competitive advantage.
- **Adoption of a Long-Term Renewable Energy Production Tax Credit.** This credit is currently the primary federal incentive for wind energy development and should be extended to provide a stable incentive for wind energy investment. The recent history of short-term extensions of the credit should be avoided in order to provide more certainty to wind developers and manufacturers in the United States.

The Governors' Wind Energy Coalition stands ready to work with you on the implementation of these and other initiatives. We know that by working together we can address these challenges successfully.

Sincerely,



Chet Culver, Co-Chair
Governor of Iowa



Tim Pawlenty, Co-Chair
Governor of Minnesota

c.

Member Governors

Hon. Harry Reid, Majority Leader

Hon. Mitch McConnell, Minority Leader

Hon. Jeff Bingaman, Chairman, Senate Energy & Natural Resources Committee

Hon. Lisa Murkowski, Ranking Member, Energy & Natural Resources Committee

Members, Energy & Natural Resources Committee

Hon. Nancy Pelosi, Speaker

Hon. Steny Hoyer, House Majority Leader

Hon. John Boehner, House Minority Leader

Hon. Henry Waxman, Chairman, House Committee on Energy & Commerce

Hon. Joe Barton, Ranking Member, House Committee on Energy & Commerce

Members, House Committee on Energy & Commerce