

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Pat Apple at 1:30 p.m. on March 2, 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:

Dr. Edward Hammond, President, Fort Hays State University  
Stuart Lowry, Kansas Electric Cooperatives  
Mark Schreiber, Westar Energy  
Tom Thompson, Sierra Club of Kansas

Others attending:

See attached list.

Chair opened the hearing on:

**SB 217 - Retail electric suppliers act, state educational institutions authorized to enter into certain energy generation agreements.**

Proponents:

Dr. Edward Hammond, President, Fort Hays State University, explained the purpose of **SB 217** is to allow the State's six Regent's institutions to enter into a relationship with a third-party, whereby the institution could purchase or otherwise obtain wind-generated electricity produced on property owned by the institution, for use in the institution's campus operations. Todd Powell, general counsel and exec. Asst. To Pres., Fort Hays State University, answered questions from the committee. (Attachment 1)

Opponents:

Stuart Lowry, Kansas Electric Cooperatives, KEC opposes **SB 217** and believes the intent of the bill can be realized under existing law. A state educational institution may currently generate their own wind energy or may contract to procure wind energy with their electric provider. It is not necessary or advisable to change the laws governing bundled retail electric service to address the generation component of such service. (Attachment 2)

Mark Schreiber, Westar Energy, voiced Westar opposition to **SB 217** because it allows the retail wheeling of electric power in Kansas. (Attachment 3)

Neutral

Tom Thompson, Sierra Club of Kansas, submitted written testimony. (Attachment 4)

Questions from the committee on production tax credits, the stimulus package, retail wheeling, third party relationships, and amending to clarify the language were discussed with the proponents and opponents and KCC.

Chair requested that the parties involved discuss this matter and reach an agreement to bring back to the committee.

Chair closed the hearing on **SB 217**.

CONTINUATION SHEET

Minutes of the Senate Utilities Committee at 1:30 p.m. on March 2, 2009, in Room 545-N of the Capitol.

Chair continued discussion and possible action on

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

Mike Corrigan, office of the Revisor of Statutes, explained each of the proposed amendments to **SB 265**.

Moved by Senator Reitz, seconded by Senator Bruce, to adopt the amendment 265g5 to SB 265, to change the date on page 1, line 33 to "2007" and to add language on page 2, at the end of line 9 "the joint committee on state building construction and an electronic copy to"; striking lines 29 thru 32; and on line 37 striking "are at least 10% below" and insert the word "meet". Motion carried. (Attachment 5)

Moved by Senator Reitz, seconded by Senator Bruce, to adopt the amendment 265g9 to SB 265 to Section 28. Motion carried (Attachment 6)

Committee recessed at 2:30 p.m. to attend the Senate Session and convened at 3:00 p.m. after adjournment of the Senate.

Moved by Senator Bruce, seconded by Senator Lee, to adopt the amendment to SB 265 regarding revisions to cooperative deregulation statute. Motion carried. NO vote recorded for Senator Francisco. (Attachment 7)

Moved by Senator Lee, seconded by Senator Petersen, to adopt the amendment to **SB 265**, Section 6 (c) (Attachment 8) (Note: replaced amendment 265g4 adopted at the previous meeting)

Substitute motion by Senator Francisco, seconded by Senator Lee, to strike the last three words "in the state" from the proposed amendment to **SB 265** Section 6 (c). Motion carried. (Attachment 8)

Moved by Senator Lee, seconded by Senator Brownlee, to adopt the a conceptual amendment to SB 265, to incorporate the language from the House of Representatives to allow each megawatt of eligible energy generated in Kansas to count as 1.25 and to allow each megawatt generated in Kansas from equipment manufactured in Kansas to count as 1.5. Motion carried. (Attachment 9)

Senator Francisco offered two amendments.

Moved by Senator Francisco, seconded by Senator Lee, to adopt the amendment 265g2 to **SB 265**. Motion killed. (Attachment 10)

Moved by Senator Francisco, seconded by Senator Brownlee, to adopt the amendment 265g11 to **SB 265**. Motion carried. (Attachment 11)

Senator Francisco submitted language from **SCR 1620** of 2006 to be inserted in the Whereas section of **SB 265** as follows:

"WHEREAS, Kansas and the midwest have tremendous renewable energy resources; and

WHEREAS, Solar and wind energy can be captured on the vast land areas managed by the United States agriculture and technology and production capabilities allow America's farmers and ranchers to play a major role in ensuring a fully sustainable United States energy system; and"

Moved by Senator Francisco, seconded by Senator Lee, to insert the language from **SCR 1620** "Whereas, Kansas and the midwest have tremendous renewable energy resources;" into **SB 265**. Motion carried.

Senator Bruce requested that the staff from the Revisor's Office and Research provide a review of the amendments made to **SB 265**. (Attachment 12)

CONTINUATION SHEET

Minutes of the Senate Utilities Committee at 1:30 p.m. on March 2, 2009, in Room 545-N of the Capitol.

Moved by Senator Brownlee, seconded by Senator Lee, to allow discretion by the Revisor in preparing the language of SB 265. Motion carried.

Moved by Senator Lee, seconded by Senator Taddiken, to insert the contents of SB 265 as amended into HB 2014 after removing the contents of HB 2014. Motion carried.

Moved by Senator Lee, seconded by Senator Petersen, to move Substitute for HB 2014 out favorably as amended. Motion carried. NO vote recorded for Senator Francisco.

The next meeting is scheduled for March 3, 2009.

The meeting was adjourned at 4:00 p.m.

Respectfully submitted,

Ann McMorris  
Committee Assistant

Attachments - 12

GUEST LIST  
SENATE UTILITIES COMMITTEE  
MARCH 2, 2009

NAME

COMPANY

Dan Johnson	KEC
Todd Powell	Fort Hays State University
Joe Duk	KCBPU
Maril Harriet	CEP
KEITH PANGBURN	KEARNEY ASSOC.
Mark Schreiber	Westar
Phil Wages	KEPCo
Gov Stanton	NORTHERN NATURAL GAS Co
Scott Jones	KCPCL
J DeSimone	D. Schmidt
Whitney Jansen	Empire District Electric Co.
Doug Smith	SEPC
Mari Tucker	Dept of Commerce
TOM DAY	KCC



**TESTIMONY IN SUPPORT OF SENATE BILL 217**  
**Senate Committee on Utilities March 2, 2009**  
**Dr. Edward H. Hammond, President, Fort Hays State University**

Chairman Apple and members of the committee:

Thank you for the opportunity to present testimony today in favor of SB 217. The purpose of this bill is to allow the state's six Regent's institutions to enter into a relationship with a third-party, whereby the institution could purchase or otherwise obtain wind-generated electricity produced on property owned by the institution, for use in the institution's campus operations.

Fort Hays State University for the last several years has been investigating the possibility of generating wind energy on property owned by the University. The University's interest in wind energy is driven by several factors, including the following: the possibility of incorporating wind-related technology into the University curriculum and/or developing a research agenda around wind generation; the potential to realize a long-term economic benefit; and the opportunity to use the University's available land and the abundance of wind resources to become a leader among institutions of higher education in utilizing renewable energy in campus operations.

While investigating possible models of use and ownership of a wind generation facility, however, the University learned that obtaining electricity from an entity which was not a utility, would violate K.S.A. 66-1,170 *et. seq.* This act grants a retail electric supplier the exclusive right to furnish retail electric service in its certified territory. Furthermore, our economic analysis revealed that pursuing wind generation was only beneficial if tax credits and other incentives (green tags) could be utilized to offset the cost of building a wind generation facility. As a public University supported by taxpayer funds, Fort Hays State University cannot benefit from those incentives, although a private supplier of wind-generated electricity would have access to such benefits.

The proposed changes to K.S.A. 66-1,170 *et. seq.*, would exempt a provider of wind-generated electricity from the act, only when supplying such electricity to a state educational institution pursuant to an agreement approved by the Kansas Board of Regents. Prior to granting such approval, the Board would be required to pass a resolution finding that the agreement will have the long-term effect of stabilizing or reducing the institution's annual electricity expenses.

We believe implementing these statutory changes would allow Fort Hays State University and any other Regent's institution choosing to do so to realize the numerous benefits of renewable energy, while at the same time making the transaction economically feasible. The certified retail electric supplier for the Hays area is Midwest Energy Inc., which has been informed of these proposed statutory changes and has voiced no opposition. The Kansas Corporation Commission aided in the drafting of the proposed changes. I thank you for your time and would be happy to stand for questions.



P.O. Box 4267, Topeka, Kansas 66604-0267  
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A Touchstone Energy® Cooperative 

785-478-4554 • (Fax) 785-478-4852  
[www.kec.org](http://www.kec.org)

**Testimony of Kansas Electric Cooperatives, Inc.  
Senate Bill 217**

**March 2, 2009**

Kansas Electric Cooperatives, Inc. opposes SB 217. KEC believes the intent of the bill can be realized under existing law.

SB 217 amends the Retail Electric Suppliers Act (RESA). This act has been in place for over thirty years. The act divides the state into retail electric service territories. The establishment of retail electric service territories carries out the intent of the act, as expressed in K.S.A. 66-1,171; avoiding the wasteful duplication of facilities for the distribution of electricity, preventing the waste of materials and natural resources, facilitating the public convenience and necessity, and minimizing disputes between electric suppliers that may result in inconvenience, diminished efficiency and higher costs in servicing the consumer. The amendments proposed in this bill undermine this intent and effectively implements retail wheeling for state educational institutions.

The apparent intent of SB 217 is to allow a state educational institution to procure wind-generated electricity produced and consumed on such institutions own property. This can be accomplished without the amendments proposed in this bill.

The amendments to RESA reflected SB 217 apply only to wind generation. Generation service (whether wind or some other form) is but one of the functions of retail electric service. Retail service also requires the transmission and distribution of electricity from the generation resource to the end use consumers in real time. A state educational institution, and any other person or entity in Kansas, may generate their own electricity already. Existing state law, K.S.A. 66-1,184, even allows the entity to interconnect their generation facilities with those of the utility and sell excess generation back to the utility. The amendments proposed in SB 217 are not necessary to enable a state educational institution to generate and consume electricity at a single location.

The passage of this legislation, however, would also confer rights to any third-party entity to contract to provide wind energy to a state education institution. Such a third party would have the opportunity to engage in the retail sale of electric energy without a corresponding retail

Senate Utilities Committee  
March 2, 2009  
Attachment 2-1



MARK A. SCHREIBER  
Director, Government Affairs

**Testimony of Mark Schreiber  
Before the Senate Utilities Committee  
On SB 217  
March 2, 2009**

Westar Energy opposes SB 217 because it allows the retail wheeling of electric power in Kansas. Retail wheeling was not implemented by the Legislature after being thoroughly studied in the late 1990's.

SB 217 allows Regents institutions to be exempted from the retail electric suppliers act (RESA). RESA was enacted in 1976. It established as public policy the division of the state into territories within which retail electric suppliers are to provide the retail electric service. The six principles of RESA in K.S.A. 66-1,171 are:

- a) encourage the orderly development of retail electric service;
- b) avoid wasteful duplication of facilities for the distribution of electricity;
- c) avoid unnecessary encumbrance of the landscape of the state;
- d) prevent waste of materials and natural resources;
- e) facilitate the public convenience and necessity;
- f) minimize disputes between retail electric suppliers, which may result in inconvenience, diminished efficiency, and higher costs in serving the consumer.

Westar Energy is not opposed to any educational institution providing a portion, or all, of its energy needs through its own wind resources. The educational institution can sell excess power to the incumbent retail provider through the parallel generation act. Our concern is when the generation source, owned by the institution, is located several miles from the main campus. The state's transmission providers must move, or "wheel", that power to the main campus. The institution essentially becomes a retail provider, but without being required to fulfill the principles listed above. The amendment in Section 3(b) permits the contracting with a third party to generate and deliver the wind power to the institution. The third party could also become a retail electric supplier without the planning and coordination responsibilities of the state's current retail providers.

Currently, a Regents institution can provide all or part of its electric power needs from wind resources located on its main campus. The amendments in SB 217 exempt these institutions and third parties from RESA, and do not prevent these institutions from having generation resources distantly located from the end user. Westar Energy urges the committee to retain the current RESA language without amendments.

**Testimony for Senate Utilities Committee**  
**March 2, 2009**  
**Neutral Testimony on S. B. 217**

Chairman Apple and Honorable Members of the Committee:

My name is Tom Thompson and I represent the Kansas Chapter of the Sierra Club. I have submitted neutral testimony on HB 2038.  
217

The Sierra Club does not take issue with the concept of allowing state educational institutions to enter into agreements concerning energy generation. In fact it believes that educational institutions and others should be encouraged to become energy independent and efficient.

However, the Sierra Club takes issues with a couple items in the statute this bill deals with. The Sierra Club is concerned that these might have a negative impact on the development of wind energy in Kansas.

On page 2, line 27 (b) says ", avoid wasteful duplication of facilities for distribution of electricity;" It is thought that this is confusing and could mean that building various wind projects in Kansas could be looked upon as duplicative. Certainly it is hoped that Kansas will have a number of wind projects including those for educational institutions.

Also on page 2 it says on line 29 (c) ", avoid unnecessary encumbrance of the landscape of the state;" It is thought that wind development in Kansas could be adversely effected by the ambiguousness of this clause. It would like it to be struck from the statute.

Thank you for allowing me to testify. I hope you will consider our concerns.

Sincerely

Tom Thompson  
Sierra Club

Senate Utilities Committee  
March 2, 2009  
Attachment 4-1

**SENATE BILL No. 265**

By Committee on Ways and Means

2-12

Proposed  
Amendment

Senate Utilities Committee  
March 2, 2009  
Attachment 5-1

9 AN ACT concerning energy; relating to conservation and electric gen-  
10 eration, transmission and efficiency and air emissions; amending  
11 K.S.A. 19-101a and 65-3012 and K.S.A. 2008 Supp. 65-3005, 65-3008a  
12 and 66-1,184 and repealing the existing sections; also repealing K.S.A.  
13 19-101m.  
14

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

16 WHEREAS, The federal government is currently contemplating the  
17 regulation of certain emissions from stationary, mobile and area sources  
18 not currently regulated by the United States environmental protection  
19 agency, the form and requirements of which cannot be predicted at this  
20 time, but which could include cap and trade regulations, national energy  
21 taxes or a specific tax on one or more of such emissions that would pre-  
22 empt state-specific programs intended to reduce the emission of green-  
23 house gases and other emissions; and

24 WHEREAS, Any uncoordinated state regulatory initiative intended to  
25 regulate such emissions may be inconsistent with subsequent congress-  
26 sional determinations and with related federal legislation; and

27 WHEREAS, An individual Kansas response to the development of  
28 new regulatory programs intended to regulate emissions not currently  
29 regulated by the federal government is premature: Now, therefore,

30 New Section 1. As used in sections 1 through 5, and amendments  
31 thereto:

32 (a) "ASHRAE" means American society of heating, refrigerating and  
33 air-conditioning engineers, inc. standard 90.1-2004.

- 2007

34 (b) "Energy star" means the joint program of the United States en-  
35 vironmental protection agency and the United States department of en-  
36 ergy which labels certain products that meet energy efficiency standards  
37 adopted for such products.

38 (c) "IECC" means the 2006 international energy conservation code.

39 (d) "New state building" means any building or structure which is  
40 constructed by the state or any agency of the state and the construction  
41 of which commences on or after July 1, 2010.

42 New Sec. 2. The secretary of administration shall adopt rules and  
43 regulations for state agencies for the purchase of products and equipment,



5.2

1 including, but not limited to, appliances, lighting fixtures and bulbs, and  
2 computers, which meet energy efficiency guidelines which are not less  
3 than the guidelines adopted for such products to qualify as an energy star  
4 product if the projected cost savings for the useful life of such products  
5 and equipment is equal to or greater than the additional cost compared  
6 to functionally equivalent products and equipment of lower efficiency.

7 New Sec. 3. (a) The department of administration shall collect data  
8 on energy consumption and costs for all state-owned and leased real prop-  
9 erty and the secretary of administration shall submit a written report to  
10 the legislature on or before the first day of the 2010 regular session of  
11 the legislature and on or before the first day of each ensuing regular  
12 session of the legislature identifying state-owned or leased real property  
13 locations in which an excessive amount of energy is being used in ac-  
14 cordance with rules and regulations adopted by the secretary of admin-  
15 istration concerning energy efficiency performance standards for state-  
16 owned or leased real property.

the joint committee on state building construction and an electronic copy to

17 (b) The secretary of administration shall not approve a new lease or  
18 a renewal or extension of an existing lease of non-state owned real prop-  
19 erty unless the lessor has submitted an energy audit for such real property  
20 that is the subject of such lease. The secretary of administration shall  
21 adopt rules and regulations establishing energy efficiency performance  
22 standards which shall apply to leased space and improvements which the  
23 lessor shall be required to address based on such energy audit.

24 New Sec. 4. ~~(a)~~ Within the limitations of appropriations therefor, the  
25 Kansas energy office of the state corporation commission shall develop  
26 and increase the participation of school districts and local governments  
27 in the facilities conservation improvements program (FCIP) pursuant to  
28 K.S.A. 75-37,125, and amendments thereto.

29 ~~(b) The state corporation commission shall strongly encourage state  
30 agencies which operate and maintain state owned buildings that are not  
31 participating in the FCIP to participate in the FCIP pursuant to K.S.A.  
32 75-37,125, and amendments thereto, on or before December 1, 2011.~~

33 New Sec. 5. The secretary of administration shall adopt rules and  
34 regulations prescribing energy efficiency performance standards requir-  
35 ing that all new construction and, to the extent possible, renovated state-  
36 owned buildings, be designed and constructed to achieve energy con-  
37 sumption levels that ~~are at least 10% below~~ the levels established under  
38 the ASHRAE standard or the IECC, as appropriate, if such levels of  
39 energy consumption are life-cycle cost-effective for such buildings and  
40 also recommend that new and, to the extent possible, renovated school  
41 and municipal buildings meet the same requirements.

meet

42 New Sec. 6. (a) (1) By the year 2013, for each public utility, the  
43 nameplate capacity of the renewable electric generation facilities included

## SENATE BILL No. 265

By Committee on Ways and Means

2-12

9 AN ACT concerning energy; relating to conservation and electric gen-  
10 eration, transmission and efficiency and air emissions; amending  
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12 and 66-1,184 and repealing the existing sections; also repealing K.S.A.  
13 19-101m.

14  
15 *Be it enacted by the Legislature of the State of Kansas:*

16 WHEREAS, The federal government is currently contemplating the  
17 regulation of certain emissions from stationary, mobile and area sources  
18 not currently regulated by the United States environmental protection  
19 agency, the form and requirements of which cannot be predicted at this  
20 time, but which could include cap and trade regulations, national energy  
21 taxes or a specific tax on one or more of such emissions that would pre-  
22 empt state-specific programs intended to reduce the emission of green-  
23 house gases and other emissions; and

24 WHEREAS, Any uncoordinated state regulatory initiative intended to  
25 regulate such emissions may be inconsistent with subsequent congress-  
26 sional determinations and with related federal legislation; and

27 WHEREAS, An individual Kansas response to the development of  
28 new regulatory programs intended to regulate emissions not currently  
29 regulated by the federal government is premature: Now, therefore,

30 New Section 1. As used in sections 1 through 5, and amendments  
31 thereto:

32 (a) "ASHRAE" means American society of heating, refrigerating and  
33 air-conditioning engineers, inc. standard 90.1-2004.

34 (b) "Energy star" means the joint program of the United States en-  
35 vironmental protection agency and the United States department of en-  
36 ergy which labels certain products that meet energy efficiency standards  
37 adopted for such products.

38 (c) "IECC" means the 2006 international energy conservation code.

39 (d) "New state building" means any building or structure which is  
40 constructed by the state or any agency of the state and the construction  
41 of which commences on or after July 1, 2010.

42 New Sec. 2. The secretary of administration shall adopt rules and  
43 regulations for state agencies for the purchase of products and equipment.

Proposed  
Amendment

Senate Utilities Committee  
March 2, 2009  
Attachment 6-1

6-2

1 agency actions in the court of appeals. Any such person other than the  
 2 applicant for or holder of the permit shall not be required to have ex-  
 3 hausted administrative remedies in order to be entitled to review. The  
 4 court of appeals shall have original jurisdiction to review any such final  
 5 agency action. The record before the court of appeals shall be confined  
 6 to the agency record for judicial review and consist of the documentation  
 7 submitted to or developed by the secretary in making the final permit  
 8 decision, including the permit application and any addenda or amend-  
 9 ments thereto, the permit summary, the draft permit, all written com-  
 10 ments properly submitted to the secretary, all testimony presented at any  
 11 public hearing held on the permit application, all responses by the ap-  
 12 plicant or permit holder to any written comments or testimony, the sec-  
 13 retary's response to the public comments and testimony and the final  
 14 permit.

15 (c) When determined appropriate by the secretary, the procedures  
 16 set out in subsection (a) may be required prior to the issuance, modifi-  
 17 cation, renewal or reopening of an approval.

18 Sec. 28. K.S.A. 65-3012 is hereby amended to read as follows: 65-  
 19 3012. (a) ~~Notwithstanding any other provision of this act, the secretary~~  
 20 ~~may take such action as may be necessary to protect the health of persons~~  
 21 ~~or the environment. (1) Upon receipt of information evidence that the~~  
 22 ~~emission of emissions from an air pollution source or combination of air~~  
 23 ~~pollution sources presents a: (1) An imminent and substantial endanger-~~  
 24 ~~ment to the public health of persons or welfare or to the environment;~~  
 25 ~~or (2) for an imminent or actual violation of this act, any rules and reg-~~  
 26 ~~ulations adopted under this act, any orders issued under this act or any~~  
 27 ~~permit conditions required by this act or any permit conditions required~~  
 28 ~~by this act, the secretary may issue a temporary order not to exceed 72~~  
 29 ~~hours in duration, directing the owner or operator, or both, to take such~~  
 30 ~~steps as necessary to prevent the act or eliminate the practice.~~

31 ~~(b) The action the secretary may take under subsection (a) includes~~  
 32 ~~but is not limited to:~~

33 ~~—(1) Issuing an order directing the owner or operator, or both, to take~~  
 34 ~~such steps as necessary to prevent the act or eliminate the practice. Such~~  
 35 ~~order may include, with respect to a facility or site, temporary cessation~~  
 36 ~~of operation.~~

37 ~~—(2) Commencing (b) Upon expiration of the temporary order, the~~  
 38 ~~secretary may commence an action in the district court to enjoin acts or~~  
 39 ~~practices specified in subsection (a) or requesting request the attorney~~  
 40 ~~general or appropriate county or district attorney to commence an action~~  
 41 ~~to enjoin those acts or practices.~~

42 (c) Upon a showing by the secretary that a person has engaged in  
 43 those acts or practices in violation of subsection (a), a permanent or tem-

issuance



## REVISIONS TO COOPERATIVE DEREGULATION STATUTE

Sec. \_\_\_ K.S.A. 66-104d is hereby amended to read as follows: 66-104d. (a) As used in this section, "cooperative" means any ~~cooperative, as defined by K.S.A. 17-4603, and amendments thereto, which has fewer than 15,000 customers and which provides power principally at retail~~ *corporation organized under the electric cooperative act, K.S.A. 17-4601et seq., and amendments thereto, or which becomes subject to the electric cooperative act in the manner therein provided; or any limited liability company or corporation providing electric service at wholesale in the state of Kansas that is owned by four or more electric cooperatives that provide retail service in the state of Kansas; or any member-owned corporation formed prior to 2004.*

(b) Except as otherwise provided in subsection (f), a cooperative may elect to be exempt from the jurisdiction, regulation, supervision and control of the state corporation commission by complying with the provisions of subsection (c).

(c) To be exempt under subsection (b), a cooperative shall poll its members as follows:

(1) An election under this subsection may be called by the board of trustees or shall be called not less than 180 days after receipt of a valid petition signed by not less than 10% of the members of the cooperative.

(2) The proposition for deregulation shall be presented to a meeting of the members, the notice of which shall set forth the proposition for deregulation and the time and place of the meeting. Notice to the members shall be written and delivered not less than 21 nor more than 45 days before the date of the meeting.

(3) If the cooperative mails information to its members regarding the proposition for deregulation other than notice of the election and the ballot, the cooperative shall also include in such mailing any information in opposition to the proposition that is submitted by petition signed by not less than 1% of the cooperative's members. All expenses incidental to mailing the additional information, including any additional postage required to mail such additional information, must be paid by the signatories to the petition.

(4) If the proposition for deregulation is approved by the affirmative vote of not less than a majority of the members voting on the proposition, the cooperative shall notify the state corporation commission in writing of the results within 10 days after the date of the election.

(5) Voting on the proposition for deregulation shall be by mail ballot.

(d) A cooperative exempt under this section may elect to terminate its exemption in the same manner as prescribed in subsection (c).

(e) An election under subsection (c) or (d) may be held not more often than once every two years.

(f) Nothing in this section shall be construed to affect the single certified service territory of a cooperative or the authority of the state corporation commission, as otherwise provided by law, over a cooperative with regard to service territory,; charges, *fees or tariffs* for transmission services; sales of power for resale, *other than sales between a cooperative, as defined in subsection (a), that does not provide retail electric service and an owner of such cooperative; and wire stringing and transmission line siting, pursuant to K.S.A. 66-131, 66-183, 66-1,170 et seq. or 66-1,177 et seq., and amendments thereto.*

(g) (1) Notwithstanding a cooperative's election to be exempt under this section, the commission shall investigate all rates, joint rates, tolls, charges and exactions, classifications and schedules of rates of such cooperative if there is filed with the commission, not more than one year after a change in such cooperative's rates, joint rates, tolls, charges and exactions, classifications or schedules of rates, a petition, *in the case of a retail distribution cooperative, signed by not less than 5% of all the cooperative's customers or 3% of the cooperative's customers from any one rate class, or, in the case of a generation and transmission cooperative, not less than 20% of the generation and transmission cooperative's members or 5% of the aggregate retail customers of such members.* If, after investigation, the commission finds that such rates, joint rates, tolls, charges or exactions, classifications or schedules of rates are unjust, unreasonable, unjustly discriminatory or unduly preferential, the commission shall have the power to fix and order substituted therefor such rates, joint rates, tolls, charges and exactions, classifications or schedules of rates as are just and reasonable.

(2) The cooperative's rates, joint rates, tolls, charges and exactions, classifications or schedules of rates complained of shall remain in effect subject to change or refund pending the state corporation commission's investigation and final order.

(3) Any customer of a cooperative wishing to petition the commission pursuant to subsection (g)(1) may request from the cooperative the names, addresses and rate classifications of all the cooperative's customers or of the cooperative's customers from any one or more rate classes. The cooperative, within 21 days after receipt of the request, shall furnish to the customer the requested names, addresses and rate classifications and may require the customer to pay the reasonable costs thereof.

(h) (1) If a cooperative is exempt under this section, not less than 10 days' notice of the time and place of any meeting of the board of trustees at which rate changes are to be discussed and voted on shall be given to all members of the cooperative and such meeting shall be open to all members.

(2) Violations of subsection (h)(1) shall be subject to civil penalties and enforcement in the same manner as provided by K.S.A. 75-4320 and 75-4320a, and amendments thereto, for violations of K.S.A. 75-4317 et seq. and amendments thereto.

(i) (1) Any cooperative exempt under this section shall maintain a schedule of rates and charges at the cooperative headquarters and shall make copies of such schedule of rates and charges available to the general public during regular business hours.

(2) Any cooperative which fails, neglects or refuses to maintain such copies of schedule of rates and charges under this subsection shall be subject to a civil penalty of not more than \$500.

(j) *A cooperative that has elected to be exempt under the provisions of subsection (b) shall include a provision in its notice to customers, either before or after a rate change, of the customer's right to request the commission to review the rate change, as allowed in subsection (g).*



Possible amendment to SB 265, New Section 6. (c)

(c) The provisions of paragraph (3) of subsection (a) shall not apply to a public utility if the state corporation commission finds upon application by a public utility that the public utility would have to make unreasonable and imprudent expenditures to comply with the provisions of paragraph (3) of subsection (a) because sufficient transmission facilities do not exist in the state.

Senate Utilities Committee  
March 2, 2009  
Attachment 8-1

# SENATE BILL No. 265

By Committee on Ways and Means

2-12

Proposed  
Amendment

Senate Utilities Committee  
March 2, 2009  
Attachment 9-1

9 AN ACT concerning energy; relating to conservation and electric gen-  
10 eration, transmission and efficiency and air emissions; amending  
11 K.S.A. 19-101a and 65-3012 and K.S.A. 2008 Supp. 65-3005, 65-3008a  
12 and 66-1,184 and repealing the existing sections; also repealing K.S.A.  
13 19-101m.

14  
15 *Be it enacted by the Legislature of the State of Kansas:*

16 WHEREAS, The federal government is currently contemplating the  
17 regulation of certain emissions from stationary, mobile and area sources  
18 not currently regulated by the United States environmental protection  
19 agency, the form and requirements of which cannot be predicted at this  
20 time, but which could include cap and trade regulations, national energy  
21 taxes or a specific tax on one or more of such emissions that would pre-  
22 empt state-specific programs intended to reduce the emission of green-  
23 house gases and other emissions; and

24 WHEREAS, Any uncoordinated state regulatory initiative intended to  
25 regulate such emissions may be inconsistent with subsequent congress-  
26 sional determinations and with related federal legislation; and

27 WHEREAS, An individual Kansas response to the development of  
28 new regulatory programs intended to regulate emissions not currently  
29 regulated by the federal government is premature: Now, therefore,

30 New Section 1. As used in sections 1 through 5, and amendments  
31 thereto:

32 (a) "ASHRAE" means American society of heating, refrigerating and  
33 air-conditioning engineers, inc. standard 90.1-2004.

34 (b) "Energy star" means the joint program of the United States en-  
35 vironmental protection agency and the United States department of en-  
36 ergy which labels certain products that meet energy efficiency standards  
37 adopted for such products.

38 (c) "IECC" means the 2006 international energy conservation code.

39 (d) "New state building" means any building or structure which is  
40 constructed by the state or any agency of the state and the construction  
41 of which commences on or after July 1, 2010.

42 New Sec. 2. The secretary of administration shall adopt rules and  
43 regulations for state agencies for the purchase of products and equipment,

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1 including, but not limited to, appliances, lighting fixtures and bulbs, and  
2 computers, which meet energy efficiency guidelines which are not less  
3 than the guidelines adopted for such products to qualify as an energy star  
4 product if the projected cost savings for the useful life of such products  
5 and equipment is equal to or greater than the additional cost compared  
6 to functionally equivalent products and equipment of lower efficiency.

7 New Sec. 3. (a) The department of administration shall collect data  
8 on energy consumption and costs for all state-owned and leased real prop-  
9 erty and the secretary of administration shall submit a written report to  
10 the legislature on or before the first day of the 2010 regular session of  
11 the legislature and on or before the first day of each ensuing regular  
12 session of the legislature identifying state-owned or leased real property  
13 locations in which an excessive amount of energy is being used in ac-  
14 cordance with rules and regulations adopted by the secretary of admin-  
15 istration concerning energy efficiency performance standards for state-  
16 owned or leased real property.

17 (b) The secretary of administration shall not approve a new lease or  
18 a renewal or extension of an existing lease of non-state owned real prop-  
19 erty unless the lessor has submitted an energy audit for such real property  
20 that is the subject of such lease. The secretary of administration shall  
21 adopt rules and regulations establishing energy efficiency performance  
22 standards which shall apply to leased space and improvements which the  
23 lessor shall be required to address based on such energy audit.

24 New Sec. 4. (a) Within the limitations of appropriations therefor, the  
25 Kansas energy office of the state corporation commission shall develop  
26 and increase the participation of school districts and local governments  
27 in the facilities conservation improvements program (FCIP) pursuant to  
28 K.S.A. 75-37,125, and amendments thereto.

29 (b) The state corporation commission shall strongly encourage state  
30 agencies which operate and maintain state-owned buildings that are not  
31 participating in the FCIP to participate in the FCIP pursuant to K.S.A.  
32 75-37,125, and amendments thereto, on or before December 1, 2011.

33 New Sec. 5. The secretary of administration shall adopt rules and  
34 regulations prescribing energy efficiency performance standards requir-  
35 ing that all new construction and, to the extent possible, renovated state-  
36 owned buildings, be designed and constructed to achieve energy con-  
37 sumption levels that are at least 10% below the levels established under  
38 the ASHRAE standard or the IECC, as appropriate, if such levels of  
39 energy consumption are life-cycle cost-effective for such buildings and  
40 also recommend that new and, to the extent possible, renovated school  
41 and municipal buildings meet the same requirements.

42 New Sec. 6. (a) (1) By the year 2013, for each public utility, the  
43 nameplate capacity of the renewable electric generation facilities included

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in the public utility's generation portfolio, whether owned by the public utility or contracted for energy purchase by the public utility, shall be no less than 10% of the public utility's peak load, expressed in megawatts, in the state of Kansas, for a three-year average for the 2009, 2010 and 2011 calendar years.

(2) By the year 2017, for each public utility, the nameplate capacity of the renewable electric generation facilities included in the public utility's generation portfolio, whether owned by the public utility or contracted for energy purchase by the public utility, shall be no less than 15% of the public utility's peak load, expressed in megawatts, in the state of Kansas, for a three-year average for the 2013, 2014 and 2015 calendar years.

(3) By the year 2021, for each public utility, the nameplate capacity of the renewable electric generation facilities included in the public utility's generation portfolio, whether owned by the public utility or contracted for energy purchase by the public utility, shall be no less than 20% of the public utility's peak load, expressed in megawatts, in the state of Kansas, for a three-year average for the 2017, 2018 and 2019 calendar years.

(b) The state corporation commission shall establish rules and regulations to govern reporting requirements and prevention of duplication of the application of the requirements of this section.

(c) As used in this section:

(1) "Public utility" means an electric public utility, as defined in K.S.A. 66-101a, and amendments thereto, but does not include any portion of any municipally owned or operated electric utility; and

(2) "renewable electric generation facilities" means facilities generating electricity utilizing renewable energy resources or technologies, as defined in K.S.A. 79-201, and amendments thereto, and the capacity of all net metering systems operating under the net metering and easy connection act.

New Sec. 7. Sections 7 through 23, and amendments thereto, shall be known and may be cited as the net metering and easy connection act.

New Sec. 8. As used in the net metering and easy connection act:

(a) "Avoided energy cost" means the current average cost of fuel and purchased energy for the preceding 12 months for the utility, or in the case of a non-generating utility, for such utility's wholesale power supplier, as defined by the governing body with jurisdiction over any municipal electric utility, electric cooperative utility or electric public utility.

(b) "Commission" means the state corporation commission.

(c) "Customer-generator" means the owner or operator of a qualified electric energy generation unit which:

(1) Is powered by solar thermal sources or photovoltaic cells and

The portfolio requirements described in subsection (a) shall apply to all power sold to Kansas retail consumers whether such power is self-generated or purchased from another source in or outside of the state. The capacity of all net metering systems interconnected with the affected utilities under the net metering and easy connection act for renewable generation shall count toward compliance. An affected utility may count savings from energy efficiency programs toward up to 25% of the portfolio requirements of this section. Savings from energy efficiency programs shall be determined in accordance with rules and regulations established by the commission and shall include savings at customer facilities and savings by the utility in the generation and distribution of electricity from the level of usage expected without the energy efficiency programs.  
(d) Each megawatt of eligible capacity manufactured in Kansas shall count as 1.5 megawatts for purposes of compliance.  
(e)

**SENATE BILL No. 265**

By Committee on Ways and Means

2-12

Proposed  
Amendment

Senate Utilities Committee  
March 2, 2009  
Attachment 10-1

9 AN ACT concerning energy; relating to conservation and electric gen-  
10 eration, transmission and efficiency and air emissions; amending  
11 K.S.A. 19-101a and 65-3012 and K.S.A. 2008 Supp. 65-3005, 65-3008a  
12 and 66-1,184 and repealing the existing sections; also repealing K.S.A.  
13 19-101m.

14  
15 *Be it enacted by the Legislature of the State of Kansas:*

16 WHEREAS, The federal government is currently contemplating the  
17 regulation of certain emissions from stationary, mobile and area sources  
18 not currently regulated by the United States environmental protection  
19 agency, the form and requirements of which cannot be predicted at this  
20 time, but which could include cap and trade regulations, national energy  
21 taxes or a specific tax on one or more of such emissions that would pre-  
22 empt state-specific programs intended to reduce the emission of green-  
23 house gases and other emissions; and

24 WHEREAS, Any uncoordinated state regulatory initiative intended to  
25 regulate such emissions may be inconsistent with subsequent congress-  
26 sional determinations and with related federal legislation; and

27 WHEREAS, An individual Kansas response to the development of  
28 new regulatory programs intended to regulate emissions not currently  
29 regulated by the federal government is premature; Now, therefore,

30 New Section 1. As used in sections 1 through 5, and amendments  
31 thereto:

32 (a) "ASHRAE" means American society of heating, refrigerating and  
33 air-conditioning engineers, inc. standard 90.1-2004.

34 (b) "Energy star" means the joint program of the United States en-  
35 vironmental protection agency and the United States department of en-  
36 ergy which labels certain products that meet energy efficiency standards  
37 adopted for such products.

38 (c) "IECC" means the 2006 international energy conservation code.

39 (d) "New state building" means any building or structure which is  
40 constructed by the state or any agency of the state and the construction  
41 of which commences on or after July 1, 2010.

42 New Sec. 2. The secretary of administration shall adopt rules and  
43 regulations for state agencies for the purchase of products and equipment.



1 including, but not limited to, appliances, lighting fixtures and bulbs, and  
2 computers, which meet energy efficiency guidelines which are not less  
3 than the guidelines adopted for such products to qualify as an energy star  
4 product if the projected cost savings for the useful life of such products  
5 and equipment is equal to or greater than the additional cost compared  
6 to functionally equivalent products and equipment of lower efficiency.

7 New Sec. 3. ~~(a) The department of administration shall collect data  
8 on energy consumption and costs for all state owned and leased real prop-  
9 erty and the secretary of administration shall submit a written report to  
10 the legislature on or before the first day of the 2010 regular session of  
11 the legislature and on or before the first day of each ensuing regular  
12 session of the legislature identifying state owned or leased real property  
13 locations in which an excessive amount of energy is being used in ac-  
14 eordance with rules and regulations adopted by the secretary of admin-  
15 istration concerning energy efficiency performance standards for state  
16 owned or leased real property.~~

17 ~~(b) The secretary of administration shall not approve a new lease or  
18 a renewal or extension of an existing lease of non state owned real prop-  
19 erty unless the lessor has submitted an energy audit for such real property  
20 that is the subject of such lease. The secretary of administration shall  
21 adopt rules and regulations establishing energy efficiency performance  
22 standards which shall apply to leased space and improvements which the  
23 lessor shall be required to address based on such energy audit.~~

24 New Sec. 4. ~~(a) Within the limitations of appropriations therefor, the  
25 Kansas energy office of the state corporation commission shall develop  
26 and increase the participation of school districts and local governments  
27 in the facilities conservation improvements program (FCIP) pursuant to  
28 K.S.A. 75-37,125, and amendments thereto.~~

29 ~~(b) The state corporation commission shall strongly encourage state  
30 agencies which operate and maintain state owned buildings that are not  
31 participating in the FCIP to participate in the FCIP pursuant to K.S.A.  
32 75-37,125, and amendments thereto, on or before December 1, 2011.~~

33 New Sec. 5. The secretary of administration shall adopt rules and  
34 regulations prescribing energy efficiency performance standards requir-  
35 ing that all new construction and, to the extent possible, renovated state-  
36 owned buildings, be designed and constructed to achieve energy con-  
37 sumption levels that are at least 10% below the levels established under  
38 the ASHRAE standard or the IECC, as appropriate, if such levels of  
39 energy consumption are life-cycle cost-effective for such buildings and  
40 also recommend that new and, to the extent possible, renovated school  
41 and municipal buildings meet the same requirements.

42 New Sec. 6. (a) (1) By the year 2013, for each public utility, the  
43 nameplate capacity of the renewable electric generation facilities included

(a) 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.

(b) 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.

(c) 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 such energy efficiency performance standards or will be improved to meet the standards within the first 18 months of the leasing period.

**SENATE BILL No. 265**

By Committee on Ways and Means

2-12

Proposed  
Amendment

Senate Utilities Committee  
March 2, 2009  
Attachment 11-1

9 AN ACT concerning energy; relating to conservation and electric gen-  
10 eration, transmission and efficiency and air emissions; amending  
11 K.S.A. 19-101a and 65-3012 and K.S.A. 2008 Supp. 65-3005, 65-3008a  
12 and 66-1,184 and repealing the existing sections; also repealing K.S.A.  
13 19-101m.

14  
15 *Be it enacted by the Legislature of the State of Kansas:*

16 WHEREAS, The federal government is currently contemplating the  
17 regulation of certain emissions from stationary, mobile and area sources  
18 not currently regulated by the United States environmental protection  
19 agency, the form and requirements of which cannot be predicted at this  
20 time, but which could include cap and trade regulations, national energy  
21 taxes or a specific tax on one or more of such emissions that would pre-  
22 empt state-specific programs intended to reduce the emission of green-  
23 house gases and other emissions; and

24 WHEREAS, Any uncoordinated state regulatory initiative intended to  
25 regulate such emissions may be inconsistent with subsequent congress-  
26 sional determinations and with related federal legislation; and

27 WHEREAS, An individual Kansas response to the development of  
28 new regulatory programs intended to regulate emissions not currently  
29 regulated by the federal government is premature: Now, therefore,

30 New Section 1. As used in sections 1 through 5, and amendments  
31 thereto:

32 (a) "ASHRAE" means American society of heating, refrigerating and  
33 air-conditioning engineers, inc. standard 90.1-2004.

34 (b) "Energy star" means the joint program of the United States en-  
35 vironmental protection agency and the United States department of en-  
36 ergy which labels certain products that meet energy efficiency standards  
37 adopted for such products.

38 (c) "IECC" means the 2006 international energy conservation code.

39 (d) "New state building" means any building or structure which is  
40 constructed by the state or any agency of the state and the construction  
41 of which commences on or after July 1, 2010.

42 New Sec. 2. The secretary of administration shall adopt rules and  
43 regulations for state agencies for the purchase of products and equipment,

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- 1 panels;
- 2 (2) has an electrical generating system with a capacity of not more  
3 than 100 kilowatts;
- 4 (3) is located on a premises owned, operated, leased or otherwise  
5 controlled by the customer-generator;
- 6 (4) is interconnected and operates in parallel phase and synchroni-  
7 zation with a retail electric supplier and has been approved by such retail  
8 electric supplier;
- 9 (5) is intended primarily to offset part or all of the customer-gener-  
10 ator's own electrical energy requirements;
- 11 (6) meets all applicable safety, performance, interconnection and re-  
12 liability standards established by the national electrical code, the national  
13 electrical safety code, the institute of electrical and electronics engineers,  
14 underwriters laboratories, the federal energy regulatory commission and  
15 any local governing authorities; and
- 16 (7) contains a mechanism accessible by electric utility personnel that  
17 automatically disables the unit and interrupts the flow of electricity back  
18 onto the supplier's electricity lines in the event that service to the cus-  
19 tomer-generator is interrupted.
- 20 (d) "Net metering" means using metering equipment ~~sufficient~~ to  
21 measure the difference between the electrical energy supplied to a cus-  
22 tomer-generator by a retail electric supplier and the electrical energy  
23 supplied by the customer-generator to the retail electric supplier over the  
24 applicable billing period.
- 25 (e) "Retail electric supplier" means any municipal electric utility,  
26 electric cooperative utility or electric public utility which provides retail  
27 electric service in this state.
- 28 New Sec. 9. A retail electric supplier shall:
- 29 (a) Make net metering available to customer-generators on a first-  
30 come, first-served basis, subject to the following: (1) A supplier shall not  
31 be required to make net metering available in a calendar year if total  
32 rated generating capacity of all applications for interconnection already  
33 approved by the supplier in the calendar year equals or exceeds 1% of  
34 the supplier's single-hour peak load for the previous calendar year; and  
35 (2) a supplier shall not be required to make net metering available to a  
36 customer-generator if the total rated generating capacity of net metering  
37 systems equals: (A) 5% of the supplier's Kansas single-hour peak load  
38 during the previous year; or (B) such higher percentage as specified by  
39 the commission, for a public utility, or the governing body, for any other  
40 utility, once the total rated generating capacity of net metering systems  
41 has reach 5% of the supplier's single-hour peak load during the previous  
42 year;
- 43 (b) offer to the customer-generator a tariff or contract that is identical

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1 in electrical energy rates, rate structure and monthly charges to the con-  
2 tract or tariff that the customer would be assigned if the customer were  
3 not an eligible customer-generator but shall not charge the customer-  
4 generator any additional standby, capacity, interconnection or other fee  
5 or charge that would not otherwise be charged if the customer were not  
6 an eligible customer-generator; and

7 (c) disclose annually the availability of the net metering program to  
8 each of its customers with the method and manner of disclosure being at  
9 the discretion of the supplier.

10 New Sec. 10. A customer-generator's facility shall be equipped with  
11 sufficient metering equipment ~~that can measure the net amount of elec-~~  
12 ~~trical energy produced or consumed by the customer generator.~~ If the  
13 customer-generator's existing meter equipment does not meet these  
14 requirements or if it is necessary for the electric supplier to install addi-  
15 tional distribution equipment to accommodate the customer-generator's  
16 facility, the customer generator shall reimburse the retail electric supplier  
17 ~~for the costs to purchase and install the necessary additional equipment.~~  
18 At the request of the customer-generator, such costs may be initially paid  
19 for by the retail electric supplier and any amount equal to not more than  
20 the total costs plus a reasonable interest charge may be recovered from  
21 the customer-generator over the course of not more than 12 billing cycles.  
22 Any subsequent meter testing, maintenance or meter equipment change  
23 necessitated by the customer-generator shall be paid for by the customer-  
24 generator.

to measure the difference between the electrical energy supplied to a customer-generator by a retail electrical supplier and the electrical energy supplied by the customer-generator to the retail electrical supplier

retail electric supplier may charge the customer-generator for the costs to purchase and install the necessary additional equipment

25 New Sec. 11. The utility will supply, own and maintain all necessary  
26 meters and associated equipment utilized for billing. In addition, and for  
27 the purposes of monitoring customer generation and load, the utility may  
28 install at its expense, load research metering. The customer shall supply,  
29 at no expense to the utility, a suitable location for meters and associated  
30 equipment used for billing and for load research.

31 New Sec. 12. Consistent with the provisions of the net metering and  
32 easy connection act, the net electrical energy measurement shall be cal-  
33 culated in the following manner:

34 (a) For a customer-generator, a retail electric supplier shall measure  
35 the net electrical energy produced or consumed during the billing period  
36 in accordance with normal metering practices for customers in the same  
37 rate class, by employing a single, bidirectional meter that measures the  
38 amount of electrical energy produced and consumed, by employing mul-  
39 tiple meters that separately measure the customer-generator's consump-  
40 tion and production of electricity or by employing an alternative  
41 technology.

42 (b) If the electricity supplied by the supplier exceeds the electricity  
43 generated by the customer-generator during a billing period, the cus-

### Comparison of 2009 Sub. HB 2014 and the Introduced Version of SB 265

Provision	Sub. HB 2014 as Recommended by House Committee on Energy and Utilities	SB 265 as Introduced by Senate Committee on Utilities
<p><b>Fuel Economy and Energy Efficiency</b></p>	<p>The bill would require the Secretary of Administration to adopt rules and regulations:</p> <ul style="list-style-type: none"> <li>• Requiring the average fuel efficiency for state-owned vehicles purchased during 2011 to be at least 10 percent higher than the fuel efficiency of state-owned vehicles purchased in 2008 (New Sec.1)</li> </ul>	<p>NA</p>
	<ul style="list-style-type: none"> <li>• Establishing energy efficiency guidelines for state agencies for the purchase of products and equipment such as appliances, lighting fixtures and bulbs and computers, that would be at least as energy efficient as similar products that qualify for the Energy Star® program if the avoided energy cost over the life of the product is equal to or greater than the additional cost paid for the more efficient product (New Sec. 3)</li> </ul>	<p>Same (New Sec. 2)</p>
	<ul style="list-style-type: none"> <li>• <u>Requiring state agencies to conduct an energy audit at least every five years on all state-owned real property.</u> The Secretary would be require to submit an annual report to the Legislature identifying state-owned property where an excessive amount of energy is being used (New Sec. 4)</li> </ul>	<p>Requires the Secretary of Administration to <u>collect data on energy consumption and costs for all state-owned or leased real property.</u> The Secretary must submit annual reports to the Legislature identifying properties that use an excessive amount of energy. Reports would be due on the first day of the Legislative Session in 2010 and annually thereafter. (New Sec. 3)</p>
	<ul style="list-style-type: none"> <li>• Establishing energy efficiency performance standards for leased space and improvements. The Secretary would be prohibited from approving, renewing or extending building</li> </ul>	<p>Same (New Sec. 3)</p>



Provision	Sub. HB 2014 as Recommended by House Committee on Energy and Utilities	SB 265 as Introduced by Senate Committee on Utilities
	<p>leases unless the lessor has submitted an energy audit for the building. Lessors would be required to address the performance standards based on the energy audit (New Sec. 4).</p>	
	<ul style="list-style-type: none"> <li>Prescribing energy efficiency performance standards for state buildings. All new and, to the extent possible, renovated, state-owned buildings would have to be designed and constructed to achieve energy consumption levels that are <u>at least the levels</u> specified by ASHRAE or IECC. 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. 6)</li> </ul>	<p>All newly constructed and, to the extent possible, renovated state-owned buildings must be designed and constructed to achieve energy consumption levels that are <u>at least 10 percent below</u> the levels established by <u>90.1-2004</u> ASHRAE or <u>2006</u> 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)</p>
<p><b>Facilities Conservation Improvement Program (FCIP)</b></p>	<p>The Energy Office of the Kansas Corporation Commission (KCC) would be required to develop and increase participation of school districts and local governments in the Facility Conservation Improvement Program (FCIP) to the extent that funds are appropriated for that purpose. The Commission also would be required to strongly encourage state agencies that operate and maintain buildings and that do not participate in the FCIP to do so by December 1, 2011. (New Sec. 5)</p>	<p>Same (New Sec. 4)</p>

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Provision	Sub. HB 2014 as Recommended by House Committee on Energy and Utilities	SB 265 as Introduced by Senate Committee on Utilities
<p><b>Underground Hydrocarbon Storage Wells</b></p>	<p>The bill would amend current law regarding underground hydrocarbon storage wells by adding a definition for "company or operator". The term would be defined as any form of legal entity, including a corporation, limited liability company, and limited or general partnerships (New Sec. 7).</p>	<p>NA</p>
<p><b>Compressed Air Energy Storage Act (CAES)</b></p>	<p>The bill would establish a system of regulation for the injection of compressed air into storage wells and the maintenance of underground storage of compressed air.</p> <p>The KCC would be required to adopt rules and regulations addressing issues such as site selection, design and operation criteria, and requirements for monitoring, safety and closure. The KCC would be authorized to establish rules and regulations establishing fees for permitting, monitoring and inspecting operators; moneys received would be deposited in the Compressed Air Energy Storage Fund, which would be created by the Act, and used to pay the costs of regulation.</p> <p>The KDHE would be required to adopt rules and regulations related to air emissions from compressed air energy storage wells and storage facilities to ensure compliance with the Kansas Air Quality Act. The KCC and KDHE would be authorized to enter into a memorandum of understanding concerning implementation of the Act.</p> <p>The Act would create financial penalties for violations. (New Secs. 8-15).</p>	<p>NA</p>
<p><b>Certificates of Public Convenience</b></p>	<p>The bill would establish a timeframe for the KCC to grant, deny or amend certificates of public convenience. The Commission would have to issue a decision within 180 days from receipt of</p>	<p>NA</p>

Provision	Sub. HB 2014 as Recommended by House Committee on Energy and Utilities	SB 265 as Introduced by Senate Committee on Utilities
	<p>the application, unless the applicant extends the time in writing. This requirement would not apply to decisions to grant or deny a certificate in cases involving acquisitions and mergers of utilities (New Sec. 16).</p>	
<p><b>Kansas Electric Transmission Authority</b></p>	<p>The bill would amend existing law to allow the Kansas Electric Transmission Authority (KETA) to establish and charge reasonable fees, rates, tariffs or other charges for use of facilities owned, financed or administered by KETA and for services rendered by KETA, provided such costs were not recoverable through tariffs of the Southwest Power Pool.</p> <p>The bill also would clarify that KETA's statutory rights and powers extend to electric transmission lines that have been deemed compatible with plans adopted by the Southwest Power Pool, as well as to transmission lines with an operating voltage of 60 kilovolts or more which have been approved by the Southwest Power Pool. (Secs. 17 and 18)</p>	<p>NA</p>
<p><b>Deregulation of Large Electric Cooperatives</b></p>	<p>The bill would amend existing law to allow large electric cooperatives to remove themselves from the regulatory jurisdiction of the KCC regarding rates. Under the bill, the option to deregulate would be expanded to cover the following entities:</p> <ul style="list-style-type: none"> <li>● Electric cooperatives with more than 15,000 members that primarily sell power at retail;</li> <li>● Limited liability companies that provide wholesale electric service and are owned by four or more electric cooperatives that provide retail service in Kansas; and</li> </ul>	<p>NA</p>

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Provision	Sub. HB 2014 as Recommended by House Committee on Energy and Utilities	SB 265 as Introduced by Senate Committee on Utilities
	<ul style="list-style-type: none"> <li>Any member-owned corporation formed prior to 2004.</li> </ul> <p>The bill would amend existing law to require that, in the case of a generation and transmission cooperative that elected to be deregulated, a petition signed by at least 20 percent of that cooperative's members or by five percent of the aggregate retail customers of such members would trigger a KCC review of a rate change. In addition, the bill would require cooperatives that deregulate to notify customers of their right to request KCC review of a rate change. The bill would add clarifying language regarding the portion of members of a retail distribution cooperative who must sign a rate review petition, but that portion of members would remain as in current law. (Sec. 19)</p>	
<p><b>Renewable Energy Standards Act</b></p>	<p>The bill would enact the Renewable Energy Standards Act that would require electric public utilities, except municipally owned electric utilities, to generate or purchase specified amounts of electricity generated from renewable resources, <u>or purchase renewable energy credits</u>. (New Sec. 22)</p>	<p>Not a named act. No provision for purchase of renewable energy credits. (New Sec. 6)</p>
	<p><u>The amount of electricity from renewable resources would be established by rules and regulations adopted by the KCC as specified in the Act. Any Commission regulations under the Act would have to be established within 240 days of the effective date of the Act.</u></p> <ul style="list-style-type: none"> <li>The renewable energy requirement would apply to all power sold in the State to retail customers regardless of whether the power is generated in Kansas or purchased from an out-of-state source. For purposes of the Act, renewable energy could be generated by wind, solar, photovoltaic, biomass, hydropower, geothermal, <u>waste incineration</u> and landfill gas</li> </ul>	<p>The KCC would be required to adopt rules and regulations for <u>reporting requirements and prevention of duplication</u> of the application of the renewable energy requirement. (New Sec. 6)</p> <p>Renewable resources for this requirement include wind, solar, photovoltaic, biomass, hydropower, geothermal, and landfill gases. (New Sec. 6)</p>

12-6

Provision	Sub. HB 2014 as Recommended by House Committee on Energy and Utilities	SB 265 as Introduced by Senate Committee on Utilities
	resources or technologies; <u>and municipal or other solid waste and animal waste</u> . The KCC would be required to establish a certification process for other renewable energy resources to meet the requirements of the Act. (New Secs. 21, 22, and 26; See also HB 2127 and HB 2013)	
	<p>The renewable energy requirement (net renewable generation capacity) would be for a portion of the affected utility's peak demand (defined as the one-hour maximum annual demand created by the utility's retail load in Kansas) that is at least:</p> <ul style="list-style-type: none"> <li>• 10 percent of the peak demand for calendar years 2010 through 2015, based on the average demand during the three years prior of each of those years;</li> <li>• 15 percent of the peak demand for 2016 through 2019, based on the average demand during the three years prior of each of those years; and</li> <li>• 20 percent of the peak demand for each year beginning in 2020, based on the average demand during the three years prior of each of those years.</li> </ul>	<p>By <u>2013</u>, public utilities must be able to generate or purchase an amount of energy from renewable resources that is equal to at least <u>10 percent</u> 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 <u>15 percent by 2017</u> and to <u>20 percent by 2021</u>. (New Sec. 6)</p>
	"Net renewable generation capacity" would be defined as the gross hourly maximum output capability of a renewable energy resource when not limited by ambient conditions, equipment, operating or regulatory restrictions, less power required to operate the resource. The phrase refers to resources located in Kansas or those serving ratepayers in the State, regardless of how those resources are treated for ratemaking purposes.	NA
	Each megawatt of eligible capacity in Kansas would count as 1.25 megawatts for purposes of compliance with the renewable energy requirement. (New Sec. 22)	NA



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	The capacity of any net metering systems interconnected with the affected utilities under the Net Metering and Easy Connection Act for Renewable Generation, would count toward compliance with the renewable energy requirement.	Same (New Sec. 6 and 19)
	In addition, affected utilities would be able to count savings from energy efficiency programs toward up to 25 percent of the renewable energy requirement. Savings from energy efficiency programs would be determined in accordance with rules and regulations adopted by the KCC. Those savings would have to include both savings at customer facilities and savings by the utility in generation and distribution as compared to the level of usage expected without energy efficiency programs. (New Sec. 22)	NA
	The KCC would be required to allow affected utilities to recover costs incurred to meet the renewable energy requirement. As determined by the Commission, a utility would be able to delay compliance with the renewable energy requirement if transmission capacity is not available for the renewable energy, if the utility's customers would realize substantial benefit by delaying compliance until transmission capacity is available, or if the utility can demonstrate that the cost of compliance would adversely impact its credit rating or its liquidity. (New Sec. 23;)	NA
	The KCC would have broad authority under the Act to establish <u>rules and regulations for administration of the Act, including enforcement mechanisms</u> necessary to ensure compliance with the Act. The Act would <u>authorize imposition of administrative penalties</u> for non-compliance and would give the KCC discretion in imposition of penalties. Costs of administrative penalties could not be recovered from retail customers. (New Sec. 25)	The KCC would be required to adopt rules and regulations for <u>reporting requirements and prevention of duplication</u> of the application of the renewable energy requirement. (New Sec. 6)

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<p><b>Net Metering and Easy Connection Act</b></p>	<p>The Act would require any municipal electric utility, electric cooperative, or electric public utility to make net metering available to customer-generators with maximum generation capacity of 100 kilowatts.</p> <p>“Net metering” would be defined to mean use of metering equipment to measure the difference between the electricity supplied to a customer-generator by a retail electric supplier and the electricity supplied by the customer-generator to the supplier during a billing period. (New Sec. 27)</p>	<p>Same. (New Secs. 8 and 9)</p>
	<p>Renewable energy resources that could be used to generate electricity under the Act include <u>wind, solar, photovoltaic, biomass, hydropower, geothermal, waste incineration, and landfill gas resources or technologies; and municipal or other solid waste and animal waste.</u> (New Sec. 28) <u>The KCC would be authorized to approve other methods of renewable generation.</u> (Sec. 44)</p>	<p>Would apply to solar generation only. (New Sec. 8)</p>
	<p>The KCC would be required to adopt rules and regulations within nine months of the effective date of the Act for administration of Act in regard to regulated utilities. Governing bodies of non-regulated utilities would be required to adopt policies required by the Act. (New. Sec. 36)</p>	<p>Same. (New Sec. 16 and 17)</p>
	<p>Customer-generators would be able to utilize either the parallel generation statute or the Net Metering Act. (Sec. 44)</p>	<p>Same (Sec. 25)</p>
	<p>The Act would provide that retail electric suppliers would measure the net power produced and consumed by the customer-generator during a billing period by using a bidirectional meter, multiple meters, or alternative technology.</p>	<p>Customer-generators who produce more electricity than they receive from a supplier during a billing period will be billed for appropriate customer charges <u>and will be</u></p>

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	<p>If the supplier provides the customer-generator with more power during a billing period than the customer generates, the customer would be billed for the net amount provided by the supplier. If the amount of electricity generated by the customer during a billing period exceeds the amount provided by the supplier, the customer would be billed for applicable customer or demand charges, or both. <u>Excess electricity generated by the customer during a billing period would be retained by the supplier as a contribution to the fixed costs associated with owning and maintaining the facilities required to provide electric service to the customer.</u> (New Sec. 32)</p>	<p>credited an amount at least equal to 150 percent of the avoided energy cost for the excess kilowatt-hours generated. <u>Unused credits expire without compensation 12 months after they are issued.</u> (New Sec. 12)</p>
	<p>Generating equipment would have to meet specifications established by the Act <u>including being appropriately sized to the customer-generator's electrical load</u> and meeting specified safety, performance, interconnection and reliability standards. Generation systems of 10 kilowatts or less capacity would only have to meet the statutory standards. Larger systems could be required to meet additional standards established by the KCC or the supplier's governing body. (New Secs. 33 and 34)</p>	<p>Customer-generator operates a generating unit that is <u>intended primarily to offset part of all of the customer-generator's own electrical energy requirements</u> (New Sec. 8)</p>
	<p>Customer-generators would be required to purchase and maintain in force <u>general liability insurance that does not exclude liability for the net metering interconnection.</u> The amount of insurance would have to be sufficient to insure against all reasonably foreseeable direct liabilities given the size and nature of the generating equipment and the interconnection. (New Sec. 33)</p>	<p>NA</p>
	<p>The Act would provide that for any cause of action relating to damages to property or persons caused by the generation unit of a customer-generator or its interconnection, the supplier</p>	<p>Same (New Sec. 18)</p>

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	would not be liable in the absence of clear and convincing evidence of fault on the part of the supplier. (New Sec. 38)	
	The maximum amount of net generation capacity that a supplier must accept on its system during a calendar year at one percent of the supplier's single-hour peak load during the prior year. Over all, a supplier would not have to make net metering available to additional customers once the total net metering capacity on the supplier's system reaches five percent of the supplier's single-hour peak load during the prior year. "Peak load" would be defined to mean the supplier's one-hour maximum annual demand imposed by its retail load in Kansas. (New Sec. 29)	Same (New Sec. 9)
	Suppliers would be able to recover in their rate structures those costs associated with implementation of the Act. (New Sec. 40)	Same (New Sec. 20)
<b>Parallel Generation Statute Amendments</b>	Define "avoided energy cost" to mean the current average cost of fuel and purchased energy for the <u>preceding month</u> for a utility or for a non-generating utility's wholesale power supplier. That term would replace the phrase "monthly system average cost of energy per kilowatt hour" as the basis for compensation for excess energy provided to utilities by parallel generators. (New Sec. 44)	The calculation would use the average cost for the <u>preceding 12 months</u> . (Sec. 25)
	The statute also would be amended to authorize customer-generators, as defined in the Net Metering Act, to choose to either utilize that Act or the parallel generation statute. Once the choice is filed with the utility, the customer would not be able to change the method chosen. (New Sec. 44)	Same for solar parallel generation. (Sec. 25)
	The KCC would be authorized to approve net metering tariffs requested by electric utilities for other methods of renewable	Same. (Sec. 25)

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	generation not described in the Net Metering Act. Finally, the statute would be amended to delete a reference to the Governor's goals for production of energy from wind and to include in its place a reference to a renewable portfolio target or mandate. (New Sec. 44)	
Kansas Air Quality Act Amendments	The bill would amend the Kansas Air Quality Act to prohibit the Secretary of Health and Environment from promulgating rules and regulations that are more stringent than required by the federal Clean Air Act or rules and regulations authorized by that Act. The restriction in the bill would not apply to a plan for a non-attainment area under the federal Clean Air Act. The bill also would prohibit rules and regulations under the State Act from being enforced in any area of the State prior to the time required under the federal Act. The Secretary would be prohibited from denying or delaying issuance of a permit required under the State Act if the requirements of that Act have been met by the applicant. (Sec. 46 and 47)	Same (Sec. 26)
	Counties would be prohibited from utilizing home rule authority to create exemptions from or change the application of the Kansas Air Quality Act. (Sec. 45)	Same (Sec. 24)
	If requested by the applicant, the Secretary would be required to reconsider an action on a permit, filed after January 1, 2006 and prior to the effective date of the Act, that remains pending in any administrative or judicial review proceeding. The application for reconsideration would have to be filed with the Secretary within 60 days of the effective date of the Act, and the Secretary would have 15 days during which to act on the request. The Secretary's reconsideration and determination would be governed by the Act as amended by the bill. If the	Same. (Sec. 26)



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	<p>Secretary fails to act within the 15 day period, the party who requested review would be entitled to seek a writ of mandamus from the Court of Appeals. An applicant aggrieved by the Secretary's action after the reconsideration would be able to file a petition for review with the Kansas Court of Appeals within 30 days of the Secretary's determination. The Court's review would be conducted in accordance with the Act for Judicial Review and Civil Enforcement of Agency Actions but without any requirement to exhaust other administrative remedies. (Sec 46)</p>	
	<p>KSA 65-3012 would be amended to establish a procedure for addressing air pollution emissions that pose an imminent and substantial danger to public health or welfare or to the environment. The procedure also would be applicable to an imminent or actual violation of the Kansas Air Quality Act. The Secretary of Health and Environment could issue a temporary order directing the owner or operation or the pollution source to take steps necessary to prevent the offending act or to eliminate the offending practice. The order could not exceed 72 hours in duration.</p> <p><u>When the temporary order is issued</u>, the Secretary would be authorized to file an action in district court to enjoin the offending activity. Alternatively, the Secretary could request the Attorney General or the appropriate county or district attorney to file for the injunction. The court could issue a temporary or permanent injunction if the Secretary shows that the offending condition or situation exists. Persons aggrieved by an order of the Secretary issued under the new procedure would be entitled to review of the Secretary's action under the Act for Judicial Review and Civil Enforcement of Agency Actions. The aggrieved party would not be required to exhaust other or</p>	<p>Action in the district court could be filed only <u>upon expiration of the temporary order</u>. (Sec. 28)</p>

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	additional administrative remedies available within the agency. A petition for review under the new provision would have precedence over other cases in regard to order of trial. (Sec 48)	
<b>Access to New Baseload Generation Capacity</b>	<p>The bill would require any public utility that builds a new fossil fuel or nuclear baseload electric generating facility in Kansas to provide to any municipal or cooperative electric utility an option to own a portion of the facility or enter into an agreement to purchase a portion of the power generated, or both. The portion available to municipal or cooperative utilities would be a maximum of 15 percent of the rated capacity of the facility or 200 megawatts of power, whichever is less, that is not dedicated to Kansas consumers. The aggregate amount of purchased power by all municipal utilities and cooperatives could not exceed 200 megawatts.</p> <p>If the facility developer proceeds with construction of the new generating facility, any municipal or cooperative electric utility in the State would have six months from the date of issuance of the construction permit under the Kansas Air Quality Act for the facility, or nine months from the effective date of this Act, whichever occurs first, to exercise the option to purchase an ownership interest in or to enter into an agreement to purchase power from the new facility. The terms and conditions of the sale or the power purchase agreement would have to be the same as those for other participants in the facility, other than the developer.</p> <p>The bill would provide that if more than one municipal or cooperative electric utility exercises the option described in the bill, in the absence of a mutual agreement otherwise, the amount of power available would be allocated equally among</p>	NA

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	those utilities, but an option could not be exercised for less than 25 megawatts. (New Sec. 49)	
<p><b>Kansas Energy Resources Commission</b></p>	<p>The bill would create the Kansas Energy Resources Commission, a seven-member body that would make annual recommendations to the Governor and the Legislature. The charge to the Commission would be as follows:</p> <ul style="list-style-type: none"> <li>● Develop strategies to maximize productive use of the existing energy resources in Kansas;</li> <li>● Identify means of sustaining and, if possible, increasing production and use of identified energy resources;</li> <li>● Identify emerging technologies and opportunities relevant to Kansas energy resources and recommend state investment in specific research projects;</li> <li>● Investigate scientific literature on the public health impacts of emissions of greenhouse gases and particulate matter, as well as technologies to capture and reduce such emissions, and recommend emission limits for man-made emissions by type of emitting source;</li> <li>● Recommend reallocation of existing state budget resources;</li> <li>● Recommend permanent funding sources for energy and sustainability research; and</li> <li>● Pursue other issues Commission members deem necessary.</li> </ul>	<p>NA</p>

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February 16, 2009 (10:10pm)

<b>Provision</b>	<b>Sub. HB 2014 as Recommended by House Committee on Energy and Utilities</b>	<b>SB 265 as Introduced by Senate Committee on Utilities</b>
	<p>Six members of the Commission would be appointed by legislative leadership, and one member would be appointed by the Governor. Members would be required to be residents of Kansas; recognized for their breadth of knowledge on energy issues and initiatives, with expertise in the matters assigned for commission review; and to possess either terminal professional degrees or a minimum of five years experience in their field. Initial appointments would be for staggered terms of office; thereafter members would have four-year terms. Members would receive reimbursement for certain expenses, but would not receive compensation.</p> <p>The Commission would meet at least quarterly and would submit a preliminary report by September 1, 2010. Legislative branch agencies would be required to provide assistance as requested by the Commission and authorized by the Legislative Coordinating Council. The KCC also would be required to provide any assistance requested by the Council. (New Sec. 50)</p>	
<b>Severability</b>	NA	New Sec. 29