

MINUTES

JOINT COMMITTEE ON ENERGY AND ENVIRONMENTAL POLICY

October 28-29, 2009
Room 143-N—Statehouse

Members Present

Senator Carolyn McGinn, Chairperson
Representative Carl Holmes, Vice-chairperson
Senator Pat Apple
Senator Janis Lee
Senator Roger Reitz
Representative Mitch Holmes
Representative Forrest Knox
Representative Cindy Neighbor
Representative Tom Sloan
Representative Vince Wetta

Member Absent

Senator Mark Taddiken

Staff Present

Mary Galligan, Kansas Legislative Research Department
Raney Gilliland, Kansas Legislative Research Department
Cindy Lash, Kansas Legislative Research Department
Melissa Doeblin, Office of the Revisor of Statutes
Renaë Hansen, Committee Assistant

Wednesday, October 28 Morning Session

Chairperson McGinn called the meeting to order at approximately 9:15 a.m. and briefly reviewed the agenda for the day. She reminded members that October 29 will be the final meeting of the Committee for the Interim Session. She asked members to bring ideas for legislation that the Committee might recommend to the 2010 Legislature.

Overview of Energy Legislation in Congress

The Chairperson recognized Tamra Spielvogel and Amanda Mason from the National Conference on State Legislatures (NCSL), who spoke to the Committee via phone regarding the pending federal climate and energy legislation. Ms. Spielvogel addressed the impact of the cap and trade provisions as the different bills are currently written. Ms. Mason provided details of the House bills. They provided an overview of the differences between the House and Senate versions of pending legislation.

Ms. Spielvogel described the process of allocating allowances to states and guidelines for energy programs to help low income consumers meet the higher cost of energy under cap and trade requirements. Additionally, she noted language that would give the Federal Energy Regulatory Commission (FERC) more authority for siting of new transmission lines. That language would preempt state transmission siting authority in some instances, giving FERC the ability to establish a national interconnection standard

Ms. Mason spoke about how the comprehensive energy legislation began to take shape. She noted the internet links to the EPA analysis of HR 2454. She noted additional provisions of interest included in some of the bills, including energy efficiency provisions that target manufacturing, consumer products, and building energy efficiency.

Ms Spielvogel and Ms. Mason also spoke to the Committee on other activities that are taking place that will affect energy production pertaining to greenhouse gas emissions ([Attachment 1](#)).

The Committee was also given summaries of the following bills:

- The American Clean Energy and Security Act (HR 2454), ([Attachment 2](#));
- The Clean Energy Jobs and American Power Act ([Attachment 3](#)); and
- The American Clean Energy Leadership Act of 2009 ([Attachment 4](#)).

Perspectives on Pending Federal Energy Legislation

Electric Utility Perspective - Mark Schreiber presented testimony on behalf of Westar Energy, Kansas Municipal Utilities, Kansas Electric Cooperatives, KEPCo, Midwest Energy, and Kansas City Power and Light (KCP&L). He identified several issues that they think need to be improved in the pending legislation. These include:

- Implementing a price collar or safety valve;
- Allocating needed emissions allowances to utilities;
- Synchronizing green house gas (GHG) emissions reductions with availability of technology;
- Emphasizing research and development on carbon capture and sequestration; and
- Preempting the Clean Air Act for regulating GHG emissions ([Attachment 5](#)).

Business Perspective - Amy Blankenbiller, Kansas Chamber of Commerce, addressed use of a market-based approach to environmental issues. She stated that it would be more beneficial

to make changes to reduce emissions than to create a system to monitor CO₂ emissions. Cap and trade legislation will cause backward movement in productivity and economic development ([Attachment 6](#)).

Oil and Gas Producers and Refiners Perspective – Ed Cross, Kansas Independent Oil and Gas Association (KIOGA), described how the pending federal legislation would affect oil and gas producers in Kansas. Mr. Cross noted that the federal oil and gas tax proposals and climate change proposals would have profound negative affects on the oil and gas industry. He noted that the current climate change proposals could cause the cost of gasoline and diesel fuel to rise above \$5.00 a gallon. The Association believes that the federal cap and trade bills would result in less energy for those who need it and more expensive energy for those who can afford it. He noted that if less American energy is produced, the result will be higher prices for consumers, increased reliance on foreign oil, and many fewer jobs for hard-working, middle-class families. He specifically noted that the repeal of current oil and gas tax provisions would have an estimated \$3.9 billion negative impact on the Kansas Economy within four years of enactment. Mr. Cross included several additional supporting articles and documents ([Attachment 7](#)).

Afternoon Session

The Chairperson called the meeting back to order at 1:30 p.m. for continuation of comments on federal legislation.

Natural Gas Industry Perspective – Wes Ashton, Black Hills Corporation, described the company's position on proposed climate change legislation and its anticipated impact on the Midwest. Black Hills Corporation supports a reasonable RPS and a diverse energy portfolio that includes coal. In addition, the company believes that the U.S. must be part of a global greenhouse gas emissions reduction initiative, and that greenhouse gas emissions reduction must be nationwide and industry-wide. Mr. Ashton noted that Black Hills believes that the climate change legislation, as proposed, would create a burdensome cost that customers would have to pay, especially in coal-reliant regions like the Midwest. This legislation is a burden to the Midwestern states. He noted that Black Hills Corporation has information on its web page that regarding climate change legislation ([Attachment 8](#)).

Consumer Perspective – David Springe, Citizens Utility Ratepayer Board (CURB), stated that CURB believes that, regardless of federal energy legislation, rates for consumers will go up. Additionally, one must assume that consumers have a general concern about climate issues and are willing to invest in some level of capital for clean technologies to reduce CO₂ emissions. He believes that a price cap to protect consumers should be included in any legislation ([Attachment 9](#)).

Environmental Perspective – Eileen Horn, Climate and Energy Project (CEP), said that CEP supports a cap and trade system. She noted that many other entities also support a mechanism to control CO₂ emissions. Ms. Horn noted that CEP supports energy efficiency and renewable energy ([Attachment 10](#)).

Liability Issues Regarding Sequestration of Carbon Dioxide (CO₂)

The Chairperson recognized Raney Gilliland, Kansas Legislative Research Department, to provide an overview of the CO₂ storage regulation issue ([Attachment 11](#)).

Representative Holmes noted that the intent of the CO₂ storage legislation was that the state not take control of or liability for the CO₂ sequestration facilities.

The Chairperson recognized Melissa Doeblin, Office of the Revisor of Statutes, who presented testimony explaining the Carbon Dioxide Reduction Act, KSA 55-1636 through 55-1640, KSA 79-233, and KSA 79-32,256 ([Attachment 12](#)). Additionally, Ms. Doeblin explained the proposed bill, 9rs1181, that the Administrative Rules and Regulations Committee has prepared for legislative consideration in the 2010 session ([Attachment 13](#)).

The Chairperson recognized Doug Lewis, Kansas Corporation Commission, for a review of the proposed rules and regulations to implement the Carbon Dioxide Reduction Act. Additionally, he explained the history of the proposed regulations ([Attachment 14](#)).

The Chairperson recognized Dr. Lynn Watney and Saibal Bhattacharya, Kansas Geological Survey, for a presentation of information about research in Kansas on CO₂ sequestration. Dr. Watney noted that coal beds, oil and gas fields, and saline aquifers are potential locations for carbon sequestration. He mentioned several projects that currently use carbon sequestration in their processes. Additionally, Mr. Bhattacharya described some new projects that have been funded under the American Reinvestment and Recovery Act of 2009 (ARRA) for research on the potential for containment of injected CO₂. He explained how these new research processes should work. He described the mechanisms that would keep the CO₂ in the injected spot underground. Mr. Bhattacharya also summarized the procedure for establishing a CO₂ sequestration site and making it operational ([Attachment 15](#)).

The Chairperson recognized Tom Day, Kansas Corporation Commission, to present a response from the September meeting ([Attachment 16](#)). Included in the document were the following:

- Synopsis of the eligibility requirements which must be met by the State Energy Office to receive ARRA funds;
- Information about the Energy Auditor Scholarships program;
- Information about the Efficiency Kansas program;
- A map showing locations and names of Efficiency Kansas Partner Banks; and
- Energy Efficiency Building Codes Working Group, including the Governors's Assurance to Secretary Steven Chu, U.S. Department of Energy.

Senator McGinn adjourned the meeting at 3:57 p.m. until October 29 at 9:00 a.m.

**Thursday, October 29
Morning Session**

The Chairperson called the meeting to order at 9:00 a.m.

Independent Administrator for Energy Efficiency

The Chairperson recognized Cindy Lash, Kansas Legislative Research Department, who described the charge from the LCC relating to establishing an independent Energy Efficiency Administrator and review of 2009 SB 284 ([Attachment 17](#)).

The Chairperson recognized Lauren Douglass, Kansas Legislative Research Department, to present a review of 2009 SB 284 ([Attachment 18](#)). She also summarized the testimony presented on the bill during the 2009 session. Ms. Douglass gave the Committee a brief overview of other states' energy efficiency services. The Committee was also given the fiscal note for the bill ([Attachment 19](#)).

Efficiency Vermont

The Chairperson recognized Scudder Parker, Vermont Energy Investment Corporation, who described how the state of Vermont has structured its energy efficiency program. Mr. Parker noted they implemented a policy that uses a least cost efficiency standard. They work at reducing the cost of energy each year by about 2 percent.

Services are provided through a performance based contract using a three-year target, not just a one year target. Services are marketed by providing training for not only the owner, but for vendors, too. He noted that when you have an efficient program your vendors become the marketers. Their goal is to help the consumer capitalize on all the opportunities that they can. He noted that over the nine years the program has existed, they have experienced negative load growth. He noted that the programs work best if one uses an integrated approach that implements change in a number of areas, *i.e.*, lightbulb change-out, appliance replacement, windows replacement, insulation installation, efficiency in the industrial workplace, and so on. He noted it is more expensive to achieve change in the residential. They have a couple of target industrial areas where they are realizing a higher percentage of energy usage decline.

He stressed that policy helps shape efficiency goals so that there is a clear guideline for implementation. Mr. Parker noted they help customers overcome what might be a barrier in the marketplace to investing in energy efficiency projects. The key to success is involving the contractors in the market place. He included in his testimony two papers entitled: "Taking the Efficiency Utility Model to the Next Level", and "What Does It Take to Turn Load Growth Negative: A View from the Leading Edge" His final suggestion was for the Committee to think about what keeps the customer from saying yes to the program, and give them a performance objective and some flexibility ([Attachment 20](#)).

Testimony by interested parties

The Chairperson recognized Thomas Wright, Chairman, KCC, who described the current energy efficiency and conservation programs implemented by Kansas utilities. Additionally, he presented a staff summary of the KCC's general authority and policy for energy efficiency programs. He noted the KCC will work diligently with the community and industry to make this work. The energy office contact number is: 785.271.3185 ([Attachments 21 and 22](#)).

The Chairperson recognized Kevin Bryant, Kansas City Power and Light, who spoke to the Committee about the company's involvement in helping its customers make and implement energy efficiency decisions. The company sees the investment in energy efficiency as another source of energy for them. It may not be an in-the-ground structure, but it helps the company by lowering demand ([Attachment 23](#)).

The Chairperson recognized Randy Degenhardt, Westar Energy, who presented testimony in opposition to 2009 SB 284 which would create a third party administrator for energy efficiency programs in the state. Additionally, Mr. Degenhardt described how Westar is working to promote energy efficiency with their customers (Attachment 24).

The Chairperson recognized Matt Daunis, Black Hills Corporation, who described programs the company is implementing. Black Hills strongly supports energy efficiency, but is opposed to 2009 SB 284 in the current form (Attachment 25).

The Chairperson recessed the meeting for lunch at 12 noon.

Afternoon Session

The Chairperson called the meeting back to order at approximately 1:35 p.m.

The Chairperson recognized David Springe, Citizens' Utility Ratepayer Board (CURB), who offered testimony on behalf of AARP which supports the concept embodied in 2009 SB 284. (The AARP representative had to leave the meeting to take Mr. Parker to the Kansas City airport.) Mr. Springe noted that AARP brought Mr. Parker to provide information to the Committee about the Vermont energy efficiency program (Attachment 26).

Mr. Springe also presented testimony on behalf of CURB in support of 2009 SB 284. CURB believes an independent entity is a necessary and important part of the State's energy infrastructure. CURB is interested in having an efficiency program that has efficiency gained in economies of scale, economies of scope, and consistency of message. He also believes that we could build on the work that the KCC is doing to promote the energy efficiency program in Kansas. Kansas needs to have something from the Legislature stating that energy efficiency is a policy the legislature supports, and the State must ensure that the programs are available on a statewide basis (Attachment 27).

The Chairperson recognized Eileen Horn, Climate and Energy Project (CEP) who offered testimony in support of 2009 SB 284. The CEP believes that existing parties can provide good energy efficiency programs and believes a third party provider would be a place for one-stop-shopping for all energy consumers. They support a statewide program that would allow companies that have existing programs to opt out (Attachment 28).

Committee Discussion

The Committee requested several items of information, including:

- Clarification of federal requirements for accepting federal stimulus money for energy and energy efficiency programs, including commitments the state has made regarding use of those funds;
- Suggestions regarding how to extend the KCCs Efficiency Kansas program beyond the availability of ARRA funds;
- Suggestions regarding how to capture the money currently being spent by utilities for energy efficiency;

- Suggestions regarding how to increase the weatherization of homes occupied by recipients of *Low-Income Home Energy Assistance Program* support;
- Suggestions for increasing landlord involvement in energy efficiency programs;
- Suggestions for standardizing utility programs for energy efficiency if there is not an independent energy efficiency administrator;
- Identification of methods for determining the appropriate level of utility funding for energy efficiency with a verifiable means of measuring the savings being achieved;
- Identification of a means of establishing achievable and measurable energy conservation goals and energy demand growth rates;
- Identification of a means of verifying measurements of the benefits of energy efficiency programs so that accurate savings numbers are recorded and can be attributed to the appropriate program/effort; and
- An explanation of how consumer education and buy-in programs will work to modify consumer behavior passively if not directly and the direction being pursued by the KCC to develop and implement programs that will modify consumer behavior regarding energy efficiency.

Finally, the Committee concluded that no recommendation regarding 2009 SB 284, concerning the formation of an independent energy efficiency agency, is necessary at this time. The Committee agreed to let the legislative process work on SB 284 and then see if the bill moves forward.

The Chairperson noted that the requested information should be available at a Committee meeting early during the 2010 Session. She instructed staff to schedule that meeting and to invite the standing committees on utilities and other committees with jurisdiction over energy and environmental policy matters.

The Chairperson adjourned the meeting at 3:10 p.m.

Prepared by Renae Hansen
Edited by Mary Galligan

Approved by Committee on:

May 7, 2010
(Date)