

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 265

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO A MORATORIUM ON CERTAIN INDUSTRIAL WIND FARMS AND WIND TURBINES  
2 FOR A TIME CERTAIN; AMENDING TITLE 61, IDAHO CODE, BY THE ADDITION OF A  
3 NEW CHAPTER 18, TITLE 61, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS  
4 AND INTENT, TO PROVIDE A MORATORIUM FOR A TIME CERTAIN ON THE PERMITTING  
5 OR LICENSING OR CONSTRUCTION OF CERTAIN INDUSTRIAL WIND FARMS AND WIND  
6 TURBINES AND TO PROVIDE FOR AN UPDATE TO THE IDAHO ENERGY PLAN; DECLAR-  
7 ING AN EMERGENCY AND PROVIDING A SUNSET DATE.  
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Title 61, Idaho Code, be, and the same is hereby amended  
11 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
12 ter 18, Title 61, Idaho Code, and to read as follows:

13 CHAPTER 18

14 MORATORIUM ON CERTAIN INDUSTRIAL WIND FARMS AND WIND TURBINES FOR A TIME  
15 CERTAIN

16 61-1801. LEGISLATIVE FINDINGS -- INTENT. The legislature finds that  
17 industrial wind farms and wind turbines are having a significant negative  
18 impact upon Idaho's citizens, wildlife, aesthetic values, power rates,  
19 property values and the operations of Idaho's electrical utilities. The  
20 proliferation of wind development will dramatically exceed the planned re-  
21 source additions for wind energy in the Idaho energy plan of 2007. Already  
22 planned wind development could easily outstrip the capacity of the utilities  
23 in Idaho to integrate the intermittent power provided by wind turbines. A  
24 recent rate increase request approved by the Idaho public utilities commis-  
25 sion was based in part on the utility's addition of intermittent wind energy  
26 into its power sources. The wildlife managers in Idaho have been overwhelmed  
27 with the approval of wind development and the rate of development has not  
28 allowed proper analysis to be completed as to the impacts of large wind  
29 turbines being constructed in areas frequented by wildlife. Wind turbines  
30 are being considered for construction in areas known to be utilized by sage  
31 grouse, a species currently under consideration for listing as an endangered  
32 species by the U.S. fish and wildlife service, which could have immediate and  
33 far-reaching effects on Idaho. Court action and claims of negative effects  
34 on private property are becoming frequent. To properly address and better  
35 understand the operational questions, environmental and economic effects of  
36 wind energy, the legislature is placing a ban on the approval and construc-  
37 tion of industrial wind farms and wind turbines until an analysis of such ef-  
38 fects is complete and the Idaho energy plan is updated and until July 1, 2013.

39 61-1802. MORATORIUM ON CONSTRUCTION OF CERTAIN INDUSTRIAL WIND FARMS  
40 AND WIND TURBINES FOR A TIME CERTAIN. (1) From the effective date of this

1 act until July 1, 2013, municipalities, counties and state agencies are  
2 prohibited from granting approval or issuing any new licenses or permits for  
3 the construction or operation of wind turbines that exceed one hundred (100)  
4 feet in height and have a nameplate capacity that exceeds one hundred (100)  
5 kilowatts. Projects that have been approved and for which the statute of  
6 limitations for legal proceedings of the state of Idaho against the project  
7 expire without any legal action against the project shall be allowed to be  
8 constructed. Projects for which legal proceedings are pending shall not  
9 be allowed to be constructed until the legal proceedings are complete and a  
10 court of competent jurisdiction finds that construction may proceed.

11 (2) The provisions of this section do not apply to a facility owned or  
12 controlled by the United States government, or the Bonneville power adminis-  
13 tration for the purpose of providing power to the citizens of Idaho.

14 (3) During the moratorium provided by this chapter, the Idaho legisla-  
15 tive council interim committee on energy, environment and technology is to  
16 facilitate and coordinate a thorough analysis of the questions about all as-  
17 pects of wind development that could be counter to the stated plan objectives  
18 of the Idaho energy plan of 2007 as restated herein:

19 (a) Ensure a secure, reliable and stable energy system for the citizens  
20 and businesses of Idaho.

21 (b) Maintain Idaho's low cost energy supply and ensure access to af-  
22 fordable energy for all Idahoans.

23 (c) Protect Idaho's public health, safety and natural environment and  
24 conserve Idaho's natural resources.

25 (d) Promote sustainable economic growth, job creation and rural eco-  
26 nomic development.

27 (e) Provide the means for Idaho's energy policy to adapt to changing  
28 circumstances.

29 (4) The analysis and a final report and recommendations shall be com-  
30 piled in the form of recommended amendments to the Idaho state energy plan.  
31 The amendments shall address, but not be limited to, issues related to the  
32 effect that wind development may have on power rates, the ability of Idaho's  
33 utilities to integrate more intermittent wind power into their systems, the  
34 advisability of allowing Idaho's best wind sites to be used to provide energy  
35 to markets outside Idaho, the effect wind turbines are having on natural ar-  
36 eas and wildlife and species that could be listed as endangered, the effect  
37 that wind turbines may have on private property values and uses, the range of  
38 tax issues regarding wind power development and any other issues found to be  
39 pertinent.

40 (5) The Idaho legislative council interim committee on energy, envi-  
41 ronment and technology, the Idaho public utilities commission, the Idaho  
42 office of energy resources, the Idaho department of fish and game and any  
43 other state agency may participate in the preparation of the report and rec-  
44 ommended amendments to the Idaho energy plan of 2007. Stakeholder and public  
45 participation should be adequately provided for and encouraged and the Idaho  
46 legislative council interim committee on energy, environment and technology  
47 shall use a process similar to the one that established the Idaho energy plan  
48 of 2007 to carry out the requirements of this section. The report shall be  
49 provided to the governor and the legislature no later than January 15, 2013.

1           SECTION 2. An emergency existing therefor, which emergency is hereby  
2 declared to exist, this act shall be in full force and effect on and after  
3 its passage and approval and the provisions of Section 1 of this act shall be  
4 null, void and of no force and effect on and after July 1, 2013.