

MINUTES OF THE HOUSE UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9:00 A.M. on March 21, 2006 in Room 231-N of the Capitol.

All members were present except:

Melody McCray-Miller- excused

Committee staff present:

Mary Galligan, Kansas Legislative Research

Mary Torrence, Revisor's Office

Heather Klaasen, Research Intern

Rena Hansen, Committee Secretary

Conferees appearing before the committee:

Mary Galligan, Kansas State Research

Others attending:

See attached list.

Hearing on:

**SB 303**      **Containing former HB 2900,2901,2902,2903,2904**

It was decided by consensus to title this bill "The Kansas Energy Development Act".

Hearing on:

**Sub HB 2723** **Sub for H 2723 by Committee on Taxation--Income tax credits and deductions for certain energy efficiency improvements.**

Chairman Carl Holmes had staff pass out the language for **Sub for HB 2723 (Attachment 1)**, as amended by the House Taxation committee. Revisor Mary Torrence explained to the committee what this new language proposed to offer consumers in the way of tax credits and accelerated depreciation for land lords should they choose to add heating and cooling conservation mechanisms to their rental units.

Questions were asked and comments made by Representatives: Lynne Oharah, and Rob Olson.

**Representative Rob Olson moved to amend Sub HB 2723 Section 1 (a) (2) striking the words "and duplexes" and 1 (a) (3) striking the words "other than duplexes". Seconded by Representative Jim Morrison.**

Questions were asked by Representatives Don Myers and Rob Olson.

Representative Olson closed on the motion to amend.

**Motion carried.**

**Representative Don Myers moved to amend Sub HB 2723, page 3 line 2 adding in the words "to include installation costs" after the word system. Seconded by Representative Jim Morrison. Motion passed unanimously.**

Representative Jim Ward asked specifically about the fiscal notes for **Sub HB 2723** and **HB 2900, 2901, 2902, 2903, 2904** now appearing as **Sub SB 303**. Researcher Mary Galligan gave a brief explanation of the Department of Revenues estimates of fiscal notes for each of these bills.

Representative Forrest Knox asked if it was possible to know of the impact of the additional jobs and their tax revenues that would be created by the construction projects that each of these bills would create in Kansas.

CONTINUATION SHEET

MINUTES OF THE House Utilities Committee at 9:00 A.M. on March 21, 2006 in Room 231-N of the Capitol.

More questions and comments ensued on **Sub HB 2723** by Representatives: Lynne Oharah, Carl Holmes, and Forrest Knox.

Representative Forrest Knox moved to strike page 1, Section 1 (a) (3) "dwelling units served by the system for" and add an "s" at the end of the word "system" on line 4 of Section 1 (a) (3). Seconded by Representative Lynne Oharah in **Sub HB 2723**.

Discussion followed by Representatives: Tom Sloan, Carl Krehbiel, Lynne Oharah, Tom Hawk, and Mitch Holmes.

Representative Forrest Knox closed on his motion to amend.

Motion Failed.

Representative Tom Sloan moved to amend **Sub HB 2723** Section 1 (a) (3) line 4 by adding " for which there are temperature control devices" following the words "conditioning system". Seconded by Representative Annie Kuether.

Comments were offered by Representatives: Mitch Holmes, Tom Sloan, and Carl Krehbiel.

Representative Sloan closed on the amendment.

Motion to amend passed.

Representative Annie Kuether moved to amend **Sub HB2723** into **SB 70**. Seconded by Representative Carl Krehbiel. Motion passes.

Representative Tom Sloan moved to amend **Sub SB 70** (Attachment 2) with language similar to HB 2642 with a few changes per the committees recommendations. Seconded by Representative Josh Svaty.

Discussion followed by Representatives: Carl Krehbiel, Tom Sloan, Don Myers, Jason Watkins, Jim Ward, Judy Morrison, Lynne Oharah, Rob Olson, Tom Hawk, and Josh Svaty.

Representative Tom Sloan closed on the motion to amend.

Motion to amend failed.

Representative Tom Sloan moved to amend **Sub SB 70** (Attachment 3). Seconded by Representative Jim Ward.

Discussion followed by Representatives: Carl Krehbiel, Lynne Oharah, Don Myers, Carl Holmes, Peggy Mast, and Oletha Faust-Goudeau.

Representative Sloan closed on the amendment.

Motion failed.

Action on now **Sub SB 70** will continue tomorrow.

The next meeting is scheduled for March 22, 2006.

Meeting Adjourned.

# HOUSE UTILITIES COMMITTEE GUEST LIST

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NAME	REPRESENTING
Tom Day	KCC
Mr. Mark Schreiber	Westar
Steve Miller	Sunflower
Steve Johnson	Kansas Gas Service / ONEOK
Joe Dick	Kansas City BPU
Lindsey Douglas	Hein Law Firm
Phil Labos	KCP&O
Jim Gardner	<del>at &amp; t</del>
Sean Miller	KBIA
Lois Stanton	Northern Natural Gas
Jack Graves	DETS - P-H & KM
David Springle	Carb
STUART LOWMY	KWAGS ELEC. CO-OPS
LARRY BERG	MIDWEST ENERGY
GINA BOWMAN-MORRILL	COFFEYVILLE RESOURCES, LLC
DAVE HOLTAMUS	KFC
Roger Randall	KCP&L

## Substitute for HOUSE BILL NO. 2723

By Committee on Taxation

AN ACT concerning income taxation; relating to credits and deductions; energy efficiency expenditures.

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

Section 1. (a) For all taxable years commencing after December 31, 2005, there shall be allowed tax credits against the income tax liability imposed upon a taxpayer pursuant to the Kansas income tax act, in an amount equal to the following:

(1) For nonowner occupied single family dwellings and duplexes and multiple family dwellings other than duplexes, \$100 per dwelling unit for each six inches of ceiling insulation installed;

(2) for nonowner occupied single family dwellings and duplexes, \$300 for a newly installed heating, ventilation or air conditioning system which replaces an existing system and meets one or more of the following criteria:

(A) Furnace or boiler must meet or exceed 92% AFUE;

(B) split systems must meet or exceed SEER 14, EER of 11.5;

(C) single package systems must meet or exceed SEER 14;

(D) air source heat pumps must meet or exceed HSPF 8, SEER 14 and EER of 11.5; and

(E) ground-source heat pumps must meet or exceed:

(i) Closed-loop systems--14.1 cooling EER and 3.3 heating coefficient of performance (COP);

(ii) open-loop systems--16.2 EER and 3.6 COP;

(iii) direct-expansion systems--15 EER and 3.5 COP; and

(iv) all ground-source heat pumps must include a desuperheater, which preheats water for a water heater, or an integrated water heating system; and

(3) for nonowner occupied multiple family dwellings other than duplexes, \$300 times the number of dwelling units served by the system for a newly installed heating, ventilation or air conditioning system which replaces an existing system and meets one or more of the following criteria:

(A) Furnace or boiler must meet or exceed 92% AFUE;

(B) split systems must meet or exceed SEER 14, EER of 11.5;

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- (C) single package systems must meet or exceed SEER 14;
- (D) air source heat pumps must meet or exceed HSPF 8, SEER 14 and EER of 11.5; and
- (E) ground-source heat pumps must meet or exceed:
  - (i) Closed-loop systems--14.1 cooling EER and 3.3 heating coefficient of performance (COP);
  - (ii) open-loop systems--16.2 EER and 3.6 COP;
  - (iii) direct-expansion systems--15 EER and 3.5 COP; and
  - (iv) all ground-source heat pumps must include a desuperheater, which preheats water for a water heater, or an integrated water heating system.

(b) If the amount of tax credits allowed pursuant to this section exceeds the taxpayer's income tax liability for the year in which the expenditures were incurred, the amount thereof which exceeds such tax liability may be carried over for deduction from the taxpayer's income tax liability in the next succeeding taxable year or years until the total amount of the tax credits have been deducted from tax liability, except that no such tax credits shall be carried over for deduction after the fifth taxable year succeeding the taxable year in which the expenditures are made.

(c) The taxpayer claiming a credit pursuant to this section shall provide evidence of purchase and installation of the item or items for which the credit is claimed as required by rules and regulations of the secretary of revenue.

(d) The secretary of revenue shall adopt rules and regulations to implement the provisions of this section.

(e) The secretary of revenue shall submit a report to the legislature regarding utilization of credits claimed pursuant to this section, for purposes of evaluation of the program. Such report shall be due on or before the first day of the 2008 legislative session.

Sec. 2. (a) In addition to the income tax credit allowed pursuant to section 1, and amendments thereto, for all taxable years commencing after December 31, 2005, a taxpayer shall be entitled to a deduction from Kansas adjusted gross income with

respect to the amortization of the amortizable costs of a new heating, ventilation or air conditioning system based upon a period of five years. Such amortization deduction shall be an amount equal to 60% of the amortizable costs of such new system for the first taxable year in which such new system is in usage and 10% of the amortizable costs of such new system for each of the next four taxable years.

(b) The election of the taxpayer to claim the deduction allowed by subsection (a) shall be made by filing a statement of such election with the secretary of revenue in the manner and form and within the time prescribed by rules and regulations adopted by the secretary.

(c) The secretary of revenue shall adopt rules and regulations as deemed necessary to carry out the provisions of this section.

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

## PROPOSED AMENDMENT TO HB 2723/SB 70

Section 1. Sections 1 through 4, and amendments thereto, may be cited as the Kansas energy policy act.

Sec. 2. (a) On and after January 1, 2007, there is hereby established the energy policy advisory group, which shall be composed of:

(1) The following members appointed by the governor: (A) An energy economist affiliated with a state educational institution under the supervision of the state board of regents; (B) one representative of renewable energy producers and one representative of other energy producers; (C) one representative of energy conservation and efficiency interests; and (D) a tax specialist knowledgeable in federal and state energy tax matters;

(2) the following members appointed by the speaker of the house of representatives: (A) two representatives of businesses which consume fuel in production of their products; (B) one representative of agricultural commodity producers; (C) one representative of energy producers other than a renewable energy producers; and (D) one representative of energy production, consumption, conservation or efficiency interests not otherwise represented by members of the advisory group;

(3) the following members appointed by the president of the senate: (A) One representative of agricultural energy consumers; (B) one representative of energy producers other than a renewable energy producers; (C) one representative of a refinery located in Kansas; and (D) one representative of energy production, consumption, conservation or efficiency interests not otherwise represented by members of the advisory group;

(4) the following members appointed by the minority leader of the house of representatives: (A) One representative of the energy consuming public; and (B) one representative of environmental advocacy groups;

(5) the following member appointed by the minority leader of the senate: One representative of the energy consuming public; and

(6) the following nonvoting members ex officio: (A) Two members of the house of representatives who have substantial knowledge of energy, agriculture or business development, one to be appointed by the speaker of the house of representatives and one by the minority leader of the house of representatives; (B) two members of the senate who have substantial knowledge of energy, agriculture or business development, one to be appointed by the president of the senate and one by

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the minority leader of the senate; (C) the secretary of commerce; (D) the secretary of transportation; (E) the secretary of agriculture; (F) the state geologist; and (G) the chairperson of the state corporation commission or the chairperson's designee.

(b) Members first appointed to the advisory group shall serve terms as follows: Two members appointed by the governor shall serve terms of two years and two shall serve terms of four years, as designated by the governor; two members appointed by the speaker of the house of representatives shall serve terms of two years and two shall serve terms of four years, as designated by the speaker; two members appointed by the president of the senate shall serve terms of two years and two shall serve terms of four years, as designated by the president; one member appointed by the minority leader of the house of representatives shall serve a term of two years and one shall serve a term of four years, as designated by the minority leader; and the member appointed by the minority leader of the senate shall serve a term of four years. Thereafter, such members shall serve for terms of four years. A vacancy in the term of any such member shall be filled by appointment for the remainder of the unexpired term in the same manner as the member whose position has become vacant.

(c) The voting members of the advisory group annually shall elect a chairperson, vice-chairperson and such other officers as they deem appropriate from among the voting members of the advisory group.

(d) The advisory group shall hold such meetings as in its judgment may be necessary for the performance of its powers, duties and functions. Any member of the advisory group who does not otherwise receive compensation and expenses from an employer for the member's service on the advisory group shall receive amounts provided in subsection (e) of K.S.A. 75-3223, and amendments thereto, for each day of attendance at a meeting of the advisory group or a subcommittee meeting thereof authorized by the advisory group.

Sec. 3. (a) The state corporation commission shall provide such staff assistance, administrative assistance and office space as needed to support the advisory group. All budgeting, purchasing and related management functions of the advisory group shall be administered under the direction and supervision of the state corporation commission. All vouchers for expenditures from appropriations made for the use of the advisory group shall be approved by the chairperson of the state corporation commission or a person or persons designated by the chairperson for such purpose.

(b) The advisory group may appoint technical advisory committees to study and advise the advisory group as the advisory group requires. Any member of such a technical advisory committee



who does not otherwise receive compensation and expenses for the member's service on the technical advisory committee shall receive compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(c) Not more than \$150,000 shall be expended from the state general fund in any fiscal year for contract services to carry out the responsibilities of the advisory group pursuant to the Kansas energy policy act.

Sec. 4. (a) The energy policy advisory group, independent of the governor and legislature, shall:

(1) Develop and update annually a state energy plan which recommends to the governor, legislature and general public policies regarding energy production, consumption and sales for a period of not less than five years into the future; and

(2) submit annually to the legislature and the governor a written plan and recommendations regarding public policies to address both short-term and long-term opportunities to produce more energy, diversify the supply of energy both for consumption within the state and for export outside the state and provide a stable supply of energy in the most cost effective manner.

(b) The energy policy advisory group shall approve an annual work plan to:

(1) Identify and analyze energy production patterns in such manner as will facilitate the making of public policy recommendations which will increase energy production levels from existing Kansas sources, extend the life of such existing production resources and develop alternative revenue and energy options for the time when production from existing energy supplies is no longer financially feasible;

(2) determine what energy infrastructure changes may be needed in Kansas, as indicated by fuel and engine research of manufacturers of automobiles, trucks, farm equipment and stationary and small engines;

(3) identify potential opportunities, beneficial to Kansans, for partnerships between energy production and consumption industries and faculty at state educational institutions under the supervision of the state board of regents;

(4) review actions taken by legislatures and governors in other states to identify for energy ideas that can be built upon to expand economic opportunities for Kansas businesses and consumers;

(5) identify and recommend to the advisory group cutting edge energy production, sources and conservation opportunities which will best position Kansans to make wise energy choices and

economically produce energy to meet the needs of the state, region and nation; and

(6) research and perform such other functions as appropriate to the duties of the advisory group.

(c) The energy policy advisory group may:

(1) Seek and accept grants and other financial assistance that the federal government and other public or private sources make available and utilize the same for the purposes of the advisory group; and

(2) contract with public agencies or with qualified private persons or organizations to accomplish the purposes of the advisory group.

(d) Plans, reports or recommendations of any nature adopted by the energy policy advisory group shall be considered advice to the governor and legislature and shall not be construed as official policy, position or interpretation of laws or rules and regulations by the state corporation commission, nor shall the commission be bound in any manner to consider any such advice when conducting the commission's advisory and regulatory responsibilities.

Sec. 5. K.S.A. 74-616 is hereby amended to read as follows: 74-616. In addition to other powers and duties provided by law, in administering the provisions of this act the state corporation commission shall:

(a) Adopt rules and regulations necessary for the administration of this act;

~~(b) develop a comprehensive state energy conservation plan and the procedures for implementing the plan according to federal requirements;~~

(c) coordinate existing and create new databases as necessary to identify and predict trends in energy consumption by Kansans in such a manner as will facilitate the making of public policy recommendations which will reduce energy costs, conserve resources and benefit the residential, agricultural, commercial and industrial sectors of the population;

(c) make requests for and accept funds and other assistance from federal agencies for energy conservation and other energy-related activities in this state, including, but not limited to, the state energy conservation program; and the energy extension service program and the institutional building conservation program;

(d) administer federal energy conservation programs in this state;

~~(e) collect and compile necessary data on energy resources and monitor energy resources supplies in this state;~~

~~(f) prepare an energy resources emergency management plan for adoption during any energy resources emergency proclaimed to exist by the governor under K.S.A. 74-619, and amendments thereto, which plan shall include the system of priorities for energy resources allocation and curtailment of energy resources consumption established under K.S.A. 74-620, and amendments thereto;~~

~~(g) (e) seek and accept grants and other financial assistance which the federal government and other public or private sources make available and utilize the same for the purposes of the advisory group;~~

~~(f) contract with public agencies or with qualified private persons or organizations to accomplish the purposes of the advisory group;~~

~~(g) cooperate in the implementation of any ~~emergency energy rationing program~~ energy resources emergency management plan or program which may be imposed by the federal government or any agency thereof;~~

~~(h) prepare and have available for public inspection an annual report which describes the energy resources emergency management program; and~~

~~(i) (h) make and enter into all contracts and agreements and do all other acts and things necessary or incidental to the performance of functions and duties and the execution of powers under this act.~~

Sec. 6. K.S.A. 74-616 is hereby repealed.

## PROPOSED AMENDMENT TO HB 2723/SB 70

Section 1. In purchasing electricity generated from renewable resources or technologies, as defined in K.S.A. 66-1,184a, and amendments thereto, or renewable energy credits, state agencies shall give preference to Kansas generators and generators operating small generation units.

Sec. 2. (a) For all taxable years commencing after December 31, 2005, a taxpayer shall be entitled to a deduction from Kansas adjusted gross income with respect to the amortization of the amortizable costs of a new small electric generation unit based upon a period of five years. Such amortization deduction shall be an amount equal to 60% of the amortizable costs of such new unit for the first taxable year in which such new unit is in usage and 10% of the amortizable costs of such new unit for each of the next four taxable years.

(b) The election of the taxpayer to claim the deduction allowed by subsection (a) shall be made by filing a statement of such election with the secretary of revenue in the manner and form and within the time prescribed by rules and regulations adopted by the secretary.

(c) The secretary of revenue shall adopt rules and regulations as deemed necessary to carry out the provision of this section.

(d) As used in this section, "small electric generation unit" means a generation unit which has a capacity of less than 20 megawatts and the electricity from which is generated primarily for sale.

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