

SESSION OF 2006

## SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2642

As Amended by House Committee on  
Utilities

### **Brief\***

The bill would enact new law entitled the Kansas Energy Policy Act which would establish the Energy Policy Advisory Group on January 1, 2007 and enumerate the Group's research and planning responsibilities. The bill also would amend existing law to add to the Kansas Corporation Commission's (KCC) statutory responsibilities, support of the Advisory Group. The bill also would amend existing law relative to the KCC's responsibilities for energy conservation planning.

### **Advisory Group Composition**

The Energy Policy Advisory Group would be established on January 1, 2007. The Advisory Group would be composed of the following gubernatorial appointees:

- An energy economist affiliated with a state university;
- Three representatives of fuel-consuming businesses;
- Four representatives of energy producers (one renewable energy producer and three representatives of other energy producers);
- Two representatives of energy consumer interests;
- Two representatives of agricultural interests, one representing commodity production, the other representing energy consumption;
- A representative of energy conservation/efficiency interests;
- A representative of a Kansas oil refinery;
- A tax specialist knowledgeable in federal and state energy tax matters;
- A representative of environmental advocacy groups;
- Two representatives of other stakeholders in energy production, consumption, conservation, or efficiency in Kansas not otherwise represented; and

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- As *ex officio*, non-voting members:
  - Two State Representatives and two Senators, one from each chamber from the majority and minority parties, with substantive knowledge of energy, agriculture, or business development;
  - The Secretary of Agriculture;
  - The Secretary of Commerce;
  - The Secretary of Transportation;
  - The State Geologist; and
  - The Chairperson of the KCC, or the Chairperson's designee.

The Governor would appoint the chairperson of the Advisory Group. Governor's appointees would serve four-year staggered terms. The Advisory Group would be authorized to appoint committees to provide technical advice as necessary. Members of the Advisory Group and of any technical advisory committees who are not otherwise compensated for their work pursuant to the bill would be eligible to receive compensation and expense reimbursement as established in statute for state boards and commissions.

#### **Staffing and Administrative Support**

The bill would authorize the Advisory Group to hire three staff and to contract with public or private persons or entities to fulfill the Group's charge. The three staff positions that would be established by the bill include an executive director, a researcher or educator and a clerical staff member. The Advisory Group's appointee to the position of Executive Director would have to be approved by the Governor. The Advisory Group would guide the research and planning activities of the staff.

The Kansas Corporation Commission would control budgeting, purchasing and management functions of the Advisory Group and provide administrative assistance and office space needed by the Advisory Group staff. The KCC would be required, and the Advisory Group would be authorized, to contract with private or public entities to accomplish the purposes of the Advisory Group. In addition, the KCC would be required, and the Advisory Group would be authorized, to seek and accept grants and other financial assistance to support the Group's work.

## **Duties**

The duties of the Advisory Group would be to:

- Develop and update an annual state energy plan which would include policy recommendations to the Governor, Legislature and general public, for at least five years into the future; and
- Submit annually to the Legislature and to the Governor a plan and public policy recommendation to address short- and long-term opportunities in regard to energy production and sale.

The Executive Director would be required to propose and the Advisory Group would be required to approve an annual work plan to include specified tasks related to the Group's duties.

## **Status of Plans and Recommendations**

The bill would designate the Advisory Group's plans, reports, and recommendations as advice to the Governor and the Legislature. The bill would specify that the Advisory Group's plans or reports could not be construed to be the KCC's official policies, positions or interpretations of laws or rules and regulations. The KCC also would not be bound in any manner to consider the Advisory Group's advice when conducting the Commission's advisory and regulatory responsibilities.

## **Amendments to KCC Statutory Duties**

In addition to new responsibilities for the KCC that would be created by the Kansas Energy Policy Act, existing law would be amended to:

- Repeal the KCC's duty to develop an energy conservation plan pursuant to federal requirements and the Commission's duty to prepare an energy resource emergency management plan for use during an energy resources emergency declared by the Governor and an annual report describing that program; and
- Require the KCC to create and coordinate new and existing databases necessary to identify and predict trends in energy

consumption in the state in a manner that would facilitate development of public policy recommendations for reduction of energy costs, conservation of energy resources, and for the benefit of all energy consumers.

The amendments to existing law would become effective on July 1, 2006.

## **Background**

The bill was recommended for introduction by the Select Joint Committee on Energy when that Committee completed its work early during the 2006 Legislative Session. The Committee's report stated that "the Committee concluded that establishment of a permanent energy planning entity would build upon the [Kansas Energy Council]'s successes and strengthen the Legislature's and the Governor's abilities to systematically develop and implement a long-term energy policy." The existing Kansas Energy Council and its predecessor, the State Energy Resources Coordination Council, were created by Executive Order by Governors Sebelius and Graves, respectively.

Proponents of the bill who presented testimony to the House Committee on Utilities at its hearing included Representative Tom Sloan, Chairperson of the Select Joint Committee on Energy; a representative of the Kansas Chapter of the Sierra Club; and a representative of the Kansas Energy Council. A representative of the Governor's office presented proposed amendments to the bill. No opponents of the bill presented testimony to the House Committee at its hearing on the bill.

The House Committee amended the bill to incorporate many of the changes recommended by the Governor's office and changes recommended by Committee members. House Committee amendments include:

- Replacing the Secretary of Administration with the Secretary of Transportation as an *ex officio*, non-voting member of the Group and authorizing the Chairperson of the KCC to designate a representative to serve on the Advisory Group;
- Delaying establishment of the Advisory Group until January 1, 2007;

- Requiring gubernatorial approval of the Advisory Group's appointee to be Executive Director;
- Specifying that the staff person be a researcher or an educator;
- Making the KCC responsible for budgeting, expenditures, purchasing, contracting, management, administrative support, grant procurement, and office space for the Advisory Group;
- Requiring the Group's Executive Director to propose an annual work plan to be approved by the Advisory Group;
- Specifying the status of the Advisory Group's work in relationship to the KCC's other responsibilities;
- Requiring the KCC to coordinate existing, and create new, energy-related databases for policy making purposes;
- Repealing the KCC's existing responsibilities for development of the state energy conservation plan and the energy resources emergency management plan.

The fiscal note prepared by the Division of the Budget for the introduced version of the bill states that the KCC's administrative support expenditures would be negligible. Other expenditures anticipated by the Division of the Budget from enactment of the introduced version of the bill would total \$250,000. The fiscal note included anticipated salary expenses for four, rather than three FTE included in the bill as amended by the House Committee. The fiscal note states that any amount of expenditure attributable to enactment of the bill would be in addition to amounts recommended in *The FY 2007 Governor's Budget Report*. The fiscal note did not address the bill as amended by the House Committee. The Committee amendment may change the bill's fiscal impact.