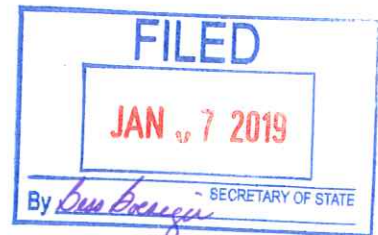


Notice of Rulemaking Hearing



**NOTICE** is hereby given that the Nebraska Energy Office will hold a rule-making hearing pursuant to Neb Rev. Stat. §84-1411 on the 27<sup>th</sup> day of February, 2019, to be held at 1:00 PM) Central Time at the Nebraska Energy Office Conference Room at 521 South 14<sup>th</sup> Street, Lincoln Nebraska Suite 300. **Please note that this hearing has been rescheduled from the original date of January 15, 2019. There will be no hearing on that date.**

The purpose of the hearing to take testimony and evidence about repeal of Title 105, Chapters 1-6 Renewable Energy Tax Credit, and Title 109, Chapter 1 Debarment Procedures for Participants in School Energy Efficiency Loan & Grants Programs. This notice is made pursuant to Neb. Rev. Stat. §§84-907 and 84-1414 and the agency's action is consistent with the authority granted by law. The subject matter and scope of the rule-making action is: the rules are no longer necessary due to the repeal of the authorizing statute.

The agenda and a draft copy of the proposed regulations scheduled for hearing are available at the NEBRASKA ENERGY OFFICE's Lincoln office, 521 South 14<sup>th</sup> Street, Lincoln Nebraska Suite 300, and on the NEBRASKA ENERGY OFFICE website at <http://www.NEO.ne.gov>. The agenda and a draft copy of the proposed regulations scheduled for hearing are also available at the Office of the Secretary of State, Regulations Division, 1201 N St., Suite 120, Lincoln, NE, 68508. A statement of the fiscal impact of the proposed repeal, which is no expected fiscal impact from repealing these regulations, is also available at these locations.

All interested persons may attend and testify orally or by written submission at the public hearing. Any person may provide advance notice of intent to testify by contacting Ed Holbrook, at NEBRASKA ENERGY OFFICE, P.O. Box 95085, 521 South 14<sup>th</sup> Street, Suite 300, Lincoln, NE 68509-5085, (402) 471-3356 email [ed.holbrook@nebraska.gov](mailto:ed.holbrook@nebraska.gov). Unscheduled testimony will be heard following scheduled testimony. Interested persons may also submit written comments to Ed Holbrook prior to the hearing, which will be entered into the hearing record if received at the Lincoln office by 5:00 P.M. CT, February 27, 2019.

Please notify the Nebraska Energy Office at least one week in advance of the hearing if auxiliary aids or reasonable accommodations or alternate formats of materials are needed. Contact phone number is 402-471-2867. TDD users call 800-833-7352 and ask the relay operator to call us at 402-471-2867.

Jim Macy, Interim Director

**DRAFT/FINAL FISCAL IMPACT STATEMENT**

<b>Agency: Nebraska Energy Office</b>	
<b>Title: 105</b>	<b>Prepared by: Ed Holbrook, FAAIII</b>
<b>Chapter: 1-5</b>	<b>Date prepared: 8/16/18</b>
<b>Subject: Construction of State Funded Buildings</b>	<b>Telephone: 402-471-3356</b>

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	( X )	( X )	( X )
Increased Costs	( )	( )	( )
Decreased Costs	( )	( )	( )
Increased Revenue	( )	( )	( )
Decreased Revenue	( )	( )	( )
Indeterminable	( )	( )	( )

Provide an Estimated Cost & a Description of Impact:

State Agency: N/A

Political N/A  
Subdivision:

Regulated N/A  
Public:

If indeterminable, explain why:

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Title 105 STATE ENERGY OFFICE

~~Chapter I INTRODUCTION~~

~~001 In 1982, Legislative Bill 799 was passed by the Unicameral and signed into law by Governor Charles Thone. Sections 17 through 43 of Legislative Bill 799 created individual and corporate state income tax credits for the purpose of developing Nebraska's renewable energy industry through the expansion of Nebraska's active solar, passive solar, and wind energy markets.~~

~~The Legislature mandated that the State Energy Office adopt and promulgate rules and regulations to carry out the provisions of sections 17 through 43 of LB 799.~~

~~It is the intent of these rules and regulations to implement and carry out sections 17 through 43 of LB 799.~~

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Title 105 STATE ENERGY OFFICE

~~Chapter 2 DEFINITIONS INDIVIDUAL AND CORPORATE RENEWABLE  
ENERGY INCOME TAX CREDITS~~

~~001 Active solar space heating systems shall mean equipment designed to absorb the sun's energy and to use this energy to heat living space by use of mechanically forced energy transfer using fans or pumps.~~

~~02 Cost for a renewable energy source system shall mean the costs of the component parts and labor costs for onsite preparation, assembly, or original installation of such system.~~

~~03 Major system components of a renewable energy source system shall mean: solar collectors, thermal storage equipment, pipes, distribution equipment, control modules, south facing glass, movable insulation wind brines or generators.~~

~~04 Mechanically forced energy transfer shall mean heat transfer by means of circulation of a fluid.~~

~~05 Passive solar space heating and cooling systems shall mean systems that make most efficient use of, or enhance the use of, natural forces, including solar insolation winds, nighttime coolness, and opportunity to lose heat by radiation to the night sky, to heat or cool habitable space by the use of conductive, convective, or radiant energy transfer. Passive solar systems shall include only:~~

~~005.01 Direct gain glazing systems which shall mean the use of south facing, plus or minus thirty degrees of true south, panels of insulated glass, fiberglass, or other similar transparent substances that admit the sun's rays into the habitable space where the heat is retained. Glazing is either single paned or multiple paned, equipped with movable insulation. Such glazing must be insulated at noon on December twenty first and shaded at noon on June twenty first by a permanent exterior overhang or other suitable shading~~

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Title:105 STATE ENERGY OFFICE

~~Chapter 2. DEFINITIONS - INDIVIDUAL AND CORPORATE RENEWABLE  
ENERGY INCOME TAX CREDITS~~

~~06 Renewable energy source system (system) shall mean one or more of the follow energy measures: solar domestic systems, active solar space heating systems, combined active solar space heating and solar domestic hot water systems, passive solar space heating and cooling systems, wind energy devices, and replacement solar swimming pool heaters. The major system components of a renewable energy source system must have a life expectancy of at least five years.~~

~~07 Replacement solar swimming pool heaters shall mean devices which are used solely for the purpose of using the sun's energy to heat swimming pool water and which replace or are used in lieu of a swimming pool heater using electricity, gas or other fossil fuel.~~

~~08 Solar domestic hot water systems shall mean equipment designed to absorb the sun's energy and to use this energy to heat water for use in a building other than for space heating including thermosiphon hot water heaters.~~

~~09 Wind energy devices shall mean equipment that uses wind energy to produce energy in any form, except that water pumping windmills shall be excluded.~~

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Title 105 STATE ENERGY OFFICE

Chapter 3 ~~INDIVIDUAL RENEWABLE ENERGY INCOME TAX CREDITS~~

~~01 An individual shall be allowed as a credit to be applied against such individual's income tax liability, a credit for the installation of a renewable energy source system. The credit shall be available for a functional renewable energy source system installed between January 1, 1982, and December 31, 1986. The amount of the credit shall be determined by the date the renewable energy source system is installed.~~

~~01.01 For a system installed on or after January 1, 1982, and prior to January 1, 1983, the amount of the credit shall be equal to thirty percent of the cost of the system or three thousand dollars, whichever is less.~~

~~01.02 For a system installed on or after January 1, 1983, and prior to January 1, 1984, the amount of the credit shall be equal to twenty-five percent of the cost of the system or two thousand dollars, whichever is less.~~

~~01.03 For a system installed on or after January 1, 1984,~~

~~and prior to January 1, 1985, the amount of the credit shall be equal to twenty percent of the cost of the system or two thousand dollars, whichever is less.~~

~~01.04 For a system installed on or after January 1, 1985, and prior to January 1, 1986, the amount of the credit shall be equal to fifteen percent of the cost of the system or one thousand five hundred dollars, whichever is less.~~

~~01.05 For a system installed on or after January 1, 1986, and prior to January 1, 1987, the amount of the credit shall be equal to ten percent of the cost of the system or one thousand dollars, whichever is less.~~

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Title 105 STATE ENERGY OFFICE

~~Chapter 3 — INDIVIDUAL RENEWABLE ENERGY INCOME TAX CREDITS~~

~~08 — A system shall not be considered installed until it is capable of operating to provide a net savings of traditional energy sources.~~

~~09 — The individual claiming the tax credit must be able to document the installation of the system and have proof of expenditures for the system if so requested by the Nebraska Department of Revenue.~~

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Title 105 STATE 'ENERGY OFFICE

Chapter 4. ~~CORPORATE RENEWABLE ENERGY INCOME TAX CREDITS~~

~~001 A corporation or any other entity taxed as a corporation under the Internal Revenue Code shall be allowed, as a credit to be applied against such corporation's income tax liability, a credit for the installation of a renewable energy source system. The credit shall be available for a functional renewable energy source system installed between January 1, 1982, and December 31, 1986. The amount of the credit shall be determined by the date the renewable energy source system is installed.~~

~~001.01 For a system installed on or after January 1, 1982, and prior to January 1, 1983, the amount of the credit shall be equal to thirty percent of the cost of the system or six thousand dollars, whichever is less.~~

~~01.02 For a system installed on or after January 1, 1983, and prior to January 1, 1984, the amount of the credit shall be equal to twenty five percent of the cost of the system or five thousand dollars whichever is less, whichever is less.~~

~~01.03 For a system installed on or after January 1, 1984, and prior to January 1, 1985, the amount of the credit shall be equal to twenty percent of the cost of the system or four thousand dollars, whichever is less.~~

~~01.04 For a system installed on or after January 1, 1985, and prior to January 1, 1986, the amount of the credit shall be equal to fifteen percent of the cost of the system or three thousand dollars, whichever is less.~~

~~01.05 For a system installed on or after January 1, 1986, and prior to January 1, 1987, the amount of the credit shall be equal to ten percent of the cost of the system or two thousand dollars, whichever is less.~~



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Title 105 STATE ENERGY OFFICE

Chapter 5 - DEFINITIONS - PASSIVE SOLAR CREDITS FOR BUILDERS

~~001 Absorber shall mean a hard surface that:~~

~~001.01 Is exposed to the rays of the sun admitted through a solar collection area;~~

~~01.02 Converts solar radiation into heat; and~~

~~01.03 Transfers heat to a storage mass.~~

~~002 Builder shall mean a person who is in the trade or business of building residential units and has a proprietary interest in the residential unit built.~~

~~003 Habitable floor space shall mean the sum of the floor areas and the living spaces of the residential unit which are heated and/or cooled for human comfort. Basement areas shall be included when the basement temperature is to be maintained at no less than 60 F during the winter.~~

~~004 Heat distribution system method shall mean:~~

~~004.01 The release of radiant heat from a storage mass within the habitable areas of the structure; or~~

~~004.02 Convective heating from a storage mass, through airflow paths provided by openings or by ducts, in the storage mass, with or without the assistance of a fan or pump, having a horsepower rating of less than one horsepower, to habitable areas at a structure.~~

~~02 Heat regulation device shall mean:~~

~~005.01 Shading or venting mechanisms to control the amount of solar heat admitted through solar collection areas; and~~

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Title 105 STATE ENERGY OFFICE

~~Chapter 5 DEFINITIONS PASSIVE SOLAR CREDITS FOR BUILDERS~~

~~007.01 Have an average ceiling thermal transmittance of not more than .033 Btu/ft<sup>2</sup>/hour/degree F (R-30, minimum)~~

~~007.02 Have an average opaque wall thermal transmittance not greater than .071 Btu/ft<sup>2</sup>/hour/degree F (R-14, minimum) and south window thermal transmittance not greater than 0.56 Btu/ft<sup>2</sup>/hour/degree F (double glazing, minimum)~~

~~007.03 Have a window area, not exceeding 15% of the total exterior wall area except that the solar collection area shall not be considered part of the area of the window.~~

~~008 Solar collection area shall mean an expanse of transparent translucent material that:~~

~~07.01 Is located on that side of the structure which faces true south, plus or minus thirty degrees; and~~

~~07.02 Is positioned in such a manner that the rays of the sun directly strike an absorber.~~

~~009 Storage mass shall mean a dense, heavy material that:~~

~~09.01 Receives and holds heat from an absorber and later releases the heat to the interior of the structure;~~

~~09.02 Is of sufficient volume, depth, and thermal energy capacity to store and deliver adequate amounts of solar heat for the structure in which it is incorporated;~~

~~09.03 Is located so that it is capable of distributing the stored heat directly to the habitable areas of the structure through a heat distribution method;~~

~~09.04 Has an area of directly irradiated material equal to or greater than the solar collection area; and~~

~~009.05 Has a heat capacity of at least 24 Btu/degree F/ft<sup>3</sup>.~~

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Title 105 STATE ENERGY OFFICE

Chapter 6 — ~~PASSIVE SOLAR CREDITS FOR BUILDERS~~

~~001 A builder of a new residential unit in this state which incorporates a passive solar energy system shall be allowed, as a credit to be applied against such builder's income tax liability, a credit in an amount determined pursuant to the Solar Construction Tax Credit Table (Appendix II).~~

~~—002 The amount of the credit allowed by 001 of this chapter shall not exceed two thousand dollars per system.~~

~~003 Any credit balance may be carried over and applied against the builder's income tax liability for the two years immediately succeeding the year in which the credit was earned. The credit allowed by this section shall not exceed the builder's income tax liability for the taxable year.~~

~~004 If two or more builders have a proprietary interest in a residential unit, the credit allowable under this chapter shall be apportioned to each builder on the basis of his or her ownership interest in the residential unit.~~

~~005 The individual income tax credit and the Passive Solar Credit for Builders cannot be claimed for the same passive solar installation. The purchaser of a new passive solar home may claim the individual income tax credits, only if the builder has not previously claimed the Passive Solar Credit for Builders on the same house, and the builder waives his right to claim the Passive Solar Credit For Builders on that house.~~

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Title 105-STATE ENERGY OFFICE

~~Chapter 6 - PASSIVE SOLAR CREDITS FOR BUILDERS~~

~~06.06 - Multiply the habitable floor space by the resulting insulation factor rounding to the nearest thousand. The resulting value is the Heating Load.~~

~~06.07 - Determine the amount of solar collection area (SCA) on the residential unit.~~

~~06.08 - Use the Solar Construction Tax credit Table (Appendix II) to determine the allowable income tax credit, based on the building's heating load and SCA as calculated above.~~

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Appendix I: Table of Insulation Factors

RR/RW/G	SS01	SS02	SS03	SS04	SS05	SS06	SS07	SS08	SS09	SS10	SS11	SS12	SS13
30/11/12	3.61	3.82	4.12	4.42	4.72	5.02	5.32	5.62	5.92	6.22	6.52	6.82	7.12
30/11/13	3.15	2.86	3.57	3.28	3.99	3.70	4.41	4.12	4.83	4.54	5.25	4.96	5.67
30/11/14	3.44	3.09	3.74	3.39	4.04	3.69	4.34	3.99	4.64	4.29	4.94	4.59	5.24
30/11/15	2.98	2.70	3.40	3.12	3.82	3.54	4.24	3.96	4.66	4.38	5.08	4.80	5.50
30/11/16	2.82	2.74	3.34	3.26	3.86	3.78	4.38	4.30	4.90	4.82	5.42	5.34	5.94
30/11/17	2.82	2.44	3.22	3.14	3.74	3.66	4.26	4.18	4.78	4.70	5.30	5.22	5.82
30/11/18	3.32	2.94	3.72	3.44	4.22	3.94	4.72	4.44	5.22	4.94	5.72	5.44	6.22
30/11/19	2.95	2.68	3.44	3.16	3.92	3.64	4.40	4.12	4.88	4.60	5.36	5.08	5.84
30/11/20	2.85	2.39	3.15	3.07	3.67	3.59	4.19	4.11	4.71	4.63	5.23	5.15	5.75
30/11/21	2.85	2.51	3.27	3.19	3.79	3.71	4.31	4.23	4.83	4.75	5.35	5.27	5.87
30/11/22	2.75	2.61	3.36	3.28	3.88	3.80	4.40	4.32	4.92	4.84	5.44	5.36	5.96
30/11/23	2.76	2.31	3.07	2.99	3.59	3.51	4.11	4.03	4.63	4.55	5.15	5.07	5.67
30/11/24	2.76	2.31	3.07	2.99	3.59	3.51	4.11	4.03	4.63	4.55	5.15	5.07	5.67
30/11/25	2.76	2.31	3.07	2.99	3.59	3.51	4.11	4.03	4.63	4.55	5.15	5.07	5.67
30/11/26	2.76	2.31	3.07	2.99	3.59	3.51	4.11	4.03	4.63	4.55	5.15	5.07	5.67
30/11/27	2.76	2.31	3.07	2.99	3.59	3.51	4.11	4.03	4.63	4.55	5.15	5.07	5.67
30/11/28	2.76	2.31	3.07	2.99	3.59	3.51	4.11	4.03	4.63	4.55	5.15	5.07	5.67
30/11/29	2.76	2.31	3.07	2.99	3.59	3.51	4.11	4.03	4.63	4.55	5.15	5.07	5.67
30/11/30	2.76	2.31	3.07	2.99	3.59	3.51	4.11	4.03	4.63	4.55	5.15	5.07	5.67

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