

Approved: March 1, 2001

Date

Carl Dean Holmes

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairman Carl D. Holmes at 9:05 a.m. on February 6, 2001 in Room 526-S of the Capitol.

All members were present.

Committee staff present: Lynne Holt, Legislative Research
Mary Torrence, Revisor of Statutes
Jo Cook, Committee Secretary

Conferees appearing before the committee: Mark S. Beck, Department of Revenue
Kyle Wetzel, Aerotech Engineering & Research
Bruce Snead, City of Manhattan
Jim Ludwig, Western Resources
Bruce Graham, Kansas Electric Power Cooperatives
Cynthia Smith, Kansas City Power & Light
Susan Cunningham, Kansas Corporation Commission

Others attending: See Attached List

Mark Beck, Director of Property Valuation for the Kansas Department of Revenue, addressed the committee on public utility classifications (Attachment 1). Mr. Beck provided background on how utilities came to be assessed at 33%.

HB 2244 - State energy planning act; establishment of energy office & authority; formulation of state energy plan

Kyle Wetzel, Executive Vice President and COO of Aerotech Engineering & Research Corporation, addressed the committee in support of **HB 2244** (Attachment 2). Dr. Wetzel stressed the need of an energy coordinating council, which he believes would help the development of wind energy in the state.

Bruce Snead, City Commissioner and Mayor Pro-Tem for the City of Manhattan, appeared in favor of **HB 2244** (Attachment 3). Mr. Snead stated that his city's legislative goals included the support of the development of an energy policy for the state and, in that vein, they supported **HB 2244**. He did address concerns and recommended changes regarding the staffing and sourcing of funds. Mr. Snead also distributed packets that had been compiled by Kansas State University Engineering Extension and provided to those in Riley County and surrounding areas who needed assistance in reducing their heating costs (copy available from Kansas Legislative Research Department).

Jim Ludwig, Senior Director of Regulatory Affairs for Western Resources, appeared in support of **HB 2244** (Attachment 4). Mr. Ludwig shared his concerns and recommended that Sections 2 and 9 be stricken and the levying of costs be changed.

Bruce Graham, Vice President of Member Services & External Affairs for KEPCo, testified in opposition to **HB 2244** (Attachment 5). Mr. Graham explained that, though the creation of an energy resources coordinating council is a policy with good intention, there were several concerns and he suggested amendments.

Cynthia Smith, appearing on behalf of Kansas City Power and Light, spoke as a opponent to **HB 2244**.

Susan Cunningham, Acting General Counsel for the Kansas Corporation Commission, addressed **HB 2244** in a neutral position (Attachment 6). Ms. Cunningham addressed concerns of the Commission, but also expressed support of the effort to coordinate state energy issues.

The conferees responded to questions from the committee.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 526-S Statehouse, at 9:05 a.m. on February 6, 2001.

Chairman Holmes announced that he anticipated working **HB 2244** on Thursday, along with holding the hearing on **HCR 5012**.

Rep. McClure distributed a memo she received in response to questions raised on **HB 2034** (Attachment 7).

Rep. Long moved to approve the minutes of the January 9, 10, 11, 16, 17, and 18 meetings. Rep. Dillmore seconded the motion. Motion carried.

Meeting adjourned at 10:47 a.m.

Next meeting is Wednesday, February 7, 2001.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 6, 2001

NAME	REPRESENTING
Danielle Noel	D of A
Chris Wilson	KS Governmental Consulting

STATE OF KANSAS
Bill Graves, Governor

DEPARTMENT OF REVENUE
Stephen S. Richards, Secretary

Mark S. Beck, Director
Department of Revenue
915 SW Harrison St., Room 400
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Division of Property Valuation

MEMORANDUM

TO: House Utility Committee
FROM: Mark S. Beck, Director of Property Valuation
DATE: February 6, 2001
SUBJECT: Public Utility Classification

Prior to January 1, 1989, all property, except motor vehicles, mineral products, money, mortgages, notes and other evidence of debt, was required to be valued at fair market value and assessed at 30%. In reality, since we were not adhering to an annual valuation process, by the mid-80s most property in Kansas was not actually valued at fair market value. One exception, was public utility property, which was at fair market value. Public utility property was valued annually by the state whereas locally assessed property was frequently not revalued.

In 1985, the legislature approved legislation requiring statewide reappraisal of real property effective January 1, 1989. K.S.A. 79-1476. At the same time, the legislature approved a resolution to amend art. 11, § 1 of Kansas Constitution, effective January 1, 1989, to adopt a classification system for real and personal property. House Concurrent Resolution No. 5018 (L. 1985, ch. 364). Also, the resolution expanded the number of exemptions from property taxation, including, among other things, merchants' and manufacturers' inventories. At the general election in 1986, the Kansas electorate approved the amendment to the Kansas Constitution.

The constitutional amendment established four classes of real property that were required to be assessed at the percentages indicated:

Residential	12%
Agricultural land	30% (of "use value")
Vacant lots	12%
Other	30%

HOUSE UTILITIES

DATE: 2-6-01

ATTACHMENT |

The constitutional amendment established six classes of personal property that were required to be assessed at the percentages indicated:

Mobile homes used for residential purposes:	12%
Mineral leasehold interests	30%
Public utility personal property	30%
Motor vehicles	30%
Commercial & industrial machinery & equipment	20% (of depreciated cost)
Other	30%

Reappraisal was required to comply with the requirement of art. 11, § 1 of the Constitution that the legislature provide for a "uniform and equal" rate of assessment and taxation. As previously stated, the prevailing opinion at the time was that most property was not valued at fair market value, except for public utility property.

Reappraisal was ordered by the legislature because it was feared that a lawsuit by a public utility would result in a court ordered court supervised statewide reappraisal. Classification was proposed to avoid a shift of the property tax burden from public utilities to residential, agricultural and commercial and industrial properties that would result from valuing these properties at fair market value. The intent was to assure that each class of property bore approximately the same share of the property tax burden that they bore before reappraisal.

In November 1986, the voters approved the classification amendment to the Kansas Constitution, effective January 1, 1989. Reappraisal was completed as required by K.S.A. 79-1476, and the resulting values were first used beginning with tax year 1989.

In 1992, the legislature revisited the classification issue. First, there was considerable dissatisfaction throughout the state with the tax shifts resulting from reappraisal. Second, several natural gas pipelines had succeeded in obtaining a ruling from the Kansas Supreme Court that public utility inventories were exempt pursuant to the classification amendment. Thus, House Concurrent Resolution 5007 was approved. HCR 5007 provided that public utility inventories were, in fact, to be taxed.

The 1992 constitutional amendment (HB 5007) established seven classes of real property that were required to be assessed at the percentages indicated:

Residential	11.5%
Agricultural land	30% (of "use value")
Vacant lots	12%
Real property of "not-for-profit" organizations	12%
Public utility real property	33%
Commercial and industrial real property	25%
Other	30%

The 1992 constitutional amendment established six classes of personal property that were required to be assessed at the percentages indicated:

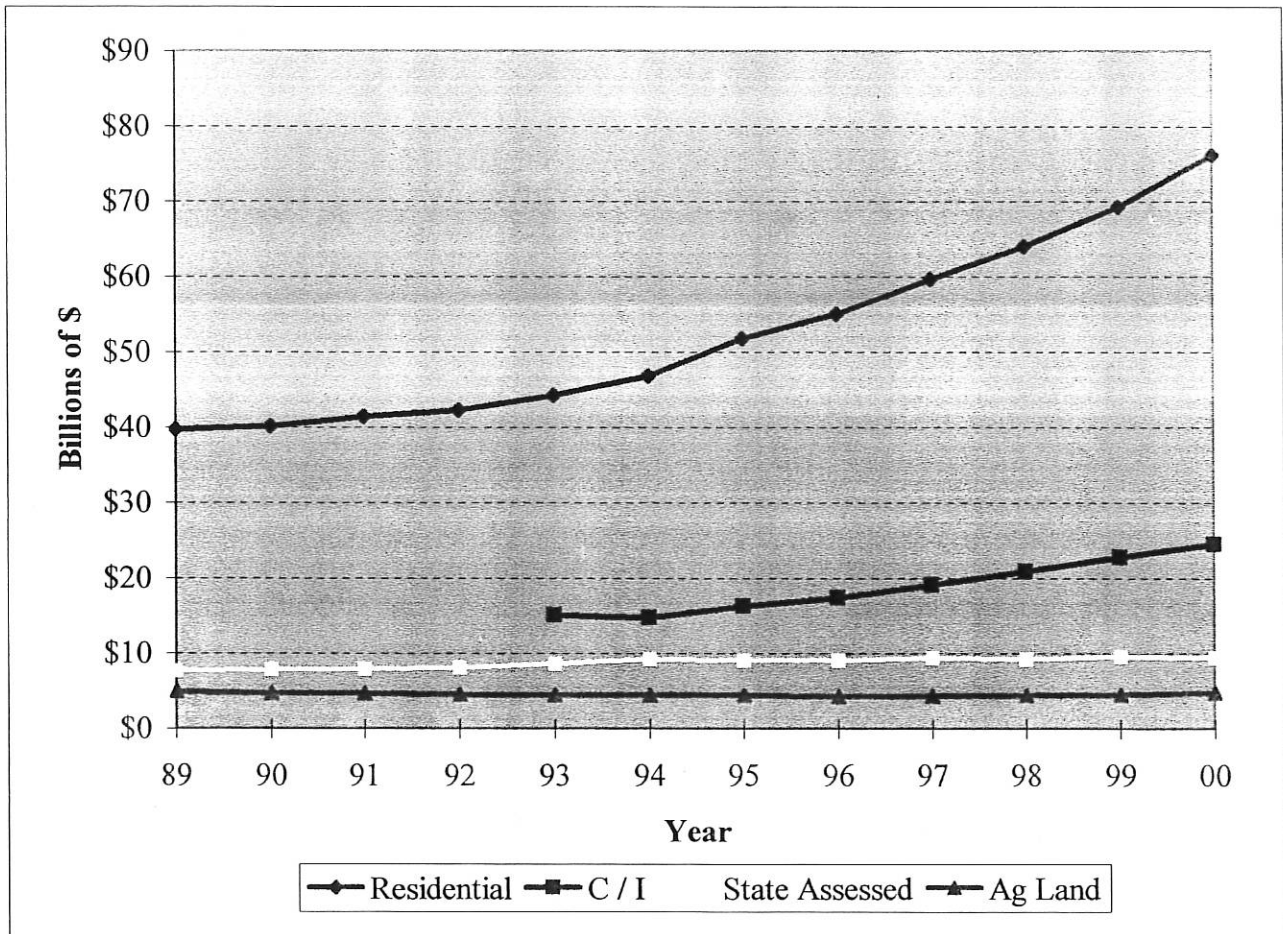
Mobile homes used for residential purposes:	11.5%
Mineral leasehold interests	30% (certain low producing wells at 25%)
Public utility tangible personal property	33%
Motor vehicles	30%
Commercial & industrial machinery & equipment	25% (of depreciated cost)
Other	30%

In summary, the 1992 constitutional amendment primarily was designed to provide property tax relief to residential, commercial and industrial and some low producing oil and gas properties. In order make these changes revenue neutral, it was necessary to increase the assessment percentage on public utilities from 30% to 33%, as well as to reinstated the tax on public utility inventories. One reason why the legislature sought to keep the 1992 constitutional amendment revenue neutral was the recent implementation of a state wide school levy. The electorate approved the 1992 amendment in November 1992, effective January 1, 1993.

Because the assessment percentages discussed in this memorandum are in the Kansas Constitution, the electorate must amend the Constitution to make any change.

Appraised Value Major Classes of Locally Assessed Property

Year	Residential (billions)	% of Total	C / I Including Mach/Equip (billions)	% of Total	State Assessed (billions)	% of Total	Ag Land (billions)	% of Total
89	\$39.718	54.38			\$7.719	10.57	\$4.966	6.80
90	\$40.167	54.40			\$7.883	10.68	\$4.740	6.42
91	\$41.470	54.66			\$7.955	10.48	\$4.677	6.10
92	\$42.288	55.43			\$8.152	10.68	\$4.531	5.94
93	\$44.235	55.39	\$15.098	18.90	\$8.641	10.82	\$4.427	5.54
94	\$46.849	56.32	\$14.776	17.76	\$9.272	11.14	\$4.426	5.32
95	\$51.792	57.96	\$16.358	18.31	\$9.083	10.16	\$4.426	4.95
96	\$55.051	59.00	\$17.478	18.73	\$9.081	9.73	\$4.312	4.62
97	\$59.684	58.86	\$19.119	18.85	\$9.386	9.26	\$4.341	4.28
98	\$64.043	59.97	\$20.908	19.58	\$9.236	8.65	\$4.429	4.15
99	\$69.342	61.40	\$22.853	20.23	\$9.545	8.45	\$4.505	3.99
00	\$76.227	62.54	\$24.511	20.11	\$9.436	7.74	\$4.775	3.92

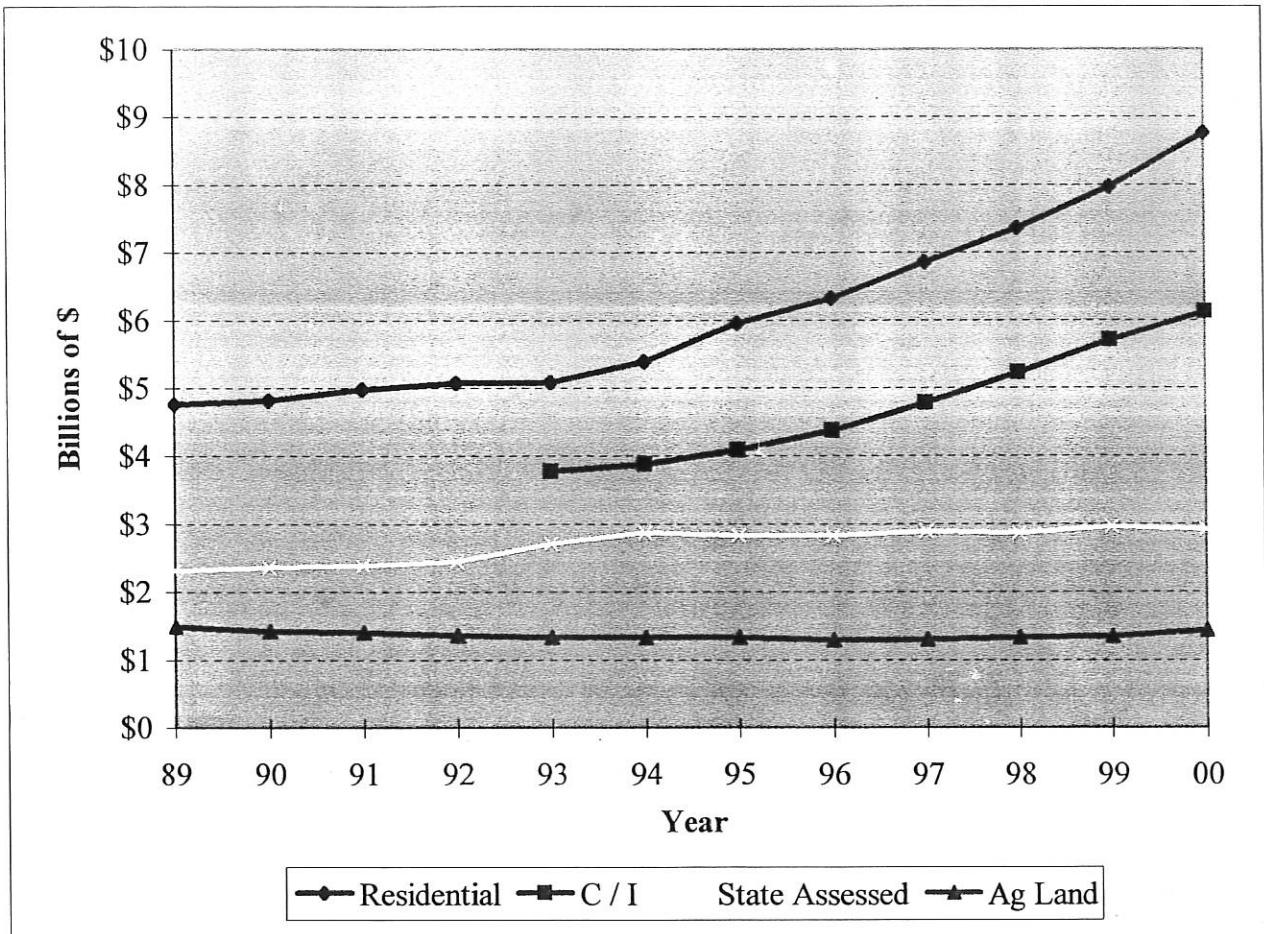


Source: PVD Statistical Report of Property Assessment and Taxation

Assessed Value

Major Classes of Locally Assessed Property

Year	Residential (billions)	% of Total	C / I Including Mach/Equip (billions)	% of Total	State Assessed (billions)	% of Total	Ag Land (billions)	% of Total
89	\$4.766	33.79			\$2.316	16.42	\$1.490	10.56
90	\$4.820	33.82			\$2.365	16.59	\$1.422	9.98
91	\$4.976	34.01			\$2.386	16.31	\$1.403	9.59
92	\$5.075	34.75			\$2.445	16.74	\$1.360	9.31
93	\$5.087	34.21	\$3.775	25.37	\$2.715	18.26	\$1.328	8.93
94	\$5.388	34.75	\$3.885	25.05	\$2.873	18.53	\$1.328	8.56
95	\$5.956	36.78	\$4.090	25.26	\$2.827	17.46	\$1.328	8.20
96	\$6.331	37.90	\$4.370	26.16	\$2.825	16.91	\$1.294	7.75
97	\$6.864	37.82	\$4.780	26.34	\$2.898	15.97	\$1.303	7.18
98	\$7.365	39.00	\$5.227	27.68	\$2.870	15.20	\$1.329	7.04
99	\$7.974	40.59	\$5.713	29.08	\$2.961	15.07	\$1.351	6.88
00	\$8.766	41.91	\$6.128	29.30	\$2.919	13.95	\$1.433	6.85

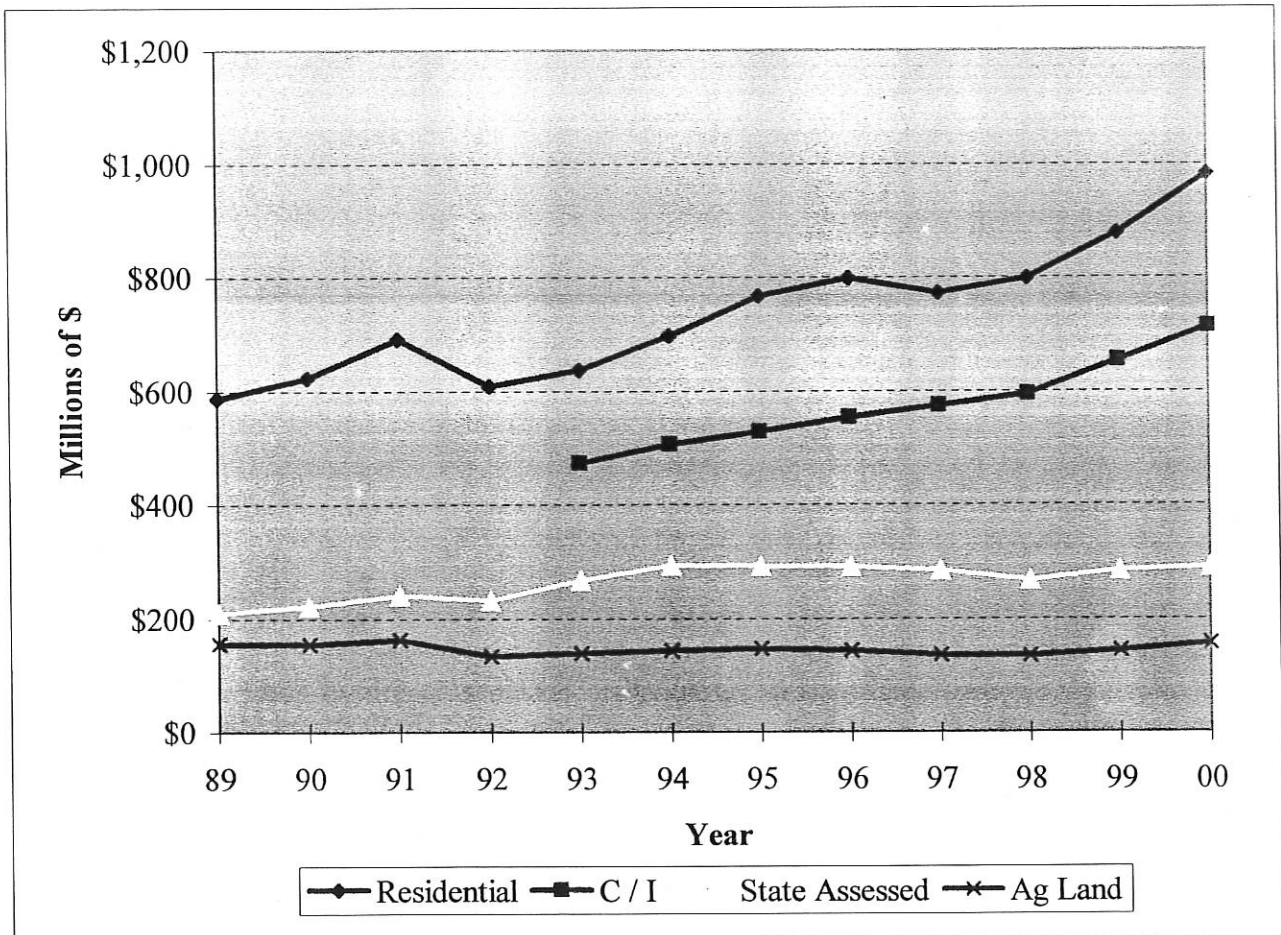


Source: PVD Statistical Report of Property Assessment and Taxation.

Tax Dollars

Major Classes of Locally Assessed Property

Year	Residential (millions)	% of Total	C / I Including Mach/Equip (millions)	% of Total	State Assessed (millions)	% of Total	Ag Land (millions)	% of Total
89	\$586.547	37.35			\$209.886	13.36	\$156.212	9.95
90	\$623.642	37.69			\$221.554	13.39	\$155.670	9.41
91	\$690.982	37.70			\$240.974	13.14	\$162.879	8.89
92	\$608.794	37.86			\$231.874	14.42	\$133.380	8.30
93	\$637.134	37.55	\$473.289	27.89	\$267.463	15.76	\$138.968	8.21
94	\$696.911	38.07	\$506.601	27.66	\$293.661	16.04	\$144.208	7.89
95	\$767.068	39.84	\$529.177	27.48	\$292.512	15.19	\$146.754	7.64
96	\$798.899	40.48	\$554.649	28.10	\$291.697	14.78	\$143.515	7.28
97	\$772.782	39.27	\$574.975	29.22	\$284.438	14.46	\$136.239	6.93
98	\$798.961	40.59	\$594.922	30.23	\$267.176	13.57	\$134.835	6.86
99	\$878.324	41.63	\$653.373	30.97	\$284.341	13.48	\$144.150	6.83
00	\$982.067	42.53	\$713.499	30.90	\$289.787	12.55	\$156.938	6.80



Source: PVD Statistical Report of Property Assessment and Taxation.

1-6

Remarks by Kyle K. Wetzel, Ph.D.
Aerotech Engineering & Research Corp.
before the
House Utilities Committee
February 6, 2001

Mr. Chairman, members of the Committee: Thank you for the opportunity to speak today in support of the creation of an Energy Resources Coordinating Council for the State of Kansas.

I am Dr. Kyle Wetzel, Executive Vice President and COO of Aerotech Engineering & Research Corporation, a 17-person engineering consulting firm which has been operating in Lawrence since 1992. Prior to joining Aerotech, I worked as the Technical Manager of the Next Generation Wind Turbine Development Program at Enron Wind Corp. in California.

I would like to address today three points:

- first, wind energy is technically and economically viable today,
- second, wind energy is and should be recognized as an important energy resource for the State of Kansas, and
- third, the development of wind energy in Kansas will succeed only as part of a Coordinated Energy Plan for the State.

Wind energy is technically and economically viable today. The environmental benefits are obvious, substantial, and important, but wind energy should be developed because it makes economic sense. In many locales in the U.S. today, wind turbines are the least expensive means of generating electricity. If current trends continue, within three to five years, wind will be the cheapest source of electricity everywhere in this country. Cheaper than nuclear, coal, or gas. This fact is unfortunately not well known.

A large utility-scale wind farm located at a good wind site can generate electricity at a cost to the producer of from 3.0 to 4.5 cents per kilowatt-hour, without considering the 1.5 cent per kWh Producer Tax Credit. The Next Generation Turbine Development Program, sponsored jointly by the Department of Energy and the U.S. wind industry, has a goal of developing during the next few years turbines which can produce energy for 2.5 cents per kWh.

The same numbers for gas or coal are from 2.0 to 3.5 cents per kWh today, and that is discounting the recent spikes in gas prices. More importantly, as we all know, the price of gas- and coal-fired power generation is rising as the price of wind energy drops. Within five years the cost of fossil-fuel-generated electricity can be expected to rise to 3.0 to 4.5 cents per kWh, higher than wind at that time.

HOUSE UTILITIES

DATE: 2-6-01

ATTACHMENT 2

Furthermore, wind energy is and should be recognized as an important natural resource for the State of Kansas. Kansas could generate 15,000 MW from wind power utilizing only the 1% of its land with the best wind resource.

A rural landowner in southwest Kansas could lease 2,000 acres for the installation of forty 1.5 MW turbines with a total capacity of 60 MW. These turbines could generate 180 million kWh of electricity per year, enough to power 18,000 homes. This small wind farm could generate at least \$5.5 million of annual revenue for the power producer on the wholesale market, or \$12 million retail. Using a typical value of 4% of revenue as a land lease payment, our example wind farm would generate annual income of \$220,000 for the landowner. That's \$110 per acre per year, and 95% of his land would still be available to him to grow his crops or graze his cattle. Little else will generate that kind of income for a rural landowner.

In addition, the \$50 million valuation of the wind farm would annually generate \$600,000 of property tax revenue for the community, paid by the power producer, not the farmer. Even before the turbines were generating power, the project would benefit the community. Approximately 30% of the cost of a wind farm -- \$15 million in the case of our example -- is the cost of installing the turbines, and much of this money is spent on local labor, suppliers, and subcontractors.

If in the long run Kansas were to develop the impressive quantity of 5,000 MW of wind power, this energy could power all the homes in the State or, alternatively, this power could be exported to surrounding states, generating income to Kansas of \$600 million to \$1 billion per year.

These are all impressive numbers, but development of such wind energy requires investment of billions of dollars and substantial cooperation between State regulators, local communities, landowners, utilities, independent power producers, wind turbine manufacturers, wind farm developers, and investors.

This leads to my final point -- the development of wind energy in Kansas will succeed only as part of a coordinated energy plan for the State. Utilities have been reluctant to pursue wind except in states where the legislatures have adopted policies specifically encouraging or mandating the development of wind. This in spite of the fact that with the Producer Tax Credit, wind is presently competitive with gas or coal as a means of generating electricity.

This reluctance to pursue wind is most apparent in the way our country seems to be approaching solutions to our rapidly disappearing excess capacity. Much mention is made of the need to bring new large generating plants on line soon, but little mention is made of developing more wind.

The quickest means of increasing electric capacity would be to install wind farms. A large conventional fossil fuel plant would require 4-5 years from inception to turnkey. If a crash program were started, a 400 MW wind farm could be completed in 18-24 months. A larger farm could be completed in 36 months, and the wind farm could be brought on line incrementally as turbines were installed.

If several thousand megawatts of wind were developed in Kansas, that wind could be used alternatively to prolong the life of conventional generating facilities such as Wolf Creek or Jeffries. During the hot summer when winds tend to be calmer in Kansas, the wind farms would not always operate at full capacity. However, the power they would produce, combined with the generating capacity of conventional plants, would more than meet peak summer demand. During the fall, winter, and spring when the winds are stronger, the conventional plants could be reduced or completely idled, allowing the wind farms to generate the needed power. This could forestall the need to build large conventional generating facilities for a decade or even two decades beyond when they would otherwise be required.

Such hybrid wind/conventional systems represent a fairly radical departure from the utility industry's current mode of operation, but such unconventional approaches will be necessary as the U.S. confronts questions of rapidly growing energy demand. The State of Kansas and this legislative body can play a powerful role in fostering creative solutions to this State's energy needs. I believe that your creation of an Energy Resources Coordinating Council to develop a comprehensive energy plan for the State of Kansas is an important first step.

Thank you.

*Kyle K. Wetzel, Ph.D.
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**Utilities Committee
Kansas House of Representatives
Written Testimony of Bruce Snead, City Commissioner and Mayor Pro-tem City
of Manhattan, KS
February 6, 2001**

House Utilities Committee on HB 2244

Thank you. I am here today to speak in favor of HB2244 (with reservations but in the spirit of making it better) because one of our city's legislative goals this year was to support the development of an energy policy for Kansas. Our commissioners put forward this goal after seeing the dysfunction associated with Kansas cities in conflict over rate parity, due to in no small part to the narrow energy policies, regulatory decisions, and lack of long-term vision which guided energy choices in the past.

In my work since 1982 as a state extension specialist in residential energy at Kansas State University, I have answered more phone and email requests for energy information from Kansas citizens than anyone. And of course, those calls are intensifying. As a response to the alarm sounded last summer on natural gas bills, Energy Extension prepared the packet of energy fact sheets which you have in front of you and distributed those to all county extension offices. We also provided support to the KCC in their efforts to identify resources which are available to citizens. Through a television PSA, radio interviews, and our web site we have promoted all of these fact sheets. The low-cost no-cost tips sheet has the best information we have to help people make informed decisions about what they can do to try to cut their winter heating costs.

At the United Way Emergency Food and Shelter Board meeting last month, I and the heads of our social service agencies struggled with allocating \$30,000 from the National United Way to either food and milk programs or utility assistance. In

HOUSE UTILITIES

DATE: 2-6-01

ATTACHMENT 3

recognition of the real surge in the numbers of homeless that will result from these overwhelming utility costs, we dedicated more to utility assistance in an inadequate attempt to stem that future tide. As a city we have been trying to maximize the resources available to help those most in need. We have released the entire year's funding, \$16,000, to the local Red Cross for utility assistance, and will be adding \$8,000 more from our contingencies fund to that in our meeting tonight. Our financial staff is currently working on the franchise fee revenue status to determine the potential that exists to cover our own increased costs and what may be available to meet the needs of citizens through existing program channels. In addition, on Saturday January 24th we held and televised a two-hour workshop at city hall on the low-cost steps that citizens can take to make a difference in their home heating costs.

You have also sought funds for short-term utility assistance to a wider range of Kansans. I salute your efforts to do so because it will help keep people in their homes and seek to reduce the economic disruption to family budgets. But in the long term it does no more good than taking the money and throwing it out that window, because that's where the energy is that that money is paying for.

I attended all the Special Committee on Utilities meetings last year, and want to salute those of you who are carrying through with the effort started there, and also recognize the support of other legislative leaders who have spoken about the need for a Kansas energy policy. And it is clear from the level of activity that an energy policy or dimensions of it will be determined during this session.

A concern I have with the bill as currently formulated is the potential it has to really effect change and make progress. Many of the items in Section 6 speak to study and collecting and compiling information and making recommendations, and reviewing

budgets if requested. Many of us here have been part of energy policy development efforts in the past and have not seen significant recommendations implemented.

Another concern is the provision of technical and clerical staff by the KCC in support of the council. Is this a short-term approach to establish the council which will then migrate to an independent office status? The KCC's role as a regulatory body is well established. It is simply not the right long-term vehicle for energy policy and plan implementation along the lines envisioned in this legislation. I recognize the balance needed between legislative and executive branch influence being sought through the formula for the council and hope that it represents an achievable compromise.

What sources and amounts of funds are available under the proposed bill as delineated in Section 4 paragraph (b)? It is very important that adequate funding be found within the state for the administration of this program versus using any federal pass through funds which provide research, demonstration and information benefits to the state and its citizens.

Although your hearing today is on the energy policy act, I will speak to other legislation under consideration because it will form the short term and long term energy policy choices you make before any of the potential benefits of HB2244 come to pass.

I urge you to view the legislation slated to come before you with the goals and objectives of Section 2 items (a) through (r) as your filter, because they are positive.

Whatever you do, please take every opportunity to commit to current and future energy efficiency investments and requirements. Nothing can take the pressure off natural gas

more effectively than efficiency – this will save and stretch what we have - buying time for the home heating and power technology transition to electricity and other sources. I would urge you to take \$10 or \$20 million dollars and commit it to a revolving loan fund for energy efficiency improvements in Kansas homes and businesses. There is a successful model of a dozen years of savings to the north in Nebraska. All the energy raters who serve that program happen to be trained in Manhattan at the Kansas Building Science Institute, so we have the expertise here in the state.

These type of programs serve a vital public interest, enhancing reliability by helping temper rising demand from our growing economy, while at the same time serving private interests, saving the businesses, public institutions, and individual consumers that implement energy efficiency measures money on their utility bills. Energy efficiency programs should be considered at a minimum to be “least-cost reliability insurance” that is well worth investing in.

The short-term priorities and the long-term energy picture for me are quite clear. There is no more conservative path than to get the most from what we have – meaning energy-efficiency - and that is where we can get the quickest short term return and long-term benefits.

We must also invest in the best long-term options, which are the renewables – the sustainable energy path. These are options that need the tax credits, the incentives, the capital programs and the commitment of state resources. The other ancient fossil fuels have had the supports and credits for long enough. There are diminishing returns from a diminishing resource. We have waited long enough and added to the crisis by our failure to act in our own best long-term interests.

Bringing coal from outside our state and burning it to make electricity – considering the costs and environmental challenges - is simply committing ourselves to repeating this situation and crisis somewhere down the road. And we don't need to burn natural gas to create electricity when we have a range of diverse, distributed sustainable fuels that can do the job if we create the opportunities. It is much easier to bring economic development to rural Kansas incrementally through investing in wind energy, solar power and other distributed capacity which can be put up with much greater speed, easier siting, and greater public acceptance.

Don't fall prey to the crisis driven response that we must expend more money to drill deeper to extract a resource that we need to conserve as much as we can to facilitate a transition to an efficient, reliable, renewable path. Public sentiment is there for efficiency and renewables.

I urge you to support the life cycle costing bill heard yesterday, and also the application of a statewide building code for residential and commercial construction with the most current energy design standards available. This will help ensure future generations will be less likely to face the crisis we face today.

Kansas has the resources for the long term. We can transition wisely to a more energy efficient, diverse energy base - we have people here who can work hard to make it happen - the public recognizes the value of energy efficiency and renewable power and prefers investments there over the other alternatives. Respond to the immediate crisis in a measured way -but please consider and do something to chart a course for the future that does not leave our energy fate in the hands of narrow interests and puts Kansans at risk. Thank you and I would be happy to respond to any questions.

Testimony
before the
House Utilities Committee
by
Jim Ludwig, Western Resources
February 6, 2001

Chairman Holmes and Members of the Committee:

Western Resources supports the concept of HB 2244, which is to establish a state energy resources coordinating council. The role of the council is well described in Section 7 of the bill, where the council is charged with continuously formulating a "comprehensive state plan for coordination of the management, conservation and development of energy resources."

Recommendations

Several portions of the bill would be more appropriate as a bill explanation. For example, Sections 2 and 9 itemize the council's goals and objectives, and what it should consider. The trouble with putting lists in HB 2244 is:

1. One can interpret the list as limiting the role of the council to the things listed and nothing more.
2. It is impossible to tell, as we make lists today, what might happen in the future that will change the scope and purposes of the council.

Western Resources recommends leaving out Sections 2 and 9. The council will preserve more flexibility if the information in Sections 2 and 9 is put in a bill explanation.

The council would have broad responsibility for coordinating energy policy in Kansas, but it would be funded exclusively by assessments on electric and natural gas public utilities. **Western Resources opposes levying the costs of the council on electric and natural gas utilities.** Additional assessments on utilities eventually increase customers' utility bills. The council would address energy issues that go beyond electric and natural gas utility issues. The council should be supported through a general fund appropriation.

Section 10 requires the State Corporation Commission and other agencies to make available all facts, records, information and data the council requests. Western Resources and other utilities often file proprietary and confidential information with the Corporation Commission, which in turn assures that the information is kept confidential. **Section 10 should be amended so that only non-proprietary and non-confidential information must be made available.**

Provided that our recommendations are accepted, Western Resources supports HB 2244. We urge the committee to amend HB 2244 as we have suggested before approving it.

HOUSE UTILITIES

DATE: 2-6-01

ATTACHMENT 4



Kansas Electric Power Cooperative, Inc.

Testimony on HB 2244

Before the House Utilities Committee -- February 6, 2001

**Bruce Graham, KEPCo's Vice President,
Member Services & External Affairs**

This testimony is on behalf of Kansas Electric Power Cooperative (KEPCo), the Kansas Electric Cooperatives, Sunflower Electric Power Corporation, and Kansas City Power and Light.

HB 2244 to create an Energy Resources Coordinating Council is a policy with good intention, however, we have several concerns and suggested amendments.

Energy policy and recommendations are a moving target and priorities change from year to year, perhaps from week to week anymore. Last year at this time, the cost of gas was a public crisis, but it was the cost of gasoline, not natural gas and propane. Therefore, we believe the scope of responsibility for the Council should be less specific. By my count there are more than 30 different studies required in HB 2244. That means a number of meetings could be wasted on relatively meaningless work, rather than focusing on substantive policy.

On top of that, many of those topics are duplicative or are the responsibility of the utilities or other agencies. For example: Sec. 2 (d) is the responsibility of KDHE; (h) is authority of the KCC; (i) duplicates other provisions such as (a) and (b); (p) is covered by (j)(g)(c); you get the idea.

We believe the Council would be more productive if it had a broader charge, was able to determine topics of study as a group, and readjust their course depending on the industry changes. The Chair and Council members could then determine their agenda and not be preoccupied, for example, trying to improve tourism through the development of an energy policy. Therefore, we propose maintaining Sections 7 and 8 which provides a broad charge for the Council and deleting all other sections that contain study topics or mandates.

The membership of the Council is a concern. One seat for all generating companies is inadequate and there is certainly a difference in focus between IOU's and non-profit cooperative utilities. We would propose the addition of a cooperative electric utility representative.

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HOUSE UTILITIES

DATE: 2-6-01

ATTACHMENT 5

The funding of the Council is also a concern. In addition to the leadership of this Committee, I have heard Governor Graves and Speaker Glasscock both call for the development of a State energy policy. Therefore, to fulfill that priority, we believe the State of Kansas should fund this Council. As written, this legislation requires the Council to meet at least quarterly, provides the authority to hire staff and necessary consultants, all of which would absolutely be necessary to meet the overwhelming requirements of this bill. Section 4 (b) states that natural gas and electric utilities will be assessed for the expenses of this Council at a cost not to exceed the greater of \$100 or 0.1 percent of intrastate gross operating revenue. For KEPCo, that could mean a \$75,000 annual assessment, Sunflower adds another \$100,000, and KCPL will chip in \$900,000. Collectively, this could drain millions of dollars from Kansas customers to create a new bureaucracy. Furthermore, we will undoubtedly review other energy sources such as gasoline, propane, renewables, etc., and those industries have no cost obligation. Therefore, the responsible course of action is for the State of Kansas to provide funds for this Council.

Another area of discomfort with HB 2244 is the range of authority and review. We already have the KCC, KDHE, CURB, and the Legislature looking over our shoulders. Perhaps HB 2244 would better serve the industry and the taxpaying public as a Task Force with the responsibility to study the most pressing energy issues, as determined by the group, and provide a report and recommendations to the 2002 Legislature. If the Legislature determines that the work of the Council is invaluable, it can annually reauthorize and allocate funds for the group's continued operation. Please resist the temptation to create another state agency with staff, bureaucracy, oversight, potential additional regulation and red tape.

I have attached a copy of the bill with the amendments in concept. We appreciate your efforts on this issue and pledge to work with the group to maintain the state's history of reliable and affordable energy service.

**TESTIMONY ON HB 2244 BEFORE
THE HOUSE UTILITIES COMMITTEE
BY SUSAN CUNNINGHAM
OF THE STAFF OF THE KANSAS CORPORATION COMMISSION
FEBRUARY 6, 2001**

Chairman Holmes and Members of the Committee:

House Bill 2244 would create a state energy resources coordinating council. The council would formulate a comprehensive state plan to coordinate the management, conservation and development of energy resources. (Sect. 7.) Currently a number of agencies and organizations (KCC, KDHE, KDC&H, among others) have duties relating to energy issues. The KCC supports coordination on state energy issues, although we recognize that most energy issues are resolved at the federal level. The language of the bill, however, suggests that the role of this new council is not just coordination between existing agencies and organizations but is also intended to develop and implement policy.

While the KCC supports the concept of a state energy resources coordinating council, we have concerns about various provisions contained in HB 2244.

First, if the goal of this new council is to coordinate between existing state agencies and organizations, the language in Section 2 is too prescriptive. Rather than coordinating, the language appears to duplicate existing efforts. For example, the KCC is already responsible for or has programs in place relating to Section 2 (a), (e), (g), (h), (i), (l) and (o).

Second, the provisions in Section 2 previously mentioned and other provisions could be construed to limit or eliminate the KCC's existing authority. For additional examples, see the provisions at Section 6 (a)(4), (5), (8); Section 7 (a); Section 9; Section 10.

Finally, certain provisions impose additional responsibility on the KCC, the costs of which have not been addressed in the legislation. For example, the KCC is tasked with certain responsibilities regarding assessments (Sect. 4); the KCC is required to assist in the compilation of information (Sect. 6 (a)(4)); and, the KCC is generally required to cooperate with the council, which could entail a significant amount of additional work load depending on one's definition of "cooperate" (Sections 7 (a) and 10).

We would be happy to work with the Committee on language that might address our concerns.

HOUSE UTILITIES

DATE: 2-6-01

ATTACHMENT 6

February 5, 2001

To: Representative Laura McClure

Office No.: 278-W

From: Lynne Holt, Principal Analyst

Re: HB 2034

You raised several questions on HB 2034 (E-911 bill) to which I am responding below:

1. What is the 2 percent administrative fee on p. 4, l. 32?

The provider would collect the tax (up to \$.75 per access line or wireless connection) and remit the proceeds to the governing body on a quarterly basis. The provider may retain 2 percent of the collected tax proceeds to offset billing, collection, and remittance expense.

2. Is the 2 percent collected sufficient?

According to the spokespersons for the Kansas Telecommunications Association and the League of Kansas Municipalities, the issue of sufficiency has never been raised. Therefore, from the perspective of the telephone companies and the League, this percentage is probably satisfactory. Both people noted this was fairly standard language in various sections of the Kansas statutes for administrative fees associated with tax collection.

3. What is the intent of the sentence on p. 3, l. 34-5: "No such tax shall be imposed upon more than 100 exchange access facilities or their equivalent per person per location"?

This sentence probably refers to large companies with Private Branch Exchange (PBX) systems. (PBX systems are small telephone networks dedicated to serving the people located on the business' premises.) The intent is to limit the amount of the tax assessed a business to \$75 per month per exchange access line (assuming the maximum tax of \$.75 is assessed by a governing body).

Please call me if you need additional information.

HOUSE UTILITIES

DATE: 2-6-01

ATTACHMENT 7