

Approved: March 13, 2002  
Date

*Carl D. 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 4, 2002 in Room 526-S of the Capitol.

All members were present except: Representative Gene O'Brien  
Representative Mary Compton

Committee staff present: Robert Chapman, Legislative Research  
Dennis Hodgins, Legislative Research  
Mary Torrence, Revisor of Statutes  
Jo Cook, Administrative Assistant

Conferees appearing before the committee: Bill Griffith, Sierra Club  
Sarah Schwartz, Kansas Farmers Union  
Robert Crangle  
Bruce Graham, Kansas Electric Power Cooperatives, Inc.

Others attending: See Attached List

**HB 2631 - Organization of cooperative to generate electricity from renewable resources and technologies and to wholesale such electricity**

Chairman Holmes opened the hearing on **HB 2631**.

Bill Griffith, appearing on behalf of the Sierra Club, testified in support of **HB 2631** (Attachment 1). Mr. Griffith stated this bill creates an excellent opportunity for Kansans to harvest wind energy for our own benefit.

Sarah Schwartz, on behalf of the Kansas Farmers Union, provided testimony supporting **HB 2631** (Attachment 2). Ms. Schwartz explained that today's farmers may be able to utilize renewable resources from their farms to produce electricity for a demand market and cooperatively market their energy produced through group sales, perhaps leading to negotiation for better buy-back rates.

Robert Crangle, Lincoln, Kansas, addressed the committee as a proponent of **HB 2631** (Attachment 3). Mr. Crangle stated that while passage of this bill would pose no immediate threat to the most conservative energy company, it would open doors for those wishing to plan for energy conservation and a renewable energy economy augmenting our depleting oil and gas economy.

Bruce Graham, Vice President of Member Services and External Affairs for Kansas Electric Power Cooperative, testified in opposition to **HB 2631** (Attachment 4). Mr. Graham told the committee they believe such cooperatives Organize under the same existing statutes used to form KEPCo.

Written testimony, in support of **HB 2631**, was provided by Donna Johnson, President of Pinnacle Technology, Inc. (Attachment 5); Phil Blahut, farm manager in Seward and Harper Counties (Attachment 6); Leslie Kaufman, Associate Director for the Public Policy Division of Kansas Farm Bureau (Attachment 7); and Joseph King, Lawrence, Kansas (Attachment 8).

Mr. Griffith, Mr. Crangle and Mr. Graham responded to questions from the committee.

**HCR 5038 - Urging the federal government to act quickly to approve and begin storage of radioactive waste at Yucca Mountain, Nevada**

Chairman Holmes re-opened the debate on **HCR 5038**. Representative McClure moved to table HCR 5038. Representative Dillmore seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES, Room 526-S Statehouse, at 9:09 a.m. on February 4, 2002.

**HCR 5040 - Resolution urging Congress to open the Arctic National Wildlife Refuge (ANWR) to oil and gas exploration and production**

Chairman Holmes opened the debate on **HCR 5040**. Representative Myers moved to adopt the resolution. Representative Merrick seconded the motion. The motion carried. Representatives McClure and Dillmore requested their NO votes be recorded in the minutes.

Reports on Wind Energy and the annual Kansas Corporation Commission filings were distributed to committee members. Copies of these reports are available from Legislative Research and the State Library.

The meeting adjourned at 10:17.

The next meeting is scheduled for February 5, 2002.

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 4, 2002

NAME	REPRESENTING
Joe Dick	KCKBPU
Dan Habhaus	KFC
Mark Schreiber	Westar Energy
George Barber	Ks Consul's Engrs
J.C. Long	UtiliCorp United Inc.
Sarah Schwartz	Kansas Farmers Union
Kevin Baewe	Hem/wer chld.
Janet McPherson	Kansas Farm Bureau
STEVE MASSEY	WESTAR ENERGY
Doug Gunn	Westar Energy
Bob Crangle	Self - $\frac{1}{2}$ Lincoln Co Economic Dev
Bruce Graham	KEPCO
Steve Johnson	Kansas Gas Service
WALKER HENDRIX	CURB
Cynthia Smith	KCPL
Bud Burke	"
Nick Heiman	
Bill Ruff	Sierra Club
Robin Jennison	Westar Energy
Kyle Wetzel	K. Wetzel & Co., Inc.

# HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 4, 2002

NAME	REPRESENTING
Jim Roger	KCC Energy Office
Carol Crispin	KWS
Tom Datt	KCC

**TESTIMONY ON HB 2631**  
**by**  
**BILL GRIFFITH**  
**KANSAS CHAPTER OF THE SIERRA CLUB**  
**FEBRUARY 4, 2002**

Thank you Mr. Chairman and members of the committee for the opportunity to speak on behalf of HB 2631. My name is Bill Griffith and I am representing the Kansas Chapter of the Sierra Club.

As the committee is well aware, wind energy is beginning its ascendancy into a prominent position in our nation's resource mix. Not only is it the fastest growing energy source in the United States, but in the world as well. All projections indicate this will continue at an accelerated rate.

Hopefully, this trend will be reflected in Kansas. We all have heard the reports that Kansas has now become a net importer of energy. This leaves us vulnerable to conditions outside our control. The only way to reverse this slide is to tap into our own vast wind potential and increase our energy efficiency.

HB 2631 creates an excellent opportunity for Kansans to harvest this resource for our own benefit. This will reduce our dependency on outside energy sources, stimulate local economies, reduce our emission of carbon dioxide, mercury, and other pollutants as well.

Rural landowners, often struggling because of a depressed farm economy would be able to reap the advantages of forming their own wind cooperatives and generating a consistent revenue stream from their land.

Another point for the committee to consider is what may occur at the federal level in upcoming energy legislation. Two bills from the U.S. Senate have provisions for a renewable portfolio standard to be implemented in the United States. Our president signed into law the largest renewable portfolio standard ever enacted in our country while he was governor. These factors seem to point to the likelihood of a federal rps at some point in the near future.

There is also a bill in the senate being marked-up this week that would establish limits on carbon dioxide emissions from power plants. Kansas is heavily invested in coal and could be affected more than most other states.

Also, since last September the decentralization of our power system has been pointed out as a critical area we must address. Wind power does that better than any fossil fuel we are currently using.

Given these factors, Kansas maybe called upon to increase its amount of renewable energy it generates. HB 2631 will make it easier to generate renewable energy and help Kansas meet any targets set in federal energy legislation.

In conclusion, the Kansas Chapter of the Sierra Club supports this bill and urges the committee to vote in favor of this legislation. Thank you.

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ATTACHMENT 1

**Testimony in support of House Bill 2631**  
**Kansas Farmers Union**  
**Sarah Schwartz**  
(Written by Donn Teske)

Kansas Farmers Union is happy to be here today to testify in support of house bill 2631. KFU has been told that this bill will help entities in Kansas in setting up cooperatives for generating and selling energy produced from renewable resources and also defines the parameters of such coops. KFU policy reads "We support the development of non-polluting renewable energy resources such as solar, geothermal, wind, hydrogen, ethanol and alcohol". By supporting HB 2631 we are acting according to KFU policy and hopefully helping a fledgling renewable energy industry in Kansas a step closer to reality and feasibility. Also Cooperative development is a mainstay of Farmers Union and would be the structure of preference for producing and marketing entities in the renewable energy industry.

Renewable energy has significant benefits with normally low emissions and replenishable energy supplies. Farmers over the years are often innovators when it comes to on farm energy production, especially in the early years before rural accessibility. We all know stories of farm wind generators, water wheels for direct grinding or electricity production, windmills, and even alcohol (for fuel) produced on farms. Over the years we have seen wind generators promoted through rural America, usually they were short-lived and ended up rusting on poles. Much has changed over the past 25 years. Since the National Energy Act was created in 1978 and then the Public Utility Regulatory Policies Act of 1978 significant incentive dollars were directed into research and development of renewable energy. As a result the cost of producing energy from the wind has decreased by 85% over the last 20 years according to EREN (the Energy Efficiency and Renewable Energy Network). Today farmers as landowners may be able to utilize renewable resources from their farms to produce electricity for a demand market. Technology is creating an efficient machine to produce energy but it still needs to be sold into the system. Much of the early failure of wind generation was utilities that were not willing to pay for electricity produced or the buy-back rate was so low that the generators wouldn't cash flow.

This is how KFU can see the benefits of cooperatives in the renewable energy industry. If producers can cooperatively market their energy produced through group sales, one would assume that they could negotiate for better buy-back rates. If this could be done from individual locations through net metering the coops would not necessarily have to be in a tight geographic location which would make it even better for farmer production in Kansas.

Thank you for your time, Kansas Farmers Union is in support of HB 2631.

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ATTACHMENT 2

## Hearing on House Bill No. 2631

Statement of Robert D. Crangle, Lincoln, Kansas 67455  
February 4, 2002

I am a Kansas citizen. I practice law in Lincoln, northwest of Salina. I live on a windy, sunny hill two miles from any neighbors. My KSU undergraduate degree is in nuclear engineering. I have long been interested in energy and energy policy. I have served two terms as a member of the Kansas Geological Survey Advisory Council, and I am an elected fellow of the American Association for the Advancement of Science. In Lincoln County I have been active in our local and regional economic development activities for 15 years.

House Bill 2631 is one of a set of bills by the Committee on Utilities which could dramatically increase the viability of renewable energy generation in Kansas. I speak for many in rural Kansas who believe our abundant supplies of wind, biomass and sun can and should be harnessed not only for their benefit, but for the benefit of all Americans. Right now our state's legal and regulatory structure works against this vision.

Individual citizens today have few and inadequate incentives to generate and sell electricity from renewable resources. Today's technology has developed far beyond the wind generators and solar panels of the 1970's, or the cattle-watering windmills that populated our plains decades earlier. This bill provides the opportunity for Kansans, and in particular rural Kansans, to band together in small, local, but economically viable cooperatives for this purpose. It will encourage, over time, not only distributed systems of generating energy but also new businesses and jobs.

While I do not believe passage will lead to an immediate boom in creating such cooperatives, failure to pass it will continue the status quo. It is the status quo that discourages businesslike investigations of new renewable energy capacity by all but the established energy companies. It discourages Kansans with engineering imagination and risk-taking attitudes from erecting current systems, designing new ones, and daring to dream about a Kansas renewable energy systems manufacturing industry. It leaves it up to the "established guys" to make all the decisions, an approach very inconsistent with the populist traditions of Kansas.

Passage will pose no immediate threat to even the most conservative energy company. It will open the doors for landowners, farmers, and people all over the state to begin to plan for both energy conservation and a profit-making renewable energy economy to gradually augment, and perhaps fill in, for our depleting oil and gas economy. It does so through appropriate economic incentives -- cost reduction and profits.

Companion bills that let Kansans form cooperatives to buy energy, finance renewable energy systems and let them build larger personal wind generators within today's legal framework are themselves of great interest, but are apparently not the subject of today's hearing. I commend the committee, however, for taking a systematic approach to the issue instead of reacting in a piecemeal fashion. It is very, very farsighted.

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# **Kansas Electric Power Cooperative, Inc.**

## **Testimony on House Bill 2631 House Utilities Committee -- February 4, 2002**

*Bruce Graham, Vice President of Member Services and External Affairs  
Kansas Electric Power Cooperative, Inc. (KEPCo)*

KEPCo was established in 1975 to provide wholesale generation and transmission service in rural Kansas. In fact, KEPCo was organized exactly as envisioned by HB 2631. In the early 1970's, a small group of rural electric cooperative leaders identified weaknesses in the power supply system and determined that establishment of a wholesale generation cooperative would be a good solution.

The original incorporators of KEPCo did this under the current cooperative act laws of the state of Kansas. That same cooperative act is repeated for the most part in the language from Sec. 4 (e) on page one, clear through the following ten pages, with slight, but essentially meaningless amendments. In fact, nothing in HB 2631 appears to be particularly new, original, or necessary.

Under current law, if a group wants to organize a cooperative, non-profit membership corporation to generate renewable electricity, they could file papers today as the Cottonwood Cooperative for Renewable Energy Generation. Likewise, if a group wanted to start the Land of Oz Lignite Generating Cooperative, the Purple Power Propane Generating Cooperative, or even the Dome On The Range Nuclear Cooperative, current law would enable such a venture. This type of organization is also currently permitted under federal law as an independent power producer.

If this is not what the organizers have in mind, then this proposed legislation generates several other questions. For example, it is unclear whether members of the Cottonwood Cooperative for Renewable Energy Generation plan to remove themselves from their existing distribution system. A true generation cooperative would not require standby retail service. However, HB 2631 may permit the creation of some sort of hybrid cooperative, one that meets its own needs whenever possible, takes retail service when needed or convenient, and sells generation when there is excess. Current parallel

Phone: 785.273.7010

Fax: 785.271.4888

[www.kepco.org](http://www.kepco.org)

P.O. Box 4877

Topeka, KS 66604-0877

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ATTACHMENT

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**Utilities Committee  
Kansas House of Representative**

**Testimony in Support of HB 2631**

By

Donna Johnson, President  
Pinnacle Technology, Inc.  
619 East 8<sup>th</sup> Street, Suite D  
Lawrence, Kansas 66044  
(785) 832-8866  
[donnaj@pinnacle.com](mailto:donnaj@pinnacle.com)

Thank you Mr. Chairman and members of the Committee for allowing me to testify in support of HB 2631. I would like to start by thanking the members for their strong interest and support of renewable energy technology in the state. As you all know by this point, Kansas has a wealth of renewable energy options available, including wind, ethanol, biodiesel and solar. Today, I would like to address HB 2631, allowing cooperatives to be formed to generate electricity from renewable resources.

In today's energy business climate, change and innovation is not always quickly adopted. For most businesses the most important item is the short term bottom-line, rather than environmental benefits or long-term planning. By allowing renewable energy to be generated for sale by cooperatives, those members of the community who feel it is in their economic interest – *landowners with good wind sites* – or believe that renewable energy is necessary to protect the environment – *environmental groups* – or any other interested and concerned citizens, communities, organizations, can take a proactive approach.

Without this legislation, if a group wants to have a wind farm, they must wait until a developer contacts them. A landowner can lease their wind rights, but not participate further. It is currently not possible for a small group to develop renewable energy options on a scale that is economical. By passing 2631, a group of farmers, community leaders, environmental associations and any other interested parties can form their own cooperative to generate electricity and benefit in the long-term sale of power.

Numerous individuals, communities, counties, and companies in Kansas and other states who are interested in being part of wind power development in Kansas have contacted our company. They all are looking for basic advice on how to proceed and what options are available to them. Formation of renewable energy electricity generation cooperatives will empower these groups to benefit economically from the development of renewable resources that we have in abundance in Kansas.

Thank you for this opportunity to support HB 2631 and we urge you to vote in favor of this legislation.

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I am sorry that I cannot be here today in person. However, I submit my testimony on behalf of House Bill 2631 for the Kansas House and its energy committee's consideration. I thank the House for the opportunity to submit this written testimony on my behalf. I also want to thank Representative Tom Sloan for his efforts in creating this bill and for his courage and forward thinking that will, if passed, dramatically effect Kansas, our great state.

My name is Phil Blahut, I live in St. Louis, Mo., however I was born and raised in Sharon, Ks., and I am a taxpayer of Barber County Kansas. We farm in Barber County and we manage farm acres in Seward and Harper Counties as well.

My partner and I own a Farm Management Company, namely Nottoc LLC, a Kansas corporation, which is a small but growing business that manages land and resources for owners and banks. In our quest to increase net farm income we often use our think-tank approach and look into the future especially as agriculture is changing rapidly, for the worse. One idea that seemed to be a relatively good one and that has stuck with our planning is how can we power the winds that cross our farms, our counties and our state.

After much research, we have come to the conclusion that wind energy for Kansas should be a breeze...it should be what makes Kansas different, viable, and important to the other 48 states. Kansas is ranked number 3 in the U.S., according to the Dept of Energy's wind resource map. And Kansas is central to our nation for providing a transportation grid to the East and West Coasts. Therefore, we have seriously been planning and developing a serious concept: Developing 4-5 large wind farms during a 5-year plan, creating 200 MW of power...a very large, yet very practical task. This plan could include creating a new cooperative wind energy company...one that would involve communities, farmers, businesses, and Kansan's.

Wind Energy is renewable, it is now economical, it is environmentally safe and friendly and it is economically the right thing to promote in Kansas especially in deprived rural communities. It not only makes sense; it can grow Kansas with new jobs, diversification in agriculture income, tourism. Yes windmills draw visitors because these large towers and windmills are beautiful and awesome.

Our God gives us daily a large wind source and yet we seem to not acknowledge that this great free power source is perfect for our state. Wind is a reliable source of energy...and we will still need energy sources from coal, gas and nuclear powered generators to be there in case the wind doesn't blow. I believe we should look at wind energy as a growing alternative and maximize its use when possible.

Our fine state elected officials should take a strong look at HB 2631 and adopt it and pass it into law. We need the flexibility to have a cooperative electric plan for developing wind energy. This bill offers a refreshing look at developing local cooperatives and provides a vehicle for them to create and market energy. I could also allow cooperatives to partner with large utilities for even further developments. The sky is the limit, but the

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wind is always prevailing.

I thank you for your time and efforts. And I pray that you strongly consider HB 2631 and act favorably...and pass it. I also challenge each representative to learn more about wind energy and what it holds for Kansas and its rural communities and businesses. I also suggest that our state look into buying some of this powerful resource to off set its utility bills in various metropolitan markets throughout Kansas. Let's use as much as we can, because it was "Made in Kansas."

Thank you.

Respectfully,

Phillip C. Blahut  
Blahut Farms  
Nottoc Farm Management  
125 S. Elm Ave  
Webster Groves, MO 63119  
O) 314-968-8363  
C) 314-378-8908

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## **Kansas Farm Bureau**

2627 KFB Plaza, Manhattan, Kansas 66503-8508 • 785.587.6000 • Fax 785.587.6914 • www.kfb.org  
800 S.W. Jackson, Suite 817, Topeka, Kansas 66612 • 785.234.4535 • Fax 785.234.0278

### **PUBLIC POLICY STATEMENT**

### **HOUSE COMMITTEE ON UTILITIES**

**RE: HB 2631 – allowing the establishment of cooperatives that will generate electricity from renewable sources.**

**February 4, 2002  
Topeka, Kansas**

**Presented by:  
Leslie J. Kaufman, Associate Director  
Public Policy Division  
Kansas Farm Bureau**

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Chairman Holmes and members of the Committee, thank you for the opportunity to appear before you today on behalf of Kansas Farm Bureau's farmer and rancher members across the state and share our support for the concept of promoting electric generation from renewable energy sources. I am Leslie Kaufman and I serve KFB as Associate Director of Public Policy.

The voting delegates at our 83<sup>rd</sup> Annual Meeting, who are agricultural producers, reaffirmed our commitment for initiatives that can increase renewable fuel use. Kansas Farm Bureau has long supported the development and use of agricultural-based renewable fuels, including ethanol and biodiesel. In recent years, our focus has expanded beyond the agri-based fuels to also include wind energy.

In November, our members reaffirmed policy language urging the legislature, governor and appropriate agencies to examine wind as a renewable energy source and develop a plan that encourages wind generation in Kansas. Chairman Holmes, we commend you and your committee for considering the development of wind and other renewable electricity generation.

We believe the work you are doing fits with the concepts of our policy encouraging the growth of wind generation in Kansas. While there may be other approaches that are valid, as well, HB 2631 can be a catalyst for renewable energy development in Kansas. As such, we encourage the committee to look favorably on concepts that promote the development of renewable electric generation in Kansas. Thank you.

*Kansas Farm Bureau represents grassroots agriculture. Established in 1919, this non-profit advocacy organization supports farm families who earn their living in a changing i*

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**Utilities Committee  
Kansas House of Representatives  
Written Testimony of Joseph E. King  
Lawrence, Kansas**

**February 5, 2001**

**House Utilities Committee on HB 2631**

Good morning Mr. Chairman and members of the committee. I apologize for not being able to appear before you this morning but would like to offer written comments in support of HB 2631 regarding the proposed "renewable energy electricity generation cooperative act".

Kansas is well endowed with renewable energy resources. Each year over half a million Btus of solar energy fall on each square foot of Kansas (15KWh/M<sup>2</sup>), representing the equivalent of 230 billion barrels of oil for the entire state. Winds driven by solar energy place Kansas third nationally in wind energy potential, according to the National Renewable Energy Laboratory. Renewable energy resources are enormous, but diffuse. Their efficient large scale development requires significant land. With generally historically low prices for farm and ranch products, we could hope that development of renewable energy resources might offer the prospect of sound greater income for rural Kansas.

This hope will likely prove difficult to realize if we rely solely on conventional renewable energy business development structures where large corporations lease land for wind farm development as cheaply as possible. Wind development typically requires economies of scale individual farmers and ranchers are seldom large enough to achieve. A traditional business structure that farmers often turn to when they need increased marketing leverage is the cooperative. Cooperatives could offer an opportunity for rural Kansas to promote renewable energy development in a manner that is more economically beneficial to rural communities. Kansas statutes outline three types of cooperatives: 1) cooperative societies, 2) rural electric cooperatives (RECs), and 3) agricultural marketing cooperatives. Cooperative societies are typically buyers coops. RECs are consumer

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cooperatives, in fact authorizing statutes require members to consume. The agricultural marketing model could be a useful business structure for renewable energy development.

The three critical elements for developing a wind farm are: 1) a wind farm site with adequate wind resources, 2) a market for wind generated electric energy at an acceptable price, and 3) adequate electric transmission capacity to connect the site to the market at an acceptable price. The traditional approach for wind development has been to let the market end drive the process, typically an electric utility working with a wind farm developer. When the utility controlled transmission this was really the only viable strategy.

Open transmission access may now make it feasible for the owners of premium wind sites to take the lead role in wind energy development.<sup>1</sup> If adequate transmission capacity is accessible they can take their product to the green market within the region. From the land owner's perspective wind becomes a commodity to market, much like wheat or natural gas. The amount of land required for an economically feasible wind farm will typically mean that a number of land owners will need to be involved. A traditional business structure in rural areas that many land owners may find acceptable is the cooperative.

Land owners need access to business structures that allow them to work together to develop renewable resources in a manner that maximizes their profits and the benefits rural communities. The traditional tool to accomplish this is the cooperative. "A cooperative is a business owned and controlled by the people who use its services. By working together, they can reach an objective that would be unattainable if acting alone."<sup>2</sup>

A cooperative:

- 1) **Improves bargaining power**- Combining the volume of several members leverages their position when dealing with other businesses.

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<sup>1</sup> This strategy may also allow more of the income from wind energy to stay in the local economy. Wind leases, sometimes taken under threat of eminent domain, have often paid land owners far less than what many consider a fair price.

<sup>2</sup> Cooperative Information Report 7, Revised September 1996, Galen Rapp and Gerald Ely.

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- 2) **Obtains market access or broaden market opportunities**-Value is added to products by processing or offering larger quantities of an assured quality.
- 3) **Improves product or service quality** - Adding value to products, by providing, and improved facilities, equipment, and services.
- 4) **Obtains products or services otherwise unavailable** - provide services or products that would not attract other private businesses.
- 5) **Reduces Cost/Increases Income**- Reducing the cooperative's operating costs increases the amount of earnings available for distribution to members to boost their income.

This is not a silver bullet. To my knowledge the concept is not put forward to benefit a specific project or developer. The goal in to open doors, to empower Kansas land owners, farmers, ranchers, and entrepreneurs to find new ways to do what our existing utilities and businesses, foreign and domestic, with one notable exception, have not been able to do: get on with broad development of renewable energy in a way that maximizes benefits to Kansans.