

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman John Edmonds at 9:00 a.m. on March 11, 2004 in Room 519-S of the Capitol.

All members were present except:

Representative Lee Tafanelli- excused
Representative Paul Davis- excused

Committee staff present:

Chris Courtwright, Legislative Research Department
Martha Dorsey, Legislative Research Department
Gordon Self, Revisors of Statutes
Carol Doel, Committee Secretary

Conferees appearing before the committee:

Representative Bill Mason
Will Carpenter, Chairman Butler County Commission
Ron Klatske, Audubon Society of Kansas
Arlan Stacklely, Landowner
Pat Hughers, Tallgrass Ranchers
Greg May
Diana Edmiston, Attorney for Murphy Family
Christy Crenshaw
Mark Bruce FPL Energy
Ron Gaches, Kansas Wind Coalition
Todd Eagleston, JW Prairie Wind
Roger Zimmerman, Landowner
Colleen Anderson, Landowner
Robert Goss, Landowner

Others attending:

See Attached List

Chairman Edmonds opened the meeting for bill introductions.

Representative Goico requested a constitutional amendment to equalize the appraised values of homes in the State of Kansas.

With no objections, this bill will be accepted for introduction.

Chairman Edmonds turned attention to **HB 2579** and opened the meeting for public hearing recognizing Representative Bill Mason who presented testimony in support of **HB 2579**. In his testimony Representative Mason related that the passage of this bill would make a change to the tax exempt status of wind farm projects. It would give County Commissions the authority to allow up to 10 years property tax exemptions for qualified projects. (Attachment 1)

Representing the Butler County Commission was Will Carpenter who gave testimony in support of **HB 2579**. It is there opinion that the bill allows for the abatement of taxes for a period of 10 years at the choice of the local governing body in essentially the same manner as industrial revenue bonds. They realize that there is substantial debate concerning the locating of the industries in the State due to several factor, but the feel that if these industries are incorporated into the local tax base many of the complaints of non-uniform taxation could be eliminated. (Attachment 2)

Arlan Stacklely is a life-long resident of Butler County and operates a ranch that has been in the family since 1878. In his testimony Mr. Stacklely related that he is not opposed to start up help for companies that can someday stand on their own, but allowing this exemption forever is not sound business. He states that presently wind energy can never operate on their own without excessive tax credits and fast depreciation

CONTINUATION SHEET

MINUTES OF THE HOUSE TAXATION COMMITTEE at 9:00 a.m. on March 11, 2004 in Room 519-S of the Capitol.

schedules. He is also concerned about local government's added expense on road and bridge maintenance, possible added emergency equipment and personnel as well as other unseen expenses. Other states have tax schedules and Mr. Stackley attached a copy of the tax schedule from the State of Iowa. ([Attachment 3](#))

Pat Hughes, representing Tallgrass Ranchers who are opposed to the development of the last remnant of the tall grass prairie with industrial wind turbine complexes. They are opposed to the property tax exemption that promotes the destruction of the values they cherish-destruction that some say would not occur but for the exemption. They urge the repeal of the exemption as stated in **HB 2579**. If it were to be allowed, Tallgrass Ranchers would request it be allowed for 10 years only at the county's option. ([Attachment 4](#))

Greg May a landowner, property tax payer and school board member from Butler County addressed the committee in support of **HB 2579**. In his testimony Mr. May related that it has been his experience that the wind energy companies have attempted to "buy access" to local government in order to obtain favorable consideration. This would not occur or be needed if wind energy companies were paying their fair share of taxes. He urged the committee to repeal the property tax exemption for wind energy. ([Attachment 5](#))

Diane Edmiston attorney for the Murphy Family stood before the committee to say that she supported the favorable passage of **HB 2579**. ([No written testimony](#))

Next to give testimony in support of **HB 2579** was Ron Klataske, Executive Director, Audubon of Kansas. In their opinion during a time when we face state and local financial challenges to find ways to fund education and other needs, it is appropriate for wind power developers, who already receive massive subsidies from US taxpayers, to share in the responsibilities of other Kansas taxpayers and participate as tax paying corporate citizens. They feel that an automatic ten year or permanent exclusion from participation in taxes should not be granted by the state. ([Attachment 6](#))

Owner of Shamrock Angus Farms, Christine Crenshaw testified supporting **HB 2579**. Her primary reason for opposing industrial wind turbines is because the Flint Hills are a Kansas natural treasure. Her secondary reason for opposing industrial wind turbines in the Flint Hills is because the industry is a parasite on local state and federal taxpayers. ([Attachment 7](#))

Terry Holdren, Associate State Director - Kansas Farm Bureau Governmental Relations submitted written testimony in support of **HB 2579**. ([Attachment 8](#))

Mark Bruce, employed by and representing FPL Energy, gave testimony in opposition to **HB 2579** stating that Kansas' energy production is failing to keep pace with domestic needs, rural areas of the state have been hit hard by falling prices for agricultural goods, severe drought, and population migration. He urges the committee to continue the path set by the Legislature a few years ago to promote wind energy and help Kansas achieve its potential as a national leader in clean energy and rural economic development. ([Attachment 9](#))

Jeffrey D. Schlichting, President HMH Energy Resources, Inc. presented testimony in opposition to **HB 2579**. He is a native Kansan and believes this legislation singles out and penalizes wind energy, jeopardizes investments already made in Kansas and discourages additional investment in the State - not only by wind energy projects, but by the business community at large. He briefly explained the topics of environmental value of wind energy, economic value of wind energy and the business perceptions of Kansas. ([Attachment 10](#))

RES North America, LLC a member of the Renewable Energy Systems was represented by Todd Eagleston, Development Manager. He presented six reasons why they believe this bill should be withdrawn or rejected.

1. It sends a very bad signal to any company considering investment in Kansas.
2. Singling-out wind for removal from the list of renewable energy technologies that receive a tax exemption is nonsensical and discriminatory.
3. It is totally inappropriate to use tax law to remedy a perceived problem of project siting.
4. Because of the economic losses it would trigger, such a change is unfair to those who have invested money in projects relying on the current law.

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5. In spite of the exemption, most wind project developers are entering into "payment in lieu of taxes" agreements with local jurisdictions.
6. A greater tax burden on wind farms only raises the cost of the energy they produce.

He further stated that it is obvious the **HB 2579** is designed to curtail development of a wind industry in Kansas at a point in time when it has barely begun to take root and produce significant benefits to the State's rural economy. ([Attachment 11](#))

Managing Director of JW Prairie Windpower, Jennifer States, gave their opinion in opposition to **HB 2579**. In their opinion wind energy development is good for Kansas. It brings dollars and jobs to our rural communities. It diversifies our energy mix and utilizes our states resources, not energy imported from other states, and it generates energy that is non-polluting and renewable. ([Attachment 12](#))

Landowner and farmer in Wabaunsee County, Roger Zimmerman came today to oppose the passage of **HB 2579**. It is his opinion that we need the economical growth to take place in Wabaunsee County and also in other counties around. We need the incentives that this bill would take away. He urged the committee to think about the rural areas that are in need of expansion and what this source of energy would do for the community. ([Attachment 13](#))

Another landowner in Morris and Wabaunsee County, Colleen Anderson, also opposes **HB 2579**. In her statement to the committee, she revealed that the rights of the land owners is an issue. Those who really desire to have an additional source of revenue from their properties have had to defend those rights against those that have little or no need of the income that their land produces. She further stated that she would hate to see anything that would further impede development and investment in any part of the state. ([Attachment 14](#))

Robert Goss, a farmer and rancher from Dwight, Kansas opposes **HB 2579** stating that he is in favor of wind turbines because wind is very important for the State of Kansas and we are currently letting that very valuable resource go to waste. He is also concerned about the future of his children and grandchildren who may someday face electrical blackouts, also with the depleting supply of natural gas we will need to find new sources of energy. ([Attachment 15](#))

The final person to provide testimony in opposition to **HB 2579** was Ron Gaches of Gaches, Braden, Barbee & Associates. In his testimony he stated that wind energy represents the future of Kansas energy production. It is the most environmentally friendly of all commercial viable energy sources. Wind energy is virtually pollution free. Every megawatt of wind energy takes the place of a megawatt of oil, gas, coal or nuclear energy production. The environmental benefits of wind energy are significant to our society. ([Attachment 16](#))

Written testimony in opposition to **HB 2579** was provided by Whitney Damron representing The Empire District Electric Company ([Attachment 17](#)); Sharla Krenzel, Wichita County Landowner ([Attachment 18](#)); and AIA Kansas (American Institute of Architects) ([Attachment 19](#))

Chairman Edmonds asked if anyone else wished to address the bill, but hearing none closed the hearing on **HB 2579**.

With no further business before the committee the meeting was adjourned at 10:30 a.m.

HOUSE TAXATION GUEST LIST

DATE 3-11-04

Patrick Hughes	Tallgrass Ranches
Colleen M Anderson	Landowner
Harriet D. Zimmerman	Landowner
Robert Goss	"
Roger W. Zimmerman	" "
Jennifer States	JW Prairie Windpower
Fred Eagleson	RES North America
Ron Carbes	KS. WIND COALITION
Greg May	Landowner
Jo Long	AQUILA, INC
MARK BRUCE	FPL ENERGY
Michelle Peterson	Ks. Gov. Consulting
TERRY HOLDREN	KS Farm Bureau
Arlan Stackloy	Landowner Protect Flint Hills
Will Johnson	Butler County
Will Carpenter	Butler County
Janae Christian	Tallgrass Ranches
LARRY R BAER	LKMC
Karl Regohn	KS Taxpayers Abroad
Jan Aukes	DOB
Scott Kempfale	ICAC
Steve Peters	KTN

WILLIAM G. (BILL) MASON
 REPRESENTATIVE, 75TH DISTRICT
 BUTLER COUNTY



TOPEKA

HOUSE OF
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS
 CHAIRMAN: FEDERAL AND STATE AFFAIRS
 JOINT COMMITTEE ON TRIBAL AFFAIRS
 MEMBER: EDUCATION

Chairman Edmonds and members of the Tax Committee

Thank you for hearing HB 2579. This bill makes a change to the tax exempt status of wind farm projects. Approximately 2 years ago, legislation was passed to exempt property tax for wind energy forever. This bill would give County Commissions the authority to allow up to 10 years property tax exemptions for qualified projects.

The 10 year maximum matches the most generous tax exemption plan in Kansas. A company bringing 10,000 jobs would get no more than 10 years exemption. Most generating facilities are assessed at 33% as well as other utility property. There is limited value to wind projects in meeting the generation requirements of Kansas. These projects would not replace one kilowatt of power in a power station. They must have federal tax credits plus other tax exemptions to be feasible.

I will not attempt to cover the environmental considerations, the dependence on other companies transmission lines, noise levels, decreased property values and many other considerations. I am only addressing the patently unfair and unwise tax policy that we are presently burdened with.

As a 39 year veteran of the electric utility business, I cannot imagine that we would knowingly allow this unjustified and fiscally unsound policy to further diminish our tax dollars. Property tax administration belongs with local government. In state government, we have attempted to wrest that policy making away from the local folks as if we have all the answers. I urge you to give some of it back as you pass HB 2579.

Thank you for your consideration. I would be happy to stand for questions.

Kansas Legislature
Taxation Sub Committee
Representative Edmonds Chairman

RE: HB 2579

Dear Chairman and Members of the House Taxation Committee;

The Butler County Commission would like to express our support of House Bill 2579 which eliminates wind energy resources from full tax abatement. The bill allows for the abatement of taxes for a period of 10 years at the choice of the local governing body in essentially the same manner as industrial revenue bonds. The County believes the partial exemption of taxes is a strong compromise to the existing abatement, which has caused substantial debate in the eastern and western portion of our state. The bill also serves as a strong compromise from the language proposed in SB 85, which did not allow for any abatement.

As a commercial industry in our county the use of infrastructure and resources will be inevitable with no contribution to local taxes to offset the usage. We strongly believe, as these industries will utilize county roads and public safety services they should be incorporated into the local tax base. Currently these industries have offered in kind gifts to the local agencies, with no guarantees of payment as a result of the current state statute. The current statute does not allow for the collection of property taxes from these organizations and any contractual agreement between local levels of government for payment would be considered an in lieu of tax thus resulting in the refunding of any payments received. The gifting process has caused significant debate in our county, as the 13th Judicial District Court has remanded a decision for approval back to the commission for reconsideration as a result of the offering of an annual gift. The Court through an appeal process remanded the decision back to the commission as the offering of the gift constituted a perception of buying a zoning approval. As such the county commission again approved the project stating no consideration of gifting was considered in the decision process and the actual gifting mechanism was removed from the request from zoning.

Butler County realizes that there is substantial debate concerning the locating of these industries in our state due to several factors, but we believe that if these industries are incorporated into the local tax base many of the complaints of non-uniform taxation could be eliminated. This change could functionally stimulate the development of these resources in our state, as individuals would visualize them as a gain to the local tax base instead of a drain. Butler County hopes that you will support HB 2579 and recommend its passage to the full body. I will stand for any questions.

Sincerely,


Will Carpenter
Butler County Commission Chairman

HOUSE TAXATION
Attachment 2
Date 3-11-04

Mr. Chairman, members of the committee, I'm grateful for the opportunity to appear before you this morning and present information concerning the property tax issue related to electrical production by renewable energy source's as stated in Kansas Statute No. 79-201. Today the discussion centers on wind energy. I am Arlan Stackley, a life long resident of Butler County, operating a ranch that was started by my wife's family in 1878. Our son, David, is the fifth generation to be working on the ranch located halfway between El Dorado and Cassoday, Kansas.

I am not opposed to start up help for companies the can someday stand on their own but allowing this exemption forever is not sound business. Presently wind energy can never operate on their own without excessive tax credits and fast depreciation schedules.

The Federal government allows 1.8 cents per kilowatt tax credit. Wind companies claim they can produce electricity for 2.5 cents per kilowatt. The tax credit subsidizing these companies is 72% of the cost of production or it guarantees over a five percent return on their investment.

Granting a tax exemption is a business decision and we have to determine what benefits will be received for these exemptions. We are supporting an industry that operates 30 to 40 percent of the time. They pay lease rates of 2 to 3000 dollars per turbine per year. Kyle Wetzel, engineer from Lawrence, Kansas recommends a fair rental rate should be in the 5 to 6000 dollar range.

Turbines operating in 15 MPH wind speeds produce 20% of their capacity, while 35 MPH winds are required to operate at their rated capacity.

Wind energy will not replace any electrical generating facilities because they are necessary to keep a steady flow of electricity to consumers. Electric rates increase ten percent or more when distributors are connected to wind generators.

Industrial wind complexes cost one million dollars per megawatt to become operational. Six or seven permanent jobs are created to operate a 100 megawatt facility. As a land owner I'm concerned about local government's added expense on road and bridge maintenance, possibly added emergency equipment and personnel and other unseen expenses that will be paid by local taxpayers. Production of electricity with wind is very intermittent, making it expensive and undependable.

Wind developers state they will go somewhere else if not given property tax exemptions. I've been in business over 40 years and many times second or third offers have been better than the first one. I have no fear of them going somewhere else. Kansas ranks third in the United State for wind production so reliable companies will be back if wind generators prove to be successful. By not taxing wind generators Kansas is giving away a natural resource.

Other states have tax schedules and I have included Iowa's tax schedule provided by Beverly Pangburn, Country Commissioner, Worth County, Iowa. They have an 80 megawatt wind facility.

Wind energy companies expect to pay taxes because they are presently offering payments to local governments enticing approval for their projects. Establishing a tax schedule would do away with the varied offerings being made and make a level playing field for the companies involved

I favor passage of HB 2579. We have to ask ourselves are we supporting the people of Kansas or more interested in companies from other areas of the United States and even foreign countries.

Thank you for letting me presents my thoughts and I would entertain any questions you might have.

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IOWA TAX Schedule

Per Turbine

	Acquisition Cost \$ 800,000.00	Assessed Value Per Turbine	Total
Year 1		\$ -	\$ -
Year 2		\$ 4,000.00	\$ 95,001.20
Year 3		\$ 8,000.00	\$ 190,002.40
Year 4		\$ 12,000.00	\$ 285,003.61
Year 5		\$ 16,000.00	\$ 380,004.81
Year 6		\$ 20,000.00	\$ 475,006.01
Year 7		\$ 24,000.00	\$ 570,007.21

This is an 80 megawatt farm
 Total tax over 20 year life of farm = \$ 9,405,114.00
 Farm contains 88 turbines
 7th year tax rate per turbine = \$ 6477.00

Testimony on HB 2579
Pat Hughes, Tallgrass Ranchers
March 11, 2004

My name is Pat Hughes. I live between Haverhill and Smileyberg in rural Butler County. I'm here on behalf of the Tallgrass Ranchers, a group of a couple hundred landowners in the Flint Hills and tall grass prairie region. The Tallgrass Ranchers are concerned with, and opposed to, the development of the last remnant of the tall grass prairie with industrial wind turbine complexes. They are concerned with the impacts on their property and sympathetic to the concerns of the many who have invested to bring heritage-and nature-based tourism and recreation to the area. They are joined in their concerns by the Nature Conservancy, The Audubon of Kansas, The Kansas Wildlife Federation, the Kansas Natural Resources Council, the Kansas Department of Wildlife and Parks, the Department of Interior, and many others.

As other speakers will no doubt note, favorable tax treatment for wind energy is designed to serve a public interest. Yet it is only one of many competing public interests. Let's not forget, K.S.A. 66-1,171 declares it is the public policy of this state concerning electric supplies to "avoid unnecessary encumbrance of the landscape of the state." In culturally and environmentally important regions and landscapes, the public interests weighing against industrial wind turbine complexes are substantial. When the marketplace is left alone to determine which interest is greater, it sides with the Tallgrass Ranchers. The balance shifts only when the government places a thumb on the scale by providing tax exemptions and special treatment to the wind turbine complexes.

We do not discount that there is a public interest in developing alternative energy sources that are not economically justified now so that they may be available at some point in the future. But an endorsement of the role of renewable energy does not translate into an endorsement of a blanket property tax exemption, or an indifference to where industrial wind turbine complexes are placed.

There are two questions I think deserve special consideration in debating HB 2579: (1) how much is enough when it comes to providing special treatment to support experimental development that is not economically viable? (2) Are the people from whose pockets the special treatment comes the ones benefitted? In other words, is the special treatment just?

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How much special treatment is enough? At the federal level, wind energy production has been and will be supported by a substantial tax credit. Investment in industrial wind development is promoted by aggressive accelerated depreciation rules, the impacts of which carry through to the state under our tax laws. Grants are available for research and development. In addition, even though we have sufficient electricity generation capacity for the foreseeable future, developers of additional wind powerplants, which produce power only when the wind blows enough but not too much, can use the coercive force of eminent domain to string more power lines over private land to connect new industrial wind turbine complexes to the power grid many miles away. On top of that, our state law, as currently written, provides the permanent property tax exemption. The exemption is written so broadly that it covers not only the wind turbine equipment, but potentially the thousands of acres of previously taxed lands occupied by the power plants as well. How much special treatment is enough? I'll answer that. To the extent that wind energy development is a national interest, the federal government has enacted those incentives it has determined are sufficient to meet that interest. A state-level property tax exemption which conflicts with other state-level public interests is not appropriate.

Nor is a property tax exemption for property used for wind power generation just. The people who pay for the exemption are the school district patrons, the residents of townships, counties, fire districts and drainage districts who must continue to fund their local governmental bodies and must provide services to support the demands of tax-free industrial wind turbine complexes. It is these same people who must bear the impact of the industrialization of their neighborhoods with row upon row of wind turbines, each taller than the Statue of Liberty; who must bear the visual clutter; and who must bear the impact on their property values of the conversion of culturally important heritage landscapes into industrial parks.

The Tallgrass Ranchers are opposed to the property tax exemption that promotes the destruction of the values we cherish—destruction that some here today will tell you would not occur but for the exemption. We urge you to repeal the exemption. If you allow it at all, we request it be allowed for 10 years only at the county's option.

My name is Greg May and I live in rural Butler County, near the city of Leon.

I am here to speak on behalf of repealing the property tax exemption for wind power. I am a landowner, property taxpayer, and a school board member for U.S. D. 205.

In the recent past, two wind power companies have petitioned the Butler County Commission for conditional use permits to locate wind turbines in the Leon-Beaumont area. I will describe, define and explain why I firmly believe the current exemption should be repealed.

Due to the property exemption, it has been my experience that the wind energy companies have attempted to "buy access" to local government in order to obtain favorable consideration. This would not occur or be needed if wind energy companies were paying their fair share of taxes.

Let me illustrate the point with an experience I had while serving on the Board of Education. A wind energy company requested an opportunity to speak to the board. After discussing the positive aspects of the proposed project in our district, we were offered \$50,000.00 a year if we would sign a letter supporting the project. A similar pitch and offer was made to the city of Leon. The letters of support were prepared in advance of the meeting and were to be presented to the Butler County Commission. We were told that if the project was approved by the commission and we did not sign, we would not receive money. I don't know about you, but where I come from that's called a bribe.

Webster's Dictionary agrees, and I quote, "1: money or favor given or promised in order to influence the judgment or conduct of a person in a position of trust; 2: something that serves to induce or influence". Fortunately, our Board of Education has financial needs; not ethical needs.

The other project Elk River/Beaumont had a similar outcome. A district court judge found the conduct of offering money "in lieu of taxes" in connection with a favorable zoning decision, "repugnant to due process".

We can infer two themes from the behavior of the wind power companies:

- a. Wind energy companies use money to buy influence of local government units; or,
- b. The wind farm companies can give money back to the local government, because the tax exemption exceeds their financial needs. If the wind farm companies were not experiencing a financial gain, the money would not be offered to local governments.

But let us not forget it is the local tax payer that shoulders the burden and not the state. Since fairness and wind farm viability is at stake. Let local government tax-

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repeal the exemption and then the legislature and the governor can subsidize these projects from taxpayers from the entire state, not just the local county, townships, and school boards. That's fair and that is an equalized tax burden.

Please repeal the property tax exemption for wind energy. We need real power in the Flint Hills, the power that comes from fair taxation. Not the questionable practices of wind energy companies. We need the power that flows from good government.

Greg May
7499 S. W. Hwy 77
Leon, Kansas, 67074
316-320-7160

March 11, 2004

**Statement of Ron Klataske
Executive Director, Audubon of Kansas
to the Kansas House of Representatives
Committee on Taxation
Regarding House Bill 2579**

Mr. Chairmen and members of the Committee, I greatly appreciate the opportunity to testify on this bill. I hope we can all address a compelling question. Do industrial scale windpower developers need subsidies from Kansas taxpayer in the form of property tax exemptions?

US taxpayers, through the DOE have spent hundreds of millions of dollars for research and development to benefit the wind industry, approximately \$40 million just two years alone.

US taxpayers, through the DOE provide large sums in grants and contracts to the wind industry's lobbying and promotional organization the American Wind Energy Association.

US taxpayers have supplied wind energy producers with a production tax credit of 1.8 cents per kilowatt of production, guaranteed for ten years and indexed to inflation. According to an industry claim to investors, a single 1.5 MW turbine can reportedly produce a tax credit of \$80,000 in one year.

US taxpayers supply commercial windpower producers with an additional extraordinary tax write off, known as the "five-year double declining balance accelerated depreciation." Depending on the commencement date of operations, under this tax treatment the developers can depreciate more than half of their investment in slightly more than a year.

Florida Power and Light in it's first two years of operating the Montezuma wind farm reportedly received approximately \$20 million for the electricity it produced, \$12 million in production tax credits and \$18 million of income sheltered through accelerated depreciation. In return it has been reported that the company voluntarily donates \$305,000 a year to the various taxing units in Gray County. Does this sound like an industry in need of a \$3 million annual subsidy from Kansas taxpayers?

The facility in Gray County is a model in terms of appropriate siting and we commend companies when they seek sites that are appropriate for industrial scale windpower developments. However, most of the recent proposals involve the Flint Hills. We are providing a poster featuring the natural beauty of this region. Additional material outlining the detrimental impact of these projects on resources of local, state and national significance has been provided by others here today. It is certainly not appropriate to grant blanket tax incentives to venture capitalists and companies if they are going to destroy precious ecological, cultural, economic and scenic values important to the State of Kansas.

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If the State of Kansas is looking for alternative ways to offer property tax exemptions, I would recommend two more worthy investments. First, consider exempting improvements that are made by homeowners, businesses, ranchers and farmers to achieve conservation and reduction of energy use. Also, how about offering property tax reductions to ranchers and farmers who employ good stewardship and protect native prairie rangelands and meadows. Both options would spread the benefit to Kansas residents and help to keep funds focused locally where it is most needed, and directed toward both energy and resource conservation.

Tourism is just one of the economic benefits of landscape conservation. The January 2004 edition of Tourism Topics and Hospitality News, a publication of the Manhattan Convention & Visitors Bureau included the statement that, "According to CVB Director Becky Blake, the economic impact of tourism on the area is approximately \$70,000,000 annually."

The Manhattan "CVB is continuing efforts to encourage the development of a Tallgrass Prairie Interpretive and Visitors Center. The purpose of the center is to attract and educate visitors and residents of the Flint Hills region in regards to the ecological, geographic, economic and historical significance of the tallgrass prairie, and to provide travelers with information to enhance their stay in the Flint Hills region."

At a time when we face a state and local financial challenges to find ways to fund education and other needs, it is appropriate for windpower developers, who already receive massive subsidies from US taxpayers, to share in the responsibilities of other Kansas taxpayers and participate as tax paying corporate citizens. An automatic ten year or permanent exclusion from participation in taxes should not be granted by the state.

Testimony Opposing
 Preferential Tax Treatment
 for Wind Turbines
 H.B. 2579
 March 11, 2004

N. Christine Crenshaw
 Shamrock Angus Farms
 36207 Tall Grass Road
 Manhattan, Kansas 66502
 Wabaunsee County

Thank you for the opportunity to speak. My primary reason for opposing industrial wind turbines is because the Flint Hills are a Kansas natural treasure. These magnificent, ancient hills are finding a national, even international audience, as Kansas slowly and tentatively reaches out to tourists enthused about archeology, civil war history, cattle drive history, hiking, and other eco-pursuits.

My secondary reason for opposing industrial wind turbines in the Flint Hills is because the industry is a parasite on local, state and federal taxpayers. I am reminded of the strip mall tax haven in the 70's or 80's when cheaply built, mostly ugly strip malls popped up all over America fueled by accelerated depreciation that provided tax benefits to tax savvy investors.

Why should wind turbines - with a sketchy, inconclusive, inconsistent production record - receive preferential treatment? The industry tends to bring few local, sustained jobs; the infrastructure, local roads in particular, are strained by the huge, road-destructing equipment; and current behavior suggests the industry is rushing forward because of tax breaks. Better to provide tax breaks for small businesses, home owners, child care centers, etc., who make a commitment to the community and the state.

Besides the issue of permanently scarring the fragile Flint Hills soil structure, the tax revenue loss on dozens, or hundreds, of turbines is enormous. For example, my modest home, partially built into a rise in one of our Wabaunsee county native grass pastures, is assessed on a value of \$95,000. I pay \$1,324 annual property tax which includes five acres of land. My family pays property tax on ten farm buildings, 1,000 acres of range or farm land and two farm residences. We purchase nearly all farm supplies and repairs from Wamego, Alma or Rossville businesses. This is how Shamrock Angus Farms would fare if engaged in any of the following four enterprises.

WB County Est. Example	\$500,000	One Wind Turbine	Applesauce Factory	Ag Machine Repair Shop	Residential Rental
Property Tax:		none	\$15,000	\$15,000	\$6,900
Depreciation:		\$100,000	\$33,333	\$25,000	\$15,625
		5 yr, SL	15 yr, SL	20 yr, SL	32 yr. SL
		commercial: appraised x 0.25		residential: appraised x .0115	
		industrial: appraised x .025		tax rate: assessed x .012	

Note: comparative value set to \$500,000 for comparison purposes only.

As this example shows, the half million dollar wind turbine does not participate in the county's tax base and is also allowed by the IRS to expense off the investment through accelerated depreciation in five years. That accelerated depreciation will, of course, also be felt at the Kansas state income tax level if the company is subject to Kansas tax laws. The factory, in this example, has a 15 year depreciation schedule, the farm shop has a 20-year schedule and the rented farm house has a 32-year schedule. Although the agriculture "value-added" factory may provide more jobs, more local supplier business, and civic involvement, that factory building will incur a \$15,000 greater annual cash expense outlay and receive \$66,667 less depreciation deduction. Why?

Why should I, a Kansas citizen who pays taxes on every structure I own, including income-producing structures, and who has paid thousands of dollars in wages or contract labor, expected to subsidize an industry with a very checkered history throughout the world regarding efficient energy production or local civic responsiveness? Why should any Kansas entrepreneur owning and maintaining an industrial or commercial structure subsidize the wind turbine industry? What is the rush? Why not wait until the Wind and Prairie Task Force makes its report? Let's shine the light long and hard on this industry. Let's scrutinize. It isn't like the wind won't be here next year or the year after..... thank you.

HOUSE TAXATION

Attachment 7

Date 3-11-04



Kansas Farm Bureau

2627 KFB Plaza, Manhattan, Kansas 66503-8155 • 785.587.6000 • Fax 785.587.6914 • www.kfb.org
800 SW Jackson St., Ste. #1008, Topeka, Kansas 66612 • 785.234.4535 • 785.234.0278

PUBLIC POLICY STATEMENT

HOUSE COMMITTEE ON TAXATION

Re: HB 2579—Property tax exemptions for wind energy resources.

March 11, 2004
Topeka, Kansas

Written Testimony by:
Terry D. Holdren
Associate State Director—KFB Governmental Relations

Chairman Edmonds and members of the House Taxation Committee, thank you for the opportunity to provide testimony today. I am Terry Holdren and I serve as Associate State Director—Governmental Relations for Kansas Farm Bureau (KFB). As you know Kansas Farm Bureau, (KFB) is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations.

Kansas ranks high in wind velocity—3rd in the nation in total wind potential behind North Dakota and Texas. Those three states have the potential to supply enough energy to meet the needs of all of the lower 48 states. Kansas Farm Bureau, through its yearlong policy development process, has adopted language, which supports the development of wind as a renewable energy resource; a resource, which could play a significant role in revitalizing the Kansas economy. It is imperative that we recruit appropriate agencies, and interested parties to study this source of renewable energy and develop a plan, with incentives, to encourage wind generation in Kansas.

Among those incentives, tax exemptions are an attractive mechanism to draw developers to the state and to encourage them to become profitable contributors to the local economy by providing jobs and, eventually paying property taxes. KFB policy supports implementation of a graduated tax schedule to encourage and recruit wind developers to the state.

We realize that many of the initiatives regarding this issue are quite controversial. KFB encourages leaders to participate in the study and discussion of this issue to ensure that our resources are both protected and developed in a manner that benefits all Kansans. To contribute to the development of a plan to address this issue, Mike Irvin, Director of the KFB Legal Foundation, currently serves on the Governor's Prairie Wind Energy Task Force. We believe that this group will produce a well-reasoned plan for the development of this resource in Kansas. Thank you.

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*Kansas Farm Bureau represents grass roots agriculture. Established in 1889, the
advocacy organization supports farm families who earn their living in a c*

**Testimony of Mark Bruce
representing FPL Energy
in opposition to HB 2579
before the Kansas House Committee on Taxation
March 11, 2004**

Good morning, and thank you Chairman Edmonds and members of the committee for the opportunity to share some thoughts on HB 2579 from the perspective of a company with significant experience in wind farm development and operation and significant interest in continuing to do business in the State of Kansas.

For the record, my name is Mark Bruce. I am employed by and represent FPL Energy. For those of you who are not familiar with our company, FPL Energy develops, owns, and operates electric generation facilities totaling more than 11,000 megawatts of capacity in over 20 states, including a 112 megawatt wind farm in Gray County, Kansas. Our diverse generation portfolio emphasizes clean, efficient, and renewable technologies. FPL Energy owns and operates the world's largest two solar power facilities and is the leading producer of wind energy in the United States.

In a February 2002 study, the US Public Interest Research Group named Kansas as the top state in the U.S. for wind resource potential. Kansas, however, currently lags behind other midwestern states in the amount of wind energy it produces. Not only is one of your cleanest and most abundant energy sources underutilized, but Kansas has in fact recently become a net importer of energy, a dramatic change from its traditional role as an energy exporter.

At the same time Kansas' energy production is failing to keep pace with domestic needs, rural areas of the state have been hard hit by falling prices for agricultural goods, severe drought, and population migration.

The Kansas Legislature addressed all of these issues in 1999 when it authorized the existing property tax abatement for renewable energy technologies. The incentive has been quite effective. Consider, for example, the impact of FPL Energy's Gray County wind farm.

- The project realized capital expenditures in excess of \$100 million.
- The project, at its peak, employed 150 construction workers.
- The facility currently employs 10 full-time employees with an average wage in the \$50,000+ range. This is above the median wage in Southwest Kansas and contributes to the local economy from both payroll and the purchases of goods and services.

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- The operation of the facility provides leasing income to the local landowners in excess of \$370,000 annually while allowing continued use of the land for agriculture and grazing. These payments escalate annually.
- In 2002 and 2003, FPL Energy made a voluntary donation to Gray County in excess of \$300,000. This planned donation escalates annually over the next decade and ultimately lightens the tax burden that might otherwise go to the local residents.
- As our employees frequently report, there has been additional tourist interest in Southwest Kansas and that, too, translates into additional spending.

In short, the tax incentive created by this Legislature directly led to clean, new domestic energy production, new high-wage job creation, and millions of dollars in benefits to the people of rural Kansas, not to mention reliable, low-cost electricity for Aquila's customers.

Our analysis suggests that for a new wind project the size of Gray County, loss of the renewable technologies property tax incentive would increase the cost of wholesale wind power by some 20-25%. At that increased cost, we couldn't sell the output power and the project would *not* be built. Bottom line – doesn't matter how much or how hard the wind blows if we can't sell the output. For FPL Energy, Kansas has been a great state in which to do business. However, HB 2579 would adversely impact the economics of wind power generation in Kansas for all stakeholders.

Furthermore, and perhaps most disturbing from FPL Energy's perspective, HB 2579 (and several other bills introduced in this legislative session) send an inconsistent signal for economic development in Kansas. Having committed significant capital in 2001 to the Gray County Project, following the 1999 Kansas Statute granting property tax exemptions for renewable technologies, and then realizing just one year following commercial operation that the property tax exemptions could be repealed, is troublesome to us at FPL Energy. I am sure that other firms have a similar view.

I urge you to oppose HB 2579 in this committee and instead to continue the path set by this Legislature just a few short years ago to promote wind energy and help Kansas achieve its potential as a national leader in clean energy and rural economic development.

Testimony

Before the House Taxation Committee

Topeka, Kansas

On House Bill No. 2579

**An Act Concerning Property Taxation
relating to Wind Energy Resources**

The Honorable John Edmonds, Chairman

March 11, 2004

Given by:

Jeffrey D. Schlichting, President

HMH Energy Resources, Inc.

Larkspur, CA

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Introduction

Chairman Edmonds and members of the committee, thank you for the opportunity to present this testimony in opposition of House Bill 2579.

My name is Jeff Schlichting and I'm President of HMM Energy Resources, an energy development and consulting company focused on renewable energy projects. I believe passionately in the value and importance of renewable energy. Over the past sixteen years I've been involved with dozens of renewable energy projects across the Midwestern and Western states. HMM is currently leading the development of two wind energy projects in Kansas, one in the south-central part of the state, the other in the southwestern region.

I was born and raised in Kansas, about 60 miles from here in the Flint Hills of Geary County. I love this State and the things that make it such a special place. I like to think that I understand the character of Kansans because I'm a Kansan character myself.

I'm here today to speak in opposition to House Bill 2579 because I believe it goes against the character of Kansas, as I believe that it runs contrary to the goals and efforts of the vast majority of Kansans. This legislation singles out and penalizes wind energy, jeopardizes investments already made in Kansas and discourages additional investment in the State—not only by wind energy projects but by the business community at large.

I would like to explain why I believe these things by briefly addressing three topics today: The environmental value of wind energy, the economic value of wind energy and the business perception of Kansas as shaped by the State's response to wind energy.

Environmental Value of Wind Energy

Using state-of-the-art 1.5 megawatt wind turbines, a well-sited 100 turbine windfarm can produce up to 550 gigawatt hours of electricity per year. That's enough power for approximately 63,000 Kansas households, about the number of homes in Overland Park. And despite assertions to the contrary, every kilowatt of renewable energy consumed displaces a kilowatt of coal, natural gas or nuclear energy.

A key attribute of wind energy production is that it doesn't produce any emissions or utilize any water in its generation. The same 100 turbine windfarm I mentioned will offset hundreds of millions of pounds of environmentally harmful emissions. This includes 840,000,000 pounds of carbon dioxide (equivalent to the average annual emissions of 84,000 cars), 4,400,000 pounds of sulfur dioxide, and 2,700,000

pounds of nitrogen oxides. During the 20 years of a windfarm's operation this amounts to 17 billion pounds of emission offsets. You can't convince me that avoiding 17 billion pounds of pollution is not beneficial to the environment of Kansas. All without using water, one of the State's most precious commodities.

Economic Value of Wind Energy

Wind energy's positive economic development impact on rural communities can be significant. Using the same 100 turbine example, the total economic impact on the local economy over 20 years is estimated to be in excess of \$45 million. This includes approximately 175 jobs during the construction phase, utilizing local contractors and labor. It also includes 15 to 20 full-time jobs for operations and maintenance once the facility is built. These are long-term well paying jobs that will remain throughout the life of the project.

Wind energy is an important product for regional utilities. With recent natural gas price volatility and escalation, utilities recognize that wind can be a less expensive source of electricity than gas fired generation, allowing utilities to minimize price increases to customers. Wind energy is also attractive because it can offer long-term fixed price contracts that bring price stability to their generating mix.

A typical windfarm will only use about one to two percent of the total land leased, thus a 100 turbine windfarm will use between 100 and 200 acres of land. Consequently, wind energy projects co-exist very well with the typical ongoing uses of the land, such as grazing and farming. The supplemental income to landowners from having several turbines on their property can often make the difference between staying on the ranch or farm and taking a job in town.

Business Perceptions of Kansas

Back in 2001, my company was deciding where to next pursue the development of renewable energy. Based on all we knew and the research we had done, the choice had been narrowed to two states, Kansas and Hawaii. Call us crazy, but obviously we chose Kansas.

We chose Kansas based on the fact that the State has consistently welcomed businesses and people who want to invest their time, hard work and money in the State. Specifically, we viewed the property tax exemption for renewable energy generating equipment as a clear invitation and inducement designed to encourage renewable energy development in the State. Since that decision in 2001, the two projects that we're developing here have spent nearly a million dollars in the effort to bring more wind energy and its associated benefits to Kansas.

The effort that House Bill 2579 represents seriously challenges the assumptions we made in choosing to invest here. No one likes to have the rules changed after the game has started. In the case of repealing or reducing the property tax exemption for wind energy, I view it as a change to the rules in the middle of the game. There are some who enthusiastically support this bill not in the interest of local

communities at all, but rather in the interest of their narrow agenda of driving away all wind energy development.

Kansas government has long recognized the value of the land here as an abundant resource for agriculture and ranching, and has encouraged those businesses in numerous ways, including a permanent property tax exemption on machinery and equipment used to realize the value of the land's resources. Wind energy is really no different, it's just a new crop.

Conclusion

I am reminded of a bumper sticker I saw years ago that stopped me in my tracks. It read "Welcome to California. Now go home." I was stunned at the brashness of that statement, but the message was clear.

I sincerely hope that "Welcome to Kansas, now go home" is not the intent of this legislation. I believe that Kansas and the majority of Kansans continue to welcome those who are prepared to invest their time, hard work and money in this great State. I ask and encourage you to vote "no" on House Bill 2579.

**Testimony of RES North America, LLC
House Bill 2579
Before the House Taxation Committee**

By Todd Eagleston, Development Manager
March 11, 2004

Thank you for the opportunity to present the views of RES North America, LLC, concerning proposed House Bill 2579.

RES North America, LLC, ("RES-NA") is a member of the Renewable Energy Systems ("RES") group of companies, one of the world's leading wind energy developers. RES has offices in 9 countries and several thousand MW of wind power capacity on its books at various stages of development. In 2001, RES completed construction of what was then the world's largest wind farm at King Mountain, Texas (280MW) and has to date built over 550MW of wind power capacity in the USA. This represents nearly \$600 million in new investments made, more often than not, in rural counties with only limited opportunities for economic development. RES possesses all the capabilities required to develop, construct and operate successful wind farm projects.

First, a little background on how we became interested in doing business in Kansas.

In late 2001, after having been contacted by Wichita County Economic Development (hereafter "WCED"), and having researched Kansas' untapped potential for wind energy development, RES-NA decided to pursue the development of wind farms in western Kansas.

In addition to looking at Kansas' wind resource potential, following-up on the excellent information provided by WCED our research included, most notably, investigation of the tax laws of Kansas, which confirmed that Kansas law (K.S.A. 79-201) provides an exemption from property taxes for "renewable energy resources or technologies", including of course wind resources or technologies. Our research also included a search for suitable sites. These three factors: 1) wind resource potential, 2) state law (especially regulatory and tax policy), and 3) the availability of suitable sites, are our primary criteria in determining whether or not we invest in a particular state. Many states either have adopted, or are in the process of adopting various stimuli for the development of renewable energy resources for reasons that are well known, and which I will not belabor. Some of the reasons most often mentioned include: 1) renewables are not imported; they are an indigenous energy source, 2) they diversify our energy base and thereby reduce the danger of over-reliance on any single energy source, such as natural gas, to generate electricity, and 3) they are clean and renewable.

Relying on the exemption afforded to renewable energy sources in our analyses of the economics of developing projects in Kansas, over the past three years RES-NA has spent a considerable amount of effort and money to develop wind energy sites and projects in

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western Kansas. We are delighted that the combined efforts of RES-NA, Sunflower Electric, and Wichita County have culminated in the Sunflower Electric Wind Farm announced last year. We look forward to continuing to invest in and grow our business in Kansas.

However, HB 2579 is a dark cloud now hanging over us, which can spoil these plans. At worst, it could cause us to abandon all development efforts in Kansas, and write-off our investments here.

I will now give the Committee six (6) reasons why we believe this bill should be withdrawn or rejected:

- x 1. It sends a very bad signal to any company considering investment in Kansas.
Unstable tax laws doom business investment planning, because of the uncertainty and the very unfavorable business assumptions that must be built into pro-forma financial analyses as a result of that uncertainty. For wind energy development this has now spanned over two years—initially with the introduction of SB 85 last year to permanently eliminate the property tax exemption for wind, which legislation continues to be contemplated in the current legislative session, and now the consideration of HB 2579 which attempts to change the “rules-of-the-road” while wind development in Kansas has been ongoing for many years and has heavily relied upon the tax incentives currently made available. Because Kansas does not have any mandate on the types of electrical energy produced, the ability for renewable energy facilities to become reality in Kansas is directly based upon the economic incentives provided. This is specifically why the current tax incentives in K.S.A. 79-201 and provisions like it were originally enacted.
- x 2. Singling-out wind for removal from the list of renewable energy technologies that receive a tax exemption is nonsensical and discriminatory.
It is obvious on its face that wind belongs on any list of renewable energy technologies and resources. It is clear that any attempt to remove wind from the definition of renewable technologies in K.S.A. 79-201 is discriminatory and designed to address other non-tax policy issues concerning wind generation. Again, this method of policy-making leads to uncertainty and concerns by business owners on whether to conduct business in Kansas.
- x 3. It is totally inappropriate to use tax law to remedy a perceived problem of project siting.
The question about siting of projects in the Flint Hills has somehow led to an effort that would snuff-out Kansas’ fledgling multi-million dollar wind industry, and the economic development it would bring to rural communities wishing to host such projects. Local jurisdictions are best qualified to deal with objections to siting of wind facilities, and to appropriately balance the interests involved. The amendment of K.S.A. 79-201 for this purpose is bad policy.

4. Because of the economic losses it would trigger, such a change is unfair to those who have invested money in projects relying on the current law.
RES-NA and others have invested a great deal of money and have executed agreements relying upon economic analyses that would be invalidated by this bill. Because wind farms are so capital-intensive (almost four times the capital cost vs. more fuel-intensive technologies, based on equivalent annual production) they are especially sensitive to property taxes. This problem is magnified when considering that wind projects would be taxed in Kansas as utility property. Utility property receives the highest assessment ratio of any property subject to ad valorem taxes in Kansas (i.e., 33% vs. 25% for commercial industrial and 11.5% for residential). The economic cost of the property tax under this assessment regime is considerable, even with an initial 10-year exemption.

Regarding the Sunflower facility, we had proceeded with the reasonable expectation that the permanent tax exemption would be available which would allow for a project in the near-term. However, faced with the uncertainty created by HB 2579 and bills like it, we must re-evaluate the economic viability of this facility.

5. In spite of the exemption, most wind project developers are entering into "payment in lieu of taxes" agreements with local jurisdictions.
We have entered into such an agreement with Wichita County, and believe it is reasonable to expect others will do so also. Therefore, although K.S.A. 79-201 provides for a permanent tax exemption for renewable energy technologies, wind projects contribute to the local rural economy through payment in lieu of tax or similar agreements.

6. A greater tax burden on wind farms only raises the cost of the energy they produce.

If a wind project is completed despite the loss of the permanent exemption, the net effect would be to simply move the money around within Kansas, reallocating between electric customers and local taxpayers, rather than bringing new money into the State. Export power sales would be very limited inasmuch as the prices that would have to be charged for such power would be considerably higher and uncompetitive. As noted above, new investment in Kansas wind industry would be stifled, so the net effect is to reduce inflow of capital, and job creation.

It is painfully obvious that HB 2579 is designed to curtail development of a wind industry in Kansas at a point in time when it has barely begun to take root and produce significant benefits to the State's rural economy. Such a result cannot be good for the citizens of Kansas. We strongly urge this Committee to reject HB 2579.

Testimony before the House Committee on Taxation HB 2579

March 11, 2004

Given by:

Jennifer States, Managing Director
J.W. Prairie Wind Power LLC
3211 Clinton Parkway Court, Suite 2
Lawrence, KS 66047

Chairman Edmonds and members of the House Committee on Taxation, thank you for the opportunity to speak today on HB 2579. My name is Jennifer States, and I am the Managing Director of JW Prairie Windpower. I am also serving as a member of the Governor's Wind and Prairie Task Force. JW Prairie Windpower is very concerned about the possible repeal of the property tax exemption, and I am here today to testify in opposition to this bill.

Prairie Wind Power is a Kansas based LLC, with its headquarters in Lawrence. We are enthusiastically working to develop wind projects in Kansas, with our efforts focused on the Munkers Creek Wind Project in Morris and Wabaunsee Counties. This wind project is located in the region known as the Flint Hills; but it will be sited primarily on farm lands that are not part of the intact Tallgrass Prairie ecosystem. We strive to develop economically and ecologically sound wind energy projects that benefits all parties involved.

Wind energy development is good for Kansas. It brings dollars and jobs to our rural communities. It diversifies our energy mix and utilizes our states resources, not energy imported from other states. And it generates energy that is non-polluting and renewable.

To achieve the many benefits of wind energy for the state of Kansas, incentives need to be in place to ensure the competitiveness of wind with other long established sources of energy. Kansas ranks first in the nation in wind energy potential, but not in wind energy development or incentives that encourage its development.

Our neighboring states have numerous policies in place to encourage the development of wind. For example, Iowa has the following policies in place to encourage renewables, including wind:

- Property Tax Exemption
- Sales Tax Exemption on Wind Energy Equipment
- State Grants for Energy Efficiency and Renewable Energy Research
- Alternate Energy Loan Programs
- Interconnection Standards
- Mandatory Utility Green Power Option
- Net Metering
- Renewable Set Aside (Alternative Energy Law)

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Consequently, Iowa has 471.2 MW of wind energy developed, with plans announced for an additional 300 MW project in the near future. Iowa ranks 10th in the nation in their wind energy potential, compared to the first or third place ranking of Kansas (depending on which source).

The property tax exemption is the one state incentive that is in place in Kansas to encourage large scale wind energy development. But twice the legislature has considered the repeal of this tax exemption. The uncertainty surrounding this incentive makes for an unstable business environment. Kansas has only developed 113.7 MW of wind energy. Not a single turbine has been installed in Kansas since 2001.

The property tax exemption is a viable and commonly used policy to encourage wind energy development. Thirty two states have a of property tax exemption in place for wind energy. Eight of these states have a full tax exemption with no time limitation.

There are several reasons why the repeal of the property tax exemption will hurt the Kansas economy, instead of help it.

- If the state passes legislation that increases the cost of producing electricity from wind energy, it is a certainty that the cost of electricity from wind will go up directly by the amount of those property taxes. Wind energy projects cannot absorb these taxes with the currently competitive prices for a Power Purchase Agreement. If the bid prices for wind electricity are raised substantially for the last 10 years of a 20 year contract, will utilities in Kansas be willing to enter into PPAs for this increased cost today? This tax increase must be paid by the retail and business purchasers through higher prices for electricity in Kansas. Is the legislature prepared to require the utilities to buy this electricity at prices that contain these additional taxes? Otherwise, we are likely to see no new wind generated electricity in Kansas as a result of this tax.
- While wind energy is continuing to become more competitive with other energy resources, the rate of return required to find investment and make these projects successful is still very tight. The repeal of the property tax exemption would increase rates to a level that utilities and customers are not willing to pay, making further wind development in this state very difficult.
- Revenue from new wind energy projects that would be received by farmers and counties will be lost as new project finance capital dries up. It will not be economic to build and operate new wind energy projects in Kansas without raising electricity prices.
- Kansas, like many other states, is struggling economically. We need additional state revenue sources. In times such as this, you want productive companies to be attracted to the state to increase both short term and long-term state revenue. The property tax exemption is helping to draw wind development companies to this state, as evidenced by the large number of developers active in Kansas right now. Passage of this bill is analogous to butchering the cow that will give you years of milk, for a months worth of beef.

- There is a strong probability that a Renewable Portfolio (or Electricity) Standard will be put in place by the Federal Government in the near future. The RPS (or RES) has been passed by the Senate in the last two sessions, but a comprehensive energy bill has yet to pass the full Congress. Once the RPS is in place, states will be forced to generate a fixed percent of renewable energy by a set date. Those states that already have renewable energy in place will be ahead of the game. States that generate more than the required amount will be able to sell the excess to the other states that cannot meet the standard. Those states that cannot produce the renewable energy themselves will have to pay a higher price for their power. Kansas will be much better off if we encourage renewable energy generation to be developed before the RPS is in place.

The repeal of the property tax exemption for wind farms could result in the loss of future projects in Kansas, and the economic benefits that would be enjoyed by our rural communities. The economic implications of losing wind energy development in KS are threefold, in-state benefits and revenue will decrease, revenue to landowners and the county will be lost, and the need for energy imports will continue to grow; sending valuable jobs and revenue to surrounding states. The wind energy business is slowly growing in Kansas. State policy needs to remain in place that will nurture this growth so that the state can continue to benefit from it.

Testimony before the House Committee on Taxation

HB 2579

March 11, 2004

Given by:

Roger Zimmerman

Hello, my name is Roger W. Zimmerman. My wife and I are from Alta Vista, Kansas in Wabaunsee County. We make our living by farming in the county. My family has farmed in this area for five generations. We are here today to oppose HB 2579. We want wind farms as an option for our land. This bill discourages wind energy development, so we are opposed to it. "Would we be discussing this issue if the Anti Wind Energy group had not come forth?" There have been subsidies for all kinds of energy sources over the years. Without these subsidies, coal, natural gas and fossil fuels developments would have not been able to take place. Why now, is it necessary to restrict these subsidies for the cleanest, renewable energy there is? Wind energy is like no other type of energy available today. It provides the opportunity for community benefits.

As a farmer and rancher it would be an advantage to have another economic resource, but yet others are taking our property rights away. They are trying to tell us what we can and can't do to the land that we own. Where are our rights? We are not in the designated area of the Flint Hills that the opposing side is concerned about. Yet, we have to defend this issue every day. The majority of this land is tillable farmland or what we call "go back grass", not intact tall grass prairie.

We need the economical growth to take place in Wabaunsee County and also in other counties around us. We need the incentives that HB 2579 would take away. Please think about rural areas that are in need of expansion and what this source of energy would do for the community.

The opposition in Wabaunsee County wants the turbines taxed. They believe that only a few will receive lease payments and benefit in the county. Therefore, they are not thinking about the job force that will come with the farm during construction, as well as maintenance crews to service the turbines. In my research, benefits from wind farms can be of value to the community. Please reconsider your thoughts on HB 2579 because wind energy has the potential of having economical and environmental benefits to our local communities as well as on a statewide basis.

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Testimony before the House Committee on Taxation

HB 2579

March 11, 2004

Given by:

Colleen Anderson

My name is Colleen Anderson and I am landowner in Morris and Wabaunsee County. I feel that it is very important to develop the wind energy of the area. The federal government is aiding new energy technologies to give these sources of energy production an equal footing with those long established energy producers. This government aid is nothing different than what has been given to the other energy producers such as natural gas, coal and oil for a very long time. The likelihood that these emerging wind technologies will be able to compete in the beginning without these subsidies is doubtful. I worry that there is a great deal of influence by those that would not like to see this non-polluting, natural, renewable energy resources be given a equal chance to bring their benefits to the marketplace. Of further concern to me is the reported support of "big oil" in the anti-wind energy coalition. I find the timing of the discussion of this issue somewhat ironic in light of the continued vague and misleading statements of the anti-wind coalition. I point to a recent full color mailing with an Eskridge mailing permit, announcing informational meetings with no sponsor listed, what was the agenda or who was invited to speak at these meetings. Further there is no contact address of a group or individual. This is indicative of the sort of misinformation and misdirection that I feel has created the interest in this bill.

Once again the rights of land owners have been of an issue in all of this. Those of us who really desire to have an additional source of revenue from our properties have had to defend those rights against those that may have little or no need of the income that their lands produce. My supervisor and co-workers have been of great help for me to be here to present my views today. Many have asked me to express their support of wind development as well. Time, money and resources make it difficult for those who this bill will affect the most to come and tell you of their concerns on this matter.

We live in an area of the Flint Hills region that has been tilled for over a 100 years. It is not tall grass prairie. It happens to have the slopes that produce a sustained air flow that would power the wind towers and transmission lines to carry the power to a paying and hungry market. We in rural Kansas have brownouts every summer, sometimes on a daily basis. This is not a big issue unless you rely on a home oxygen generation system or other life aiding devices. There is great need for in rural Kansas as well as the neighboring metropolitan communities for additional power generation.

We have traveled to Montezuma and spoke to the local John Deere dealer's staff. They felt that the farmers there are more able to make implement and land payments, and support local business due to their wind generated income. I have seen my home town go from 5 implement dealers to now having to travel 40-90 miles to obtain our supplies. The whole rural economy needs a boost. We are loosing our younger workers in Morris County giving us a one of the highest average ages in the state. The young workers have

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higher aspirations than working in the local restaurant. Morris and Wabaunsee counties also have some of the highest welfare rates as well. I understand that money is not the answer to everything, but it might be a good place to start.

While this is not the direct essence of HB 2579, I would hate to see anything that would further impede development and investment in any part of the state. My interest is primarily in the Flint Hills, but this bill will, impact us all. Our area has all the major requirements to make wind energy generation a reality, outside areas of environmental concern. There is sustained wind flow, proximity to the power grid, a wide customer base and signed contracts with developers working on just these sorts of projects. I ask you to help secure this economic potential for our rural area as well as those who will benefit all over the state.

Testimony before the House Committee on Taxation

HB 2579

March 11, 2004

Given by:

Robert Goss

My name is Robert Goss and I live in Dwight, KS. I am a farmer and rancher in Geary, Morris and Wabaunsee Counties. I am in favor of wind turbines for several reasons. First, wind is very important for the State of Kansas. We are currently letting a very valuable resource go to waste. I am also concerned about the future of my children and grandchildren. Someday they may face the same problems as the East and West coasts, electrical blackouts. Also, with the depleting supply of natural gas we will need to find new sources of energy.

Everyone uses and depends on electricity. It is a fact that with each passing year we use more and more electricity. New sources of electricity are going to have to be found to ensure a constant supply. From where would you like to have the additional electricity generated? Coal, hydro, nuclear or clean renewable non-polluting wind? This choice is very clear to me. Wind is the best choice.

Out of all of the arguments against wind turbines, the only legitimate one is that some people don't like the looks of them. Be realistic, change in this world is a constant fact, it is always taking place. If we had debated the value of the wheel we would still be debating and probably still be living in caves. I feel it is time to move on with wind turbines. Some groups would like for you to believe that everyone is against them. I just want to remind you that there is usually a loud minority and a silent majority.

On the issue of taxes, I can't understand why everyone is so concerned about tax-exempt status. Everyone who knows how business operates realizes that if a city like Topeka had a company that wanted to move to town, spend 300 million dollars on a new facility then spend one half million on payroll and one half million on rent to the landowners every year, they would roll out the red carpet and provide them with streets, utility hook-ups and give them tax exemptions. Why should wind turbines be any different?

It is time for landowners to stand up for their rights. If we continue to let outsiders make the rules as to what we can and can't do with our land then someday we will not have to worry about our future. The agricultural community will not exist. When this happens you will have nothing left but empty stomachs and a lot of Tall Grass Prairie. Think about it.

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Gaches, Braden, Barbee & Associates

Governmental Affairs & Association Management

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House Tax Committee
Comments of Kansas Wind Coalition
Re: HB 2579 – Property Tax Abatement for Wind Energy
By Ron Gaches of Gaches, Braden, Barbee & Associates
Thursday, March 11, 2004

Thank you Chairman Edmonds for this opportunity to express the concerns of the Kansas Wind Coalition regarding HB 2579, the proposal to limit the property tax abatement for future wind energy projects to ten years.

The positive attributes of wind energy are well known and not in dispute. Wind energy represents the future of Kansas energy production. It is the most environmentally friendly of all commercially viable energy sources. Wind energy is virtually pollution free. Every megawatt of wind energy takes the place of a megawatt of oil, gas, coal or nuclear energy production. The environmental benefits to our society are significant.

Sitting in the middle of the Midwest it is easy to think that the environmental attributes of wind energy aren't important to us. But metro communities throughout the Midwest, including Kansas City and Wichita, already have to concern themselves with air quality attainment issues. And the emissions and disposals issues associated with coal, gas and nuclear energy are well documented.

Even more importantly for rural Kansas, wind energy means investment and jobs. Wind energy developments are massive construction projects, employing hundreds and relying heavily on Kansas' design and construction services, suppliers and workers. After the construction, there are fewer permanent jobs, but they tend to be good paying service, maintenance and professional jobs with security.

Because of these significant benefits for rural Kansas and the State, the Kansas Legislature decided in XXXX to create a favorable climate for wind energy by providing a permanent property tax abatement for wind energy developments.

Actually, the property tax abatement for wind really isn't unique or even unusual as an incentive to support rural Kansas. It is exactly the same property tax abatement we provided when we eliminated the property tax on livestock and on farm machinery and equipment.

And it is similar to the treatment received by the oil and gas industry during its infancy. Despite the environment issues associated with oil and gas production, Kansas has

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always looked for ways to encourage production of our mineral resources. Our oil and gas industry was more than 50 years old before we imposed a severance tax on production in the early 80's. And, even now, we look for ways to reduce the tax burden on minerals to encourage production of marginal fields, thereby maximizing the financial return for the largest possible number of Kansas citizens. Even traditional utility property, coal fire electric plants and the like, is eligible for a twelve-year tax abatement.

The current controversy surrounding the property tax abatement for wind reminds me of the Kevin Costner movie "Field of Dreams" wherein the landowner was told by a voice "build it and they will come." He built his ball diamond and magically baseball greats from previous generations came to play.

Well, just a few years ago we heard the call to create an incentive for wind development with passage of a property tax abatement, and now folks are alarmed that landowners might be interested in hosting wind energy on their land. I think the abatement is having exactly the result we imagined when we passed it.

The bill before the committee today proposes to cap the property tax abatement for wind energy at ten years. Our concerns are two fold.

First, we are concerned that limiting the tax abatement will make Kansas less competitive among Midwest states for the location of wind energy developments. The lists of competing states with incentives for wind energy production is long. North Dakota, South Dakota, Minnesota, Iowa, Wisconsin, Illinois, Indiana, Tennessee, Ohio, and Oklahoma all offer preferential treatment of wind energy, most generally property tax abatements or special low assessment rates. In addition, Texas has imposed a Renewable Energy Portfolio standard that has stimulated great growth in wind energy production. Shortening the property tax abatement will make Kansas much less attractive for investment.

Second, we believe the current proposal is probably in violation of Article 11, Section 1 of the Kansas Constitution, which mandates "uniform and equal" property taxation. Our Constitution reads, "The Legislature shall provide for a uniform and equal rate of assessment and taxation, ..." As this clause has generally been interpreted by Kansas' courts, it is understood to mean that similar properties must be value and taxed in a similar way.

For example, all homes must be valued at their fair market value and assessed at the same assessment 11% ratio, regardless of their location across the state. The same is true for all other classes of property ... agricultural land, commercial, industry and state assessed utilities. Under the Kansas Constitution, similar properties must be treated similarly.

HB 2579 proposes to treat similar properties differently. Wind development projects built prior to July 1, 2004 would be completely exempt from property taxes while identical projects constructed after July 1, 2004 would be tax exempt for only 10 years. FPL and Westar have already constructed wind turbines that benefit from the permanent

property tax abatement. Other landowners and wind developers, including my clients, have projects that are waiting to be finalized.

A final comment about the future of HB 2579. I have heard speculation that this bill might be a vehicle for passing a moratorium on Flint Hills wind energy projects. If the intention of the committee is to kill development of wind projects in or near the Flint Hills, approval of a moratorium will probably do exactly that. Here's why. Landowners and wind developers are currently waiting on Congress to renew the production tax credit for wind energy. During this period, everyone is finalizing preparation of their projects. Everyone that is, but those of us in Kansas, where discussions of moratoriums and uncertainty over tax treatment have created an uncertain development climate.

Once Congress renews the federal tax incentive projects will move quickly toward construction. Despite concerns expressed to the contrary, there is not unlimited demand for wind energy projects. The demand side of the equation has a limit; and transmission constraints further limit our potential. Once projects move forward in other states, the opportunity for Kansas landowners will be reduced dramatically.

We urge your rejection of HB this proposal.

The Kansas Wind Coalition is comprised of Greenlight Energy, J.W. Prairie Wind Power, and RES-North America and neighboring landowners supporting their projects.

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**SUBMITTED TESTIMONY
IN OPPOSITION TO HB 2579**

TO: The Honorable John Edmonds, Chairman
And Members of the House Taxation Committee

FROM: Whitney Damron
On behalf of
The Empire District Electric Company

RE: HB 2579 – Property Tax Exemption; Wind Energy

DATE: March 11, 2004

Mr. Chairman and Members of the House Taxation Committee:

On behalf of The Empire District Electric Company, a Kansas-incorporated, investor-owned utility with headquarters in Joplin, Missouri, I am respectfully submitting comments in opposition to HB 2579 that would repeal the current property tax exemption for wind energy. Attached to my testimony is a copy of comments from Empire presented to the House Utilities Committee earlier this session in opposition to HB 2799 that would place a moratorium on the development of wind energy in the Kansas Flint Hills.

The point of our comments on this bill and other legislation that would essentially prohibit future wind energy development in our state is to note that utilities and industry have made investments and are anticipating making additional substantial investments in wind energy technology and infrastructure in our state to meet the needs of consumers, from residential to commercial and industrial. Legislation affecting wind energy's viability will necessarily impact the availability of electric generation for consumers.

The Kansas Legislature made a public policy decision several years ago to adopt tax incentives that would encourage development of this industry. It would appear your efforts have been successful. It would be a disservice to utilities and ratepayers alike to change course and repeal the incentives for this environmentally-friendly energy and related technologies.

On behalf of The Empire District Electric Company, I thank you for your consideration of these comments and the attached testimony to HB 2799.

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TO: Representative Carl Holmes, Chair
Members of the House Committee on Utilities

FROM: Brad Beecher
Vice President of Energy Supply

RE: House Bill 2799 – An Act Related to Wind Energy

DATE: February 23, 2004

Good morning Mr. Chairman and Members of the House Committee on Utilities. My name is Brad Beecher and I am Vice President of Energy Supply for The Empire District Electric Company based in Joplin Missouri, a Kansas corporation.

Thank you Mr. Chairman, and members of the committee, for the opportunity to speak today.

Empire is an investor-owned utility company serving approximately (156,000) customers in southeast Kansas, southwest Missouri, northeast Oklahoma and northwest Arkansas. Empire has approximately 10,000 customers in southeast Kansas.

Empire has a responsibility to develop a reliable, economical, and environmentally sound power supply to serve our customers. In the past, that has meant a mix of fossil fuels, such as coal and natural gas, as well as hydroelectric generation. Today, with technological advances and the Federal Production Tax Credit (PTC), wind energy is a viable alternative for our customers and the citizens of Kansas.

We do not feel a moratorium on wind projects is in the best interest of Kansas consumers nor Kansas resources. A two-year moratorium will be at odds with a renewed PTC in federal legislation because the PTC opens the window of credit while a moratorium closes the window of construction. In essence, this moratorium would make Kansas wind projects an uneconomical energy alternative.

Upon renewal of the PTC, it is Empire's intention to pursue wind projects in Kansas, including projects in the Flint Hills region that are in proximity to transmission capable of delivering energy to our system. We are currently negotiating with a goal

of procuring about 10% of our energy, or about 500,000 MWh's per year, from a Kansas project.

The demand for energy for our customers and the region continues to increase. Empire has a large purchased power contract that soon expires, plus aging coal-fired generation that we plan to replace in order to continue to fulfill our obligation to serve. Wind energy is planned to be a part of the way we fulfill our obligation to provide energy to our customers. Empire also believes additional coal generation is needed and we continue to investigate those options.

Being an electric utility, one of our main concerns has been and will always be keeping our customers' rates competitive and stable. Wind energy has the potential to add some stability to the volatile natural gas market, which in turn provides security to energy consumers across the state. Wind energy also is less of a strain on other commodities, such as water. A 600-megawatt coal plant requires as much as six to seven thousand gallons of water a minute to operate.

Kansas has an opportunity to be a leader in green energy generation for the Midwest. Along with the environmental benefits from installing a zero emission power source, wind generation will also allow Kansas to be proactive regarding federally mandated renewable energy requirements. Not only would Kansans be able to avoid paying a premium for electricity generated in other parts of the country, but they would also be able to reap the environmental benefits of that energy here at home.

The winds of Kansas are a natural resource and have the ability to ensure Kansas is a net exporter of energy instead of being dependent on other states for wind power.

For these reasons we ask this committee not to pass this legislation nor impose a moratorium on wind project construction.

Thank you for your time, and I will be happy to answer any questions.

HOUSE TAXATION COMMITTEE
REPRESENTATIVE JOHN EDMOND, CHAIRMAN
THURSDAY, MARCH 11, 2004

WRITTEN TESTIMONY ON HOUSE BILL 2579
BY: SHARLA KRENZEL
WICHITA COUNTY LANDOWNER AND
DIRECTOR, WICHITA COUNTY ECONOMIC DEVELOPMENT, INC.

Mr. Chairman and Committee members:

Thank you for the opportunity to address House Bill 2579 and provide information concerning the economic impact it would have on Wichita County.

The economy of Wichita County is driven by and dependent upon crop and livestock production and transfer payments from federal commodity programs and social security payments. We are constantly searching for ways to diversify our economy which will assist in reducing the out-migration of our residents and reducing the dependence upon a traditional, agricultural economy. Wind energy is now a possibility in Wichita County.

I believe wind energy is a viable component to the future of Wichita County. Wichita County Economic Development, Inc. has pursued wind development in the county for the past three years. Last year, the community, along with Sunflower Electric and RES-NA, proudly announced plans for the first wind energy development project in Wichita County, the Sunflower Electric Wind Farm.

In a time where state and national economies are suffering, the idea of imposing or reimposing a tax only defeats economic development. By limiting the property tax exemption on wind energy our competitive edge will be diminished. Colorado, as an example, holds the most potential for purchasing wind-generated power. Without the property tax exemption in place, wind companies now interested in locating projects in western Kansas would relocate their projects closer to the consumer in eastern Colorado. The property tax exemption provides Kansas with a competitive edge over Colorado, and other states, with regards to wind energy development.

Before this bill, which now threatens Wichita County's wind project, was proposed, RES extended their hand to Wichita County by initiating a PILOT (payment in lieu of taxes) agreement of \$2,500 per megawatt per year for ten years in spite of the current exemption. That money will help support our hospital, our schools and other community programs.

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A 100 megawatt project in Wichita County would provide an estimated 10 direct jobs and 1.15 indirect jobs for every direct job created, according to the Texas State Comptroller. The projected average annual salary for the direct jobs created is \$50,000 per job. Approximately 150 construction jobs will be created with 20% or 30 jobs originating from the local and/or regional area according to the Electric Power Research Institute.

The rental income to land owners in our area will be a welcomed relief to the current slump in the agricultural economy. Approximately \$3,000 per megawatt income will be generated for landowners. This \$300,000 income per year to the area will help keep families on the farm and businesses open on main street.

The Kansas Legislature has proposed many innovative ideas to develop and support economic initiatives in rural Kansas this session, and I applaud you for these efforts. This bill, however, contradicts those efforts and sends a negative signal to companies considering investing in rural Kansas.

I believe the issue at hand is not the property tax exemption for wind energy, but the possibility of wind energy development in the Flint Hills. Do not penalize the rest of the state for the interests of a few in the Flint Hills area. Do not take this economic opportunity from the struggling rural agricultural areas of the state. I urge you to defeat House Bill 2579.

March 11, 2004



President
Rich Bartholomew, AIA
Overland Park
President Elect
Mark Franzen, AIA
Overland Park
Secretary
Jan Burgess, AIA
Wichita
Treasurer
Michael Seiwert, AIA
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C. Stan Peterson, AIA
Topeka
Jennifer Rygg, Assoc, AIA
Wichita
Jason Van Hecke, AIA
Wichita
Kyle Wedel, AIAS
Manhattan

TO: Representative Edmonds and Members of the House Tax Committee

FROM: Trudy Aron, Executive Director

RE: **OPPOSITION TO HB 2579**

Good morning, Mr. Chairman and members of the Committee. I am Trudy Aron, executive director, of the American Institute of Architects in Kansas (AIA Kansas.) I am unable to be with you this morning as I'm testifying before another committee at the same time but we appreciate the opportunity to express our opposition to HB 2579.

AIA Kansas is a statewide association of architects and intern architects. Most of our 700 members work in over 100 private practice architectural firms designing a variety of project types for both public and private clients including justice facilities, schools, hospitals and other health facilities, industrial buildings, offices, recreational facilities, housing, and much more. The rest of our members work in industry, government and education where many manage the facilities of their employers and hire private practice firms to design new buildings and to renovate or remodel existing buildings.

AIA Kansas opposes HB 2579 which would substantially change the tax abatement for commercial wind energy production and make it economically unfeasible.

Wind is something Kansas has in abundance and it represents a clean, non-polluting, and sustainable source of electricity. It, along with other renewable sources of energy, will allow us to cut our increasing dependence on foreign and domestic fossil fuels.

AIA Kansas wholeheartedly supports this industry that makes so much sense to us. We ask you to reject HB 2579. Thank you.

Executive Director
Trudy Aron, Hon. AIA, CAE
aron@aiaks.org

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Date 3-11-04