

MINUTES OF THE JOINT HOUSE UTILITIES AND TAXATION COMMITTEES

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on February 9, 2006 in Room 313-S of the Capitol.

All members were present except:

Vaughn Flora-excused

Committee staff present:

Mary Galligan, Kansas Legislative Research
Dennis Hodgins, Kansas Legislative Research
Rena Hansen, Committee Secretary

Conferees appearing before the committee:

Representative Tom Sloan
Barton Ives, US Army Environmental Center
Mike Warwick, Battelle-Northwest
Charles Benjamin, PH.D, J.D., Sierra Club
Christopher C. Pflaum, Ph.D.
Mark Schreiber, Westar Energy
Jim Ludwig, Westar Energy

Others attending:

See attached list plus some 35 others.

Chairman of Taxation Representative Kenny Wilk, reminded the jointly meeting committee that this bill would be worked first in House Taxation and then would move to House Utilities if it passes Taxation.

Chris Courtwright gave an overview of what **HB 2723** does for publicly held Utilities companies if they sell renewable energy to federal entities, including military installations. The tax credit this bill would offer to the Utilities would act as a bit of a float to pay back the loss of the authorized rate of return on investment.

Hearing on:

HB 2723 **Tax credit for electric public utility for certain amounts related to sale of renewable energy to the federal government.**

Representative Tom Sloan, (Attachment 1), presented testimony describing how **HB 2723** was conceptualized in the Joint Committee on Energy and detailing how this bill might help to positively impact the state of Kansas economically if we would in fact invest in more renewable energy production.

Barton Ives, US Army Environmental Center, (Attachment 2), offered testimony detailing some of the requirements of the Executive order by both Presidents Clinton and George W. Bush to federal facilities to use more renewable energy, with specific goals.

Mike Warwick, Battelle-Northwest, (Attachment 3), offered testimony pertaining to the specific usage of renewable energy nationwide, and how this bill might help offer cost competitive options for the purchase of renewable energy.

Charles Benjamin, PH.D, J.D., Sierra Club, (Attachment 4), presented testimony in favor of **HB 2723** as it would help renewable energy production to increase in the state of Kansas as Kansas has one of the best opportunities to eventually become again a net exporter of energy if we harness our renewable resources.

Questions were posed by Representatives: Lynne Oharah, Arlen Siegfried, Paul Davis, Kenny Wilk, and Jason Watkins.

CONTINUATION SHEET

MINUTES OF THE House Utilities Committee at 9:00 A.M. on February 9,2006 in Room 313-S of the Capitol.

Opponents:

Christopher C. Pflaum, Ph.D. , (Attachment 5), offered written testimony against **HB 2723**.

Neutral:

Mark Schreiber, Westar Energy, (Attachment 6), presented testimony that demonstrated Westars position that **HB 2723** would neither help nor hinder them in their desire or ability to produce or use more energy from renewable sources.

Jim Ludwig, Westar Energy, was available to answer questions from the committee concerning **HB 2723** and the position of Westar Energy.

Questions continued with questions asked by Representatives: Nile Dillmore, Tom Thull, Annie Kuether, Mario Goico, Melody Miller, Josh Svaty, Carl Krehbiel, Peggy Mast, Forrest Knox, Carl Holmes, Virginia Beemer, and Sydney Carlin.

Many comments alluded to **HB 2723**'s conceptual idea being good for Kansas, but that the avenue to give incentives to this renewable energy might need to take a different venue or path.

Hearing close on **HB 2723**.

The next meeting for House Utilities is scheduled for February 10, 2006.

Meeting Adjourned.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 9, 2006

| NAME | REPRESENTING |
|-----------------|----------------------|
| Mark Schreiber | Westar Energy |
| PHIL WAGGS | KEPCO |
| Ben Cleaves | DOB |
| Ann Durkes | DOB |
| Rachel Barnes | Rep. Gordon's office |
| Mike Warwick | DOD |
| BARTON Ives | DOD |
| Melissa Miller | Rep. Hill |
| David R. Corbin | K DOR |
| Harriet Lange | KAB |
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TOM SLOAN
REPRESENTATIVE, 45TH DISTRICT
DOUGLAS COUNTY

COMMITTEE ASSIGNMENTS
CHAIRMAN: HIGHER EDUCATION
MEMBER: UTILITIES
ENVIRONMENT
AGRICULTURAL & NATURAL
RESOURCES BUDGET
KANSAS WATER AUTHORITY

STATE CAPITOL BUILDING
ROOM 446-N
TOPEKA, KANSAS 66612-1504
(785) 296-7677
1-800-432-3924

772 HWY 40
LAWRENCE, KANSAS 66049-4174
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sloan@house.state.ks.us



TOPEKA
HOUSE OF
REPRESENTATIVES

Testimony on HB 2723 - House Utilities and Tax Committees

February 9, 2006

Mr. Chairman, Committee Members: HB 2723 is a product of the Special Joint Committee on Energy that was created by the LCC to examine both the process by which energy issues are studied and specific short and long term legislative options to increase energy production and supplies.

Presidents Clinton and Bush have both issued Executive Orders directing federal agencies to engage in energy conservation and to acquire renewable energy. Even more significantly, renewable energy can count toward meeting the conservation goal, as well as the renewable energy one.

The U.S. Department of Energy ranks Kansas as one of the top three states in the nation for the potential to generate energy from renewable resources (wind, bio-mass, solar, etc.). Yet because some Kansas utilities are unable to provide renewable energy to Ft. Riley, Ft. Leavenworth, McConnell Airbase, Dole Building, etc. at the same price as they do fossil and nuclear-generated electricity, the military bases are looking to acquire Green Tags. Green Tags or Renewable Energy Credits (REC) are the estimated value of the "greenness" of electrons. Most of the credits offered for sale are from Texas.

HB 2723 recognizes that the State of Kansas and Kansas residents do not receive any benefits if the military facilities in this state purchase RECs from out-of-state; that the military will not pay significantly higher prices for electricity in order to meet the Executive Orders; and that selling electricity generated from renewable resources to the facilities has a benefit to rural Kansas landowners, local governments, and state government.

HB 2723 provides that utilities that acquire renewable energy to meet the needs of the federal facilities may apply to the Kansas Corporation Commission for a determination of the impact such sales have on the utility's authorized rate of return. If the sale of such power causes the utility's rate of return to fall below its allowed level, the utility is eligible to an equivalent tax credit.

The public policy goal is to ensure that the federal facilities use Kansas-generated electricity instead of out-of-state RECs. Kansans benefit if the electricity is generated here, we do not benefit if facility dollars are spent in Texas or elsewhere for RECs.

Thank you Mr. Chairman, I will be pleased to respond to questions.

HOUSE UTILITIES

DATE: 2/9/06

ATTACHMENT 1



DEPARTMENT OF THE ARMY
U.S. ARMY ENVIRONMENTAL CENTER
CENTRAL REGIONAL ENVIRONMENTAL OFFICE
647 FEDERAL BUILDING
KANSAS CITY, MISSOURI 64106-2896

February 9, 2006

Army Central Region Environmental Office

Re: House Bill 2723

Honorable Carl Holmes
Chairman, Committee on Utilities
State Capitol Building
Topeka, KS 66612

Dear Representative Holmes:

I am writing to you concerning the proposed legislation contained in House Bill 2723 currently before your committee. As the Department of Defense's Regional Environmental Coordinator for Standard Federal Region VII, which includes the State of Kansas, I appreciate the opportunity to provide comments to this important legislation. Attached for your review, is a copy of our testimony concerning House Bill 2723.

I welcome the opportunity to work with you and your committee on any matter that may affect Defense installations and agencies in the state of Kansas. If you have any questions, please feel free to contact me by telephone at (816) 983-3548, or e-mail at barton.ives@us.army.mil. I thank you for the opportunity to comment on H.B. 2723 and would appreciate it if you would share this letter with members of your committee.

Sincerely,

A handwritten signature in black ink that reads "Barton O. Ives".

Barton O. Ives
DoD Regional Environmental Coordinator
Region VII

HOUSE UTILITIES

DATE: 2/9/06

ATTACHMENT 2

Department of Defense
Regional Environmental Coordinator, Region VII Testimony
House Bill 2723
An Act Providing income Tax Credits for Renewable Energy Sales to Federal
Entities

Chairman and members of the committee, I am very pleased to have this opportunity to speak to you in support of House Bill 2723. This bill addresses an issue that is important to the Department of Defense and the US Army.

Currently, to accomplish our mission, the Army spends nearly one billion dollars per year for energy at our installations. Total use is more than eighty trillion British thermal units, or roughly twenty-two percent of the facility energy used in the entire US federal government. Given this dollar amount, the Army must be mindful of costs, where a mere one percent change in energy efficiency can be worth nearly ten million dollars. Accordingly, the Army is always on the lookout for opportunities to improve energy efficiency and/or save money on energy expenses.

In addition to monetary costs of energy, the Army recognizes that it must provide safe, secure, reliable, and environmentally compliant energy services to Soldiers, families, civilians, and contractors on our installations. On 8 July 2005, the Army issued its Energy Strategy for Installations. As a part of the Army's energy strategy, it was recognized that the Army must work to reduce its dependency on fossil fuels by increasing the use of clean, renewable energy. The Army is committed to becoming a leader in acquiring and utilizing innovative, cost effective technologies such as, geothermal, solar, biomass, and wind energy to support the mission at our installations. Fostering renewable energy use and supporting the development of better renewable technologies not only expands the diversity and availability of the Army's energy supply but improves the reliability and security of our power systems and benefits the environment.

House Bill 2723 offers the Army and other DoD installations the opportunity to help support growth in the Kansas renewable energy market in a cost effective manner. Accordingly, the US Army and the DoD supports this legislation and encourages its approval by this committee.

I thank you for taking the time to consider our comments on this bill, and I am pleased to respond to your questions.

For additional information about the Army Energy Strategy for Installations, see:
<http://hqda-energypolicy.pnl.gov/programs/plan.asp>



U.S. Army Environmental Center Central Regional Environmental Office

601 E. 12th Street, Suite 647
Kansas City, MO 64106-2896
Contact: Stanley Rasmussen

Regional Environmental Coordinator
(816) 983 3448

<http://www.denix.osd.mil/denix/State/Partnering/REC/rec.html>

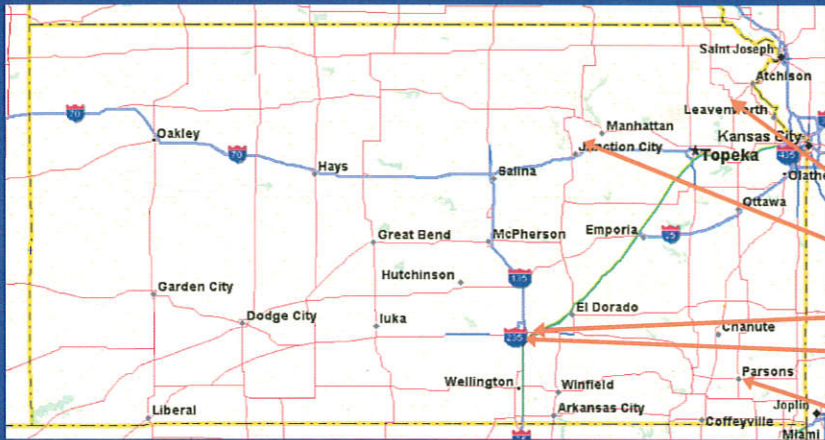


DoD Installation Sustainability in the State of Kansas



Key Military Facilities

- Fort Leavenworth
- Fort Riley
- McConnell Air Force Base
- US Army Reserve, 89th Regional Support Command
- Kansas Army Ammunition Plant
- 73 National Guard Facilities and 37 Reserve Training Centers



- Personnel (Military and Civilian): 37,043*
- DoD Expenditures: \$2,966,580,000*
- Kansas is home to:
 - Fort Leavenworth, the primary school for training military officers who will lead the Army in the future and the location of the only disciplinary barracks for the Department of Defense .
 - Fort Riley, the Headquarters for the 24th Infantry Division (Mechanized); host to the 1st Brigade Combat Team, 1st Infantry Division, 3rd Brigade Combat Team, 1st Armored Division and the 937th Engineer Group (Combat); headquarters for the 6th Brigade, 25th Infantry Division (to be established in FY2006); and host to a "Top of the Line" Battle Simulation Center that utilizes "State of the Art" equipment used to conduct Brigade/Battalion Battle Simulation exercises.
 - McConnell Air Force Base, the home to one of only three supertanker wings that provide global reach to the Air Force.
- Highlights
 - Federal facilities are subject to all applicable federal and state environmental laws and regulations.
 - DoD is implementing Environmental Management Systems at all appropriate installations.
 - The Army has mandated that all new construction will be to the "gold" criterion for green construction.
 - DoD has been reducing waste streams for approximately 10 years and is continuing to do so.
- Issues
 - Sustainability of installations.
 - Land use and local planning

* Data are for 2004. For more details see the back of this page.

DoD Economic Contribution to Kansas and Population Growth

| Personnel/Expenditures (000) Fiscal Year: 2004 | | Total | Army | Navy & Marine Corps | Air Force | Other Defense Activities | |
|---|-------------|-----------------|---------------------|---|--------------------------|--------------------------|----------|
| I. Personnel | | 37,043 | 28,210 | 1,421 | 7,058 | 354 | |
| Active Duty Military | | 16,294 | 13,041 | 156 | 3,097 | 0 | |
| Civilian | | 6,048 | 4,570 | 1 | 1,123 | 354 | |
| Reserve and National Guard | | 14,701 | 10,599 | 1,264 | 2,838 | 0 | |
| II. Expenditures in Thousands of Dollars | | \$2,966,580 | \$1,639,480 | \$110,670 | \$1,114,031 | \$102,398 | |
| A. Payroll Outlays - Total | | \$1,528,992 | \$1,062,776 | \$83,050 | \$368,804 | \$14,362 | |
| Active Duty Military Pay | | 675,828 | 521,640 | 6,673 | 147,515 | 0 | |
| Civilian Pay | | 274,001 | 205,562 | 30 | 54,047 | 14,362 | |
| Reserve & National Guard Pay | | 152,876 | 131,115 | 1,967 | 19,794 | 0 | |
| Retired Military Pay | | 426,287 | 204,459 | 74,380 | 147,448 | 0 | |
| B. Contracts - Total | | 1,411,862 | 552,175 | 26,859 | 744,805 | 88,023 | |
| Supply/Equipment Contracts | | 712,611 | 111,125 | 13,412 | 515,130 | 72,944 | |
| RDT&E Contracts | | 150,331 | 46,567 | 2,496 | 94,968 | 6,300 | |
| Service Contracts | | 420,021 | 267,646 | 10,951 | 132,645 | 8,779 | |
| Construction Contracts | | 109,600 | 107,538 | 0 | 2,062 | 0 | |
| Civil Function Contracts | | 19,299 | 19,299 | 0 | 0 | 0 | |
| C. Grants | | 25,726 | 24,529 | 761 | 422 | 13 | |
| Expenditures (\$000) Major Locations | Total | Payroll Outlays | Grants/Contracts | Military & Civilian Personnel Major Locations | Total | Active Duty Military | Civilian |
| Wichita | \$890,560 | \$73,435 | \$817,125 | Fort Riley | 12,922 | 10,730 | 2,192 |
| Fort Riley | 657,723 | 517,355 | 140,368 | Fort Leavenworth | 4,295 | 2,582 | 1,713 |
| Fort Leavenworth | 348,714 | 204,421 | 144,293 | McConnell AFB | 3,739 | 2,835 | 904 |
| McConnell AFB | 202,232 | 181,623 | 20,609 | Forbes Field | 306 | 0 | 306 |
| Leavenworth | 86,540 | 43,129 | 43,411 | Wichita | 306 | 49 | 257 |
| Topeka | 80,521 | 40,293 | 40,228 | Topeka | 301 | 25 | 276 |
| Arkansas City | 65,137 | 1,825 | 63,312 | Lawrence | 70 | 42 | 28 |
| Manhattan | 41,514 | 30,111 | 11,403 | Olathe | 59 | 1 | 58 |
| Olathe | 38,742 | 15,643 | 23,099 | Salina | 44 | 3 | 41 |
| Forbes | 37,982 | 28,446 | 9,536 | Manhattan | 36 | 10 | 26 |
| Prime Contract Awards (\$000) (Prior 7 Fiscal Years) | Total | Army | Navy & Marine Corps | Air Force | Other Defense Activities | | |
| 2003 | \$1,222,006 | \$459,095 | \$61,671 | \$632,270 | \$68,971 | | |
| 2002 | 1,222,936 | 448,721 | 31,402 | 684,209 | 58,604 | | |
| 2001 | 930,042 | 324,832 | 27,889 | 515,396 | 61,926 | | |
| 2000 | 890,728 | 291,884 | 21,894 | 466,961 | 109,989 | | |
| 1999 | 887,380 | 266,966 | 6,627 | 528,875 | 84,912 | | |
| 1998 | 1,007,244 | 342,877 | 43,209 | 542,191 | 78,967 | | |
| 1997 | 688,413 | 251,228 | 7,768 | 367,464 | 61,953 | | |
| Projected Population by County Years, 2005 to 2027 | 2005 | 2010 | 2015 | 2020 | 2025 | 2027 | |
| Johnson | 486,585 | 548,580 | 584,983 | 616,379 | 644,803 | 656,166 | |
| Sedgewick | 464,612 | 481,730 | 497,988 | 515,403 | 531,939 | 538,659 | |
| Shawnee | 170,875 | 171,346 | 170,949 | 170,080 | 169,154 | 168,806 | |
| Wyandotte | 156,724 | 148,421 | 150,525 | 156,366 | 163,312 | 165,853 | |
| Douglas | 103,025 | 107,967 | 110,970 | 113,533 | 115,568 | 116,394 | |
| Riley | 61,999 | 63,210 | 62,992 | 62,608 | 62,076 | 61,870 | |
| Reno | 62,832 | 57,877 | 55,877 | 54,982 | 54,455 | 54,276 | |
| Butler | 62,403 | 74,565 | 79,925 | 83,312 | 86,046 | 87,132 | |
| Saline | 54,381 | 55,027 | 54,923 | 54,648 | 54,206 | 54,028 | |
| Montgomery | 35,221 | 32,780 | 31,686 | 31,124 | 30,796 | 30,694 | |

Source for Economic Data: Department of Defense, Directorate for Information Operations and Reports (DIOR), Statistical Information Analysis Division (SIAD), http://web1.whs.osd.mil/MMID/L03/fy04/ATLAS_2004.pdf.

Source for Population Data: Kansas Division of the Budget, Kansas Population Data: <http://da.state.ks.us/budget/ecodemo.htm>. Bold type for certain counties denotes that the county is the location of a key DoD facility or training location.

Testimony of Mike Warwick, Battelle, Northwest

My name is Mike Warwick. I am employed by Battelle - Northwest, which operates the Pacific Northwest National Laboratory (PNNL) for the US Department of Energy. As a PNNL staffer, I am assigned to support the Department of Defense's (DoD's) policy to decrease reliance on imported fossil fuels through increased use of renewable sources of energy. This policy, dated November 18, 2005, has a long-term goal of 25% or better renewable energy use by 2025. This is significantly above the 7.5% goal established for the federal government as a whole in the 2005 Energy Policy Act.

At present, DoD obtains over 6% of its electricity from renewable resources. Roughly half of this amount is produced on-site, and the rest is purchased from competitive suppliers and utilities. In fact, the US Air Force is the largest purchaser of renewable power in the US. I have been able to help the Air Force execute these purchases at prices competitive with conventional power by participating in competitive power markets where they exist and through negotiations with utility suppliers where they don't. Because the budgeting for energy purchases resides at individual DoD facilities, those facilities must search out low-cost sources of renewable energy to achieve DoD's energy goals. Unfortunately, the absence of competitive electricity markets makes this difficult in the Plains and Western states. Although this part of the country, and especially Kansas, has the nation's best renewable resource potential, many utilities are reluctant to invest in renewable resources because they are afraid such investment will increase retail rates or reduce returns to shareholders.

The DoD tries to lead by example and strives to be an innovator and early adopter of technologies that increase energy efficiency and utilize renewable energy. However, our budgets are constrained, and energy, like all other commodities, must be procured through a competitive process from the lowest-cost source. HB 2723 offers DoD and other federal entities a cost-competitive option for purchasing renewable energy. With its adoption, I am optimistic that DoD will be able to increase its use of renewable power in Kansas. Further, I anticipate that this legislation will provide a model that can be duplicated in other Western states. For these reasons, I encourage your favorable consideration of this bill.

Thank you and I am available to respond to your questions.

HOUSE UTILITIES
DATE: 2/9/06
ATTACHMENT 3

Charles M. Benjamin, Ph.D., J.D.

Attorney at Law
P.O. Box 1642
Lawrence, Kansas 66044-8642
(785) 841-5902
(785) 841-5922 facsimile
chasbenjamin@sbcglobal.net

Testimony in Support of H.B. 2723

Providing for income tax credits related to the sales of energy from renewable resources
or technologies

On Behalf of the Kansas Chapter of Sierra Club

Before a meeting of the Kansas House Utilities and Taxation Committees

Mr. Chairmen, members of the Committees, thank you for the opportunity to testify in support of H.B. 2723 on behalf of the Sierra Club – the oldest and largest grass roots environmental organization in the world with over 750,000 members including over 4,000 in Kansas. Sierra Club supports public policies that encourage the more efficient use of all our energy resources, no matter the source, and the development and implementation of energy technologies that utilize renewable resources.

Kansas has a history of producing and exporting its energy resources. Up until about a decade ago the state was a net energy exporter and as a result imported millions of dollars a year from all over the U.S. for its coal from southeast Kansas, its oil from all over the state and its natural gas in the southwest part of the state. However, those non-renewable energy resources are running out. Relatively high prices for petroleum products that provide an incentive for more oil exploration and extraction does not change the fundamental fact that Kansas is a mature oil producing state and what remains of that oil resource is getting harder and more expensive to extract. The Hugoton natural gas field, once the largest in North America, is now 2/3 depleted. There is still some coal from southeast Kansas that is extracted and used but it is high in sulfur content and has largely been replaced by coal from Wyoming - which is what is burned in most of the coal fired generating plants in Kansas. In fact, Kansans now send about \$2 billion dollars a year out of the state to buy energy – some of it for oil but most of it for Wyoming coal.

However, the good news is that Kansas ranks highest among the 50 states in its potential to produce renewable energy resources – especially wind, solar and biomass. The realization of this potential in renewable energy can produce jobs and economic opportunity in Kansas. H.B. 2723 would provide a tax incentive for electric public utilities in Kansas to sell renewable energy to federal government agencies. This, along with other incentives, will do much to stimulate the production and distribution of Kansas' renewable energy resources. It is our hope that Kansas can again become a net energy exporter, but this time with its inexhaustible renewable energy resources, and once again bring dollars from all over the U.S. back into Kansas to provide jobs and economic opportunity to Kansans.

HOUSE UTILITIES

DATE: 2/9/06
ATTACHMENT 4

Comments of
Christopher C. Pflaum, Ph.D.
President
Spectrum Economics, Inc.
Overland Park, KS

On

House Bill No. 2723

This is a singularly bad piece of legislation on several levels. It is vague, ambiguous and not fully formed. It is also anti-consumer and invites gaming. It is my opinion as a professional economist and an expert on energy economics and utility regulation that the Committees should not send this bill forward.

First, the Bill applies only to a circumstance that would be highly unlikely to occur for any of the State's investor-owned utilities. Since renewable energy investments by utilities are in rate base and, by definition, receive the required rate of return, incremental sales to federal agencies, etc. should never cause the rate of return to fall below the allowed level. How the "Commission" would make such a decision, however, is not specified in the Bill. This invites mischief.

The only circumstance in which the credits could likely be sought would involve a power purchase from an independent producer and a subsequent resale to a federal agency – a situation in which the utility is the middleman between buyer and seller. It is clearly not prudent for a utility to put itself in the position of guaranteeing the economics of a contract in which it is little more than a delivery service. For the Commerce Commission to allow a credit in such a situation would be to give it power over the public purse to subsidize favored producers through tax credits.

Second, it is simply not possible to accurately trace a shortfall in overall rate of return in return to a specific contract. Assigning costs, for example, to a particular contract means allocating overhead and joint operating costs to that contract. Since most, non-fuel, utility costs are fixed, such an assignment is ad hoc and meaningless and open to the interpretations of a bureaucrat.

The most important reason for rejecting this Bill is that it undermines the incentives of renewable energy producers and energy buyers to behave in an efficient manner. Basically, this Bill says that a utility can overpay for renewable power subsequently sold to the Federal Government and then apply for a back-door rate increase via a tax credit to cover the shortfall. This removes any market discipline for a utility considering buying renewable power since it can simply claim, or structure its transactions so that, the money-losing power is resold to the Federal Government. Furthermore, since the resources of the State to absorb tax losses are limited, the Bill forces Kansas taxpayers to subsidize uneconomic renewable energy transactions by regulated utilities.

HOUSE UTILITIES

DATE: 2/9/06

ATTACHMENT 5

**Testimony on HB 2723 before the
House Utilities Committee and House Taxation Committee
By
Mark Schreiber, Manager Government Affairs
Westar Energy
February 9, 2006**

Chairman Holmes and Chairman Wilk and members of the committees, I am Mark Schreiber, manager government affairs for Westar Energy. Westar Energy is neutral on House Bill 2723 primarily because we cannot determine either a benefit or a harm that would apply to the company if the bill were enacted.

House Bill 2723 allows an income tax credit for those electric public utilities that agree to sell renewable energy to a federal government facility. The amount of the tax credit is based on a determination by the Kansas Corporation Commission (KCC) of the impact of such a sale on the utility's rate of return during that year.

The major federal facilities, such as Fort Riley, McConnell Air Force Base, and Fort Leavenworth lie within Westar Energy's service territory. As such the income tax credit would appear to have the possibility of benefit to my company. However, after researching the language with our tax and regulatory departments, we cannot determine the value of the tax credit.

A utility's rate of return is based upon our entire system and not a particular generation plant. In the case of wind energy, the wind farms that have been built in Kansas are not owned by a regulated Kansas utility. The output is purchased by utilities such as Aquila, Empire District or Great Plains Energy through a contract with the owner of the wind farm. Purchased power contracts are treated as expenses, and as such are recoverable through rates. In this type of situation, any impact on a utility's rate of return is moot since we do not earn a rate of return on expenses.

If Westar Energy were to build, own and operate a wind farm, it would be very difficult if not impossible to calculate an impact on our overall rate of return. The KCC establishes our rate of return based on looking at our entire operations, not a particular facility.

In conclusion, Westar Energy is neutral on House Bill 2723 because we cannot determine either a value or a harm to the company from its passage.

Thank you for the opportunity to address you this morning. I will be glad to answer questions at the appropriate time.

HOUSE UTILITIES
DATE: 2/9/06
ATTACHMENT 6