

MINUTES OF THE HOUSE ENERGY AND UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9:00 A.M. on February 9, 2007 in Room 241-N of the Capitol.

All members were present.

Committee staff present:

Mary Galligan, Kansas Legislative Research
Dennis Hodgins, Kansas Legislative Research
Mary Torrence, Revisor's Office
Jason Long, Revisor's Office
Rena Hansen, Committee Assistant

Conferees appearing before the committee:

Ron Klataske, Audubon of Kansas
Paul Snider, KCPL
Mark Schrieber, Westar
Tom Thompson, Sierra Club
Joe Spease, Overland Park
Alan Pollom, Nature Conservancy

Others attending:

Twenty-three including the attached list.

Minutes of January 9,10,11,16,17,18,19, and 22 were handed out to the committee members.

Hearing on:

HB 2406 **Wind energy electric generation facilities of public utilities; tax incentive; siting requirements to qualify.**

Proponents:

Ron Klataske, Audubon of Kansas, (Attachment 1), offered testimony in favor of **HB 2406** noting that wind power is one of the many elements that our generation needs to promote, while at the same time keeping in mind the environment that we change to gain the clean wind power.

Paul Snider, KCPL, (Attachment 2), gave testimony in support of **HB 2406** commenting that they are the first regulated utility in Kansas to break ground on a wind farm in Kansas.

Mark Schreiber, Westar, (Attachment 3), presented testimony in favor of **HB 2406** offering a technical correction in the bill.

Tom Thompson, Sierra Club, (Attachment 4), spoke in support of the concepts of siting guidelines presented in **HB 2406**, but felt that section 5 needs to be less vague to have the force of law and feels that in section 2 that the word "may" does not give the KCC enough authority.

Joe Spease, Overland Park, (Attachment 5), spoke on **HB 2406** commenting there is a lot to like about the bill but that there needs to be more precise wording in section 5.

Neutral:

Alan Pollom, Kansas Executive Director, Nature Conservancy, (Attachment 6) presented testimony on **HB 2406** and additionally offered a map (Attachment 7) that has been developed by an organization identifying areas of concern for wind development.

Comments were made by Representative Holmes on where his direction came from for the siting guidelines.

CONTINUATION SHEET

MINUTES OF THE House Energy and Utilities Committee at 9:00 A.M. on February 9, 2007 in Room 241-N of the Capitol.

Don Low, gave comments on what the role of the KCC would be if this bill becomes law. The bill does not indicate who would regulate these siting guidelines. Chairman Holmes noted that The Department of Revenue should be making the decision if the siting guidelines were met before offering the tax incentives. Additionally, page 2 line 42 would need some review for clarification. Page 3 lines 3 and 4 should be "commission" and not "secretary".

Questions and comments were made by Representative: Annie Kuether.

Mary Torrence went through sections 2, 3, and 4 for clarification for the committee. She also commented on the limitation outliers of the tax credit.

Questions and comments continued by Representatives: Josh Svaty, Terry McLachlan, Carl Holmes, Tom Moxley, Vern Swanson, Forrest Knox, and Tom Hawk.

David Corbin, the Department of Revenue, made comments from the departments perspective.

Hearing on **HB 2406** closed.

HB 2035 **Registration of copper or aluminum obtained by purchase or trade.**

Staff handed out a newly crafted bill relating to the theft of certain metals and scrap metal dealers, (Attachment 8) with explanation of the new legislation by Jason Long and Mary Torrence.

Questions were asked and comments made by Representatives: Terry McLachlan, Don Myers, Forrest Knox, and Rob Olson.

Revisor Mary Torrence noted that the words "law enforcement officer" should be inserted into page three.

Representative Rob Olson moved to pass out of committee HB 2035 with the language presented in (Attachment 8) and with the wording suggested by Mary Torrence. Seconded by Representative Josh Svaty.

Discussion on the motion by Representative: Josh Svaty.

Motion carried.

Representative Rob Olson will carry **HB 2035** on the house floor.

HB 2278 **Consumer protection; exemption of certain public utility transactions.**

Representative Bill Light asked the Revisor Jason Long to explain the proposed language change (Attachment 9), of **HB 2278**.

Representative Bill Light made comments on the details of the sub-committee.

Questions and comments by Representatives: Vern Swanson, Oletha Faust-Goudeau, Rocky Fund, Forrest Knox, Annie Kuether, and Bill Light.

Representative Bill Light moved that we approve substitute for HB 2278. Seconded by Representative Rob Olson. Motion carried.

Representative Bill Light will carry **HB 2278** on the House floor.

The next meeting will be February 12, 2007.

Meeting adjourned.

February 9, 2007

Statement in Support of H.B. 2406
Kansas House of Representatives, Energy & Utilities Committee
By Ron Klataske, Executive Director, Audubon of Kansas

On behalf of approximately 5,000 members of Audubon of Kansas and affiliated chapters throughout the state, I thank the committee for considering the merits of House Bill 2406. We believe that some elements of the bill project concepts that need to be discussed, considered and refined.

We are most encouraged by the inclusion of the "New Sec. 5." We appreciate the attention devoted to consideration of ecological, aesthetic, cultural, community and surrounding landowner values. At least one company, the Kansas City Power & Light Company has demonstrated that decisions involving the search for and selection of an industrial windpower development can be successfully accomplished by following the type of guidelines outlined. We are also confident that officials of at least some of the state's other utilities strive to establish similar standards of corporate responsibility. Westar specifically comes to mind.

Unfortunately, without siting standards to provide a level playing field within our state, some speculators and developers are willing to totally disregard resource values and the other considerations outlined in this bill. We have observed two examples of developers that have turned a blind eye and a deaf ear to the siting guidelines--that they helped to develop--as published in January 2003 by the Kansas Renewable Energy Workgroup. The guidelines are available at (<http://www.kansasenergy.org/krewg/reports/KREWGSitingGuidelines.pdf>).

Windpower development is one of many elements that we want to advance in our generation's quest to reduce greenhouse gas emissions. However, it will not continue to be regarded as a "green" alternative if massive industrial facilities result in the destruction of our continent's last remaining expanses of intact prairie landscapes, transform our state's most spectacular scenic vistas and the most visible examples of our state's *Signature Landscapes* in the Flint Hills or Smoky Hills, or tip the scales against at-risk species and present obstacles to endangered birds near migratory staging areas.

One of the key elements should be a requirement for disclosure and an opportunity for agency and public review of environmental assessments. That hasn't happened with the proposed Smoky Hills Project.

A number of provisions included in the bill need to be strengthened. Provisions for sufficient bonding requirements for decommissioning and restoration of impacted land is one. Public safety considerations and property boundary setbacks are others.

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Siting standards will benefit the industry, and if they become an industry standard in Kansas most segments of the public will come together to support progressive development--the way organizations and the community did with the Spearville Project. Siting guidelines need to be siting standards.

If the State of Kansas does not establish standards and implement a protocol for oversight, the only decisions that will matter will be those made in corporate or investor offices thousands of miles away in other states and/or in foreign countries. We require compliance of our friends and neighbors who build livestock facilities or a residential waste water system, large corporations can follow their lead. Kansas is not simply an empty plain.

Kansas is at times a windy state, but there are other resources and values at stake than just wind in our treasured land. There are other resources, public, community and private values that need to be a part of the equation in the selection of sites for industrial windpower development. If the State of Kansas and state officials are going to promote industrial windpower development, it shouldn't be with an unbridled gold rush approach.

A GIS analysis of Kansas' wind potential overlaid on coverage maps of intact native habitats indicate that there are more than eight (8) million acres of cultivated lands with economically viable wind potential. This statistic demonstrates that finding ecologically appropriate locations for wind power development is economically viable and certainly feasible.

House Bill 2406 offers an opportunity for all stakeholders to come together and work together to develop clearly definable objectives for a variety of resource values and standards for property-sited wind energy facilities. We thank you for considering this bill, and welcome any opportunity to assist. Thank you.

Ron Klataske
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**Testimony of Paul Snider
Before the House Energy and Utilities Committee
In Support of House Bill 2406
February 9, 2007**

Kansas City Power & Light supports House Bill 2406. KCP&L is proud to be the first regulated Kansas utility to own a large-scale wind generation facility in Kansas. Our Spearville Wind Generation Facility broke ground in Spearville, Kansas in June 2006 and was fully operational in September of 2006. The 100.5 MW capability at Spearville is enough to power 33,000 homes in the Kansas City area.

In addition to our Spearville facility, our Comprehensive Energy Plan also has commitments for evaluating construction of an additional 100 MW of wind capacity in 2008 and for making significant investments in environmental controls upgrades at our LaCygne and Iatan Power Stations.

In the development of the Spearville proposal, we worked with a number of communities, public officials and organizations to make the project a success. The process was done in a manner contemplated by the Wind and Prairie Task Force and put into statute in this bill.

The governor has set a goal of having 1,000 MW of wind installed in Kansas over the next several years. Bills such as HB2406 will help companies invest in wind in Kansas. KCP&L serves customers in Missouri and Kansas. While the customer split is modestly in Missouri's favor now, with the pending acquisition of Aquila's Missouri electric operations, KCP&L will serve over 500,000 customers in Missouri, and less than 250,000 in Kansas. As a multi-state utility, we are obligated to look at both states when we analyze where and when additional wind investments should be made.

The use of state tax incentives to spur wind development is an appropriate way to help the state reach its wind energy goals and create economic development opportunities in rural areas. The environmental advantages of wind energy benefit all Kansans, not just certain electric customers.

Kansas City Power & Light encourages the committee to support HB 2406.

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Paul Snider – KCP&L
Manager, Kansas Government Affairs
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ATTACHMENT 2

**Testimony of
Mark Schreiber
Director Government Affairs
Westar Energy
On House Bill 2406
February 9, 2007**

Chairman Holmes and members of the committee, my name is Mark Schreiber. I am the Director Government Affairs for Westar Energy. Westar Energy supports House Bill 2406.

The tax credits and accelerated depreciation provide incentives to further develop the wind resources of the state. The ability to roll the tax credits forward if unused in the year they are allowed is especially helpful. We do have a technical correction to suggest on the accelerated depreciation incentive in new Section 6. The words "amortization" and "amortizable" should probably be replaced with "depreciation" and "depreciable." Our tax department thinks this change would be consistent with the use of these terms in other tax laws.

To use these incentives, the utility must follow the siting guidelines in new Section 5. Westar Energy accepts this requirement as a reasonable condition. Westar continues to practice good land use management and environmental stewardship. These practices and the siting guidelines in this bill will work in concert to develop projects for which Kansans can be proud.

Within the next 30 to 45 days, Westar Energy will be issuing a Request For Proposal (RFP) for renewable energy. Within the RFP, we will state it is our intention to adhere to the guidelines of the Governor's Wind and Prairie Task Force. We believe wind energy can be developed in Kansas using these guidelines combined with the further expansion of the transmission system.

Thank you for the opportunity to provide testimony in support of HB 2406 this morning. I will be glad to stand for questions at the appropriate time.

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**Testimony before the House Energy and Utility Committee
February 9, 2007
Proponent for H.B. 2406**

Chairperson Holmes and Honorable Members of the Committee:

My name is Tom Thompson and I represent the Kansas Chapter of the Sierra Club. I have come today to speak in support of concepts proposed in H.B. 2406.

H. B. 2406 provides for incentives to encourage Kansas Utilities to own wind farms if they use certain siting guidelines.

The Sierra Club supports the concept of siting guidelines for all power plants and industrial facilities. It also supports the concept of giving Kansas public utilities incentives to own their own wind farms.

However, the Sierra Club considers New Section 5, as written, to be too vague to have the force of law. It is concerned with the vagueness of terms like "landscape"(not an ecological word) as it relates to damage to ecology and wildlife. What consideration is there for detrimental land use practices in unfragmented landscapes. Because of vagueness, it is thought that determination of compliance will become subjective and more political than scientific.

There is also a concern that in Section 2 it says that KCC may, but is not required to adopt rules and regulations that could clarify these issues.

Since Kansas Public Utility companies are the main market for wind power, the overly broad interpretation of these guidelines could place huge areas of the state, and large numbers of landowners, at a serious disadvantage in gaining the economic benefits of wind power development. Reliability of wind power production is also significantly improved when wind farms are widely spaced apart. If utility companies do not have the flexibility to take advantage of diversely situated sites with high quality wind resources (High capacity factors), the bill could have the effect of discouraging wind development, because during KCC rate making proceedings, wind power could be unfairly judged not competitive with coal or natural gas fired generating units.

The Sierra Club supports the concepts presented in 2406 but recommends that further investigation is needed using a more deliberative process perhaps as part of an interim committee.

Thank you for your time

Tom Thompson
Sierra Club

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Chairman Holmes and members of the committee,

Thank you for this opportunity to speak to you about the siting standards contained in HB 2406.

There are a very few people in Kansas who oppose wind power for reasons that are unfounded and without basis. We've had a good amount of time to observe how our existing sites have done hardly any harm to birds and wildlife. And as thousands of wind turbines have been erected around the country there are no great horror stories to report about harm to birds. Yet opponents of wind power in Kansas are supposedly concerned about the great harm that wind turbines would do to birds and threatened species of wildlife. I will explain why the fears expressed by these opponents of wind are baseless, and how global warming is the greatest threat to birds and other wildlife.

There was a poorly sited wind project in California in the early 1980's that caused great harm to birds. That was a lesson learned. Since that bad experience extensive precautions have been taken to minimize the potential harm to birds and other wildlife from wind projects. Those precautions have helped to virtually eliminate damage to birds and wildlife while allowing for the development of low-cost, clean wind power.

New wind turbines, those installed since 1998, which spin slowly and are made of composite materials, are designed to minimize harm to birds even if a bird hits one of the blades. With reasonable siting efforts added to the new turbine design measures, any damage to wildlife will be very small. And with the proposed sites for wind projects in Kansas, Prairie Chickens will have the vast majority of their territories, some 98%, left unchanged. This means that Prairie Chickens will still flourish in Kansas.

The greatest threat to birds and wildlife, as recognized by the National Audubon Society and the National Wildlife Federation, comes from coal plants and the various pollutants they emit. Those organizations support wind power. Global climate change is largely responsible for devastating losses to wetland bird populations around the world. Many of those bird populations have been cut in half over the last 5 years due to the drying out of their normal habitats.

Yet opponents of wind power in Kansas would have you believe that wind turbines are the big threat and, if they had their way, they would prevent wind power from being developed just about everywhere in our state. Any siting standards for wind projects in Kansas should encourage the responsible development of tens of thousands of megawatts. The wind resource here is great enough to do that without causing great harm to birds and wildlife.

Joe Spease

Overland Park, KS 913-492-2862

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ATTACHMENT 5

Testimony for HB 2406

Alan Pollom

On behalf of the Kansas Chapter of *The Nature Conservancy*

700 SW Jackson, Suite 804

Topeka, KS 66603

Before the Kansas House Energy & Utilities Committee

Dear Representative Holmes, Chair, and Members of the Committee, thank you for the opportunity to testify in regards to HB 2406.

The Nature Conservancy is a nonprofit conservation organization dedicated to preserve the plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and water they need to survive. The Nature Conservancy and its one-million-plus members (over 7,000 in Kansas) have been responsible for the protection of more than 72,557 acres in Kansas and 15 million acres nationally.

Improvements in the efficiency of electricity-generating wind turbines combined with federal tax incentives promises to make wind power a prominent renewable source of energy. As a result, many places, including ecologically significant areas, are being targeted for wind energy development. Actions to ensure that such development progresses responsibly and with optimal benefits to all users and resources concerned are welcome.

We are committed to ecologically sound means for meeting the nation's energy needs, and will continue, as we have, to foster dialog with wind power developers and other stakeholders to ensure that end. At present, however, the combination of significant production tax credits—**without regard to siting**—and a lack of uniform regulation for wind power development make it likely that much of the forecast activity in this realm will be without the guidance of good science and ecological conscience necessary to ensure appropriate siting.

While wind power offers reduced environmental detriments compared to more traditional energy production technologies, it is not without potential cost to wildlife and ecological systems. While the majority of wildlife-related concerns over wind power have focused on bird and bat collisions, wildlife biologists recognize that habitat fragmentation and abandonment is, in many cases, the most significant threat to wildlife from unrestrained wind energy development.

It must be acknowledged that enormous areas of our country are made up of sparsely populated rural counties that do not have zoning regulations or the expertise to adequately address this complex technology. A September 2005 report by the U.S. GAO contained the following conclusion:

“Scientists, in particular, are concerned about the potential cumulative impacts of wind power on species populations if the industry expands as expected. Concerns are compounded by the fact that the regulation of wind power varies from location-to-location and some state and local regulatory agencies we reviewed generally had little experience or expertise in addressing the environmental and wildlife impacts from wind power. In addition, given the relatively narrow regulatory scope of state and local agencies, it appears that when new wind power facilities are permitted, no one is considering the impacts of wind power on a regional or “ecosystem” scale—a scale that often spans governmental jurisdictions.”

What is needed for Kansas is a strategy to address these concerns, and to steer wind energy into less sensitive areas. With over 40 million acres of already altered or cultivated land in Kansas (80% of the state), and 8.3 million acres of this total blessed with economically viable wind resources, I am confident we can accomplish this goal.

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February 8, 2007

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I strongly commend the author(s) of HB 2406 in seeking a mechanism to properly site wind power projects in Kansas. However, I am concerned that the language pertaining to siting is ambiguous, and determining compliance will be difficult, at best. For example, what does *careful consideration* to avoid ecologically significant areas really mean? We would like more assurance that these considerations are TRULY meaningful and accountable. It is also unclear who will represent the public's interest in judging and ruling on provisions in HR 2406.

In order to resolve these concerns and to move ahead with responsible wind power development, we strongly recommend that HB 2406, and any resulting compromise legislation, include clearer and more concrete provisions regarding siting standards for wind energy projects. We also recommend including geographical boundaries based on ecological attributes to make it clear where these tax credits would apply.

The Nature Conservancy would like to offer any assistance necessary to draft language that would help clarify these points, thus allowing properly-sited renewable energy facilities to proceed AND biologically significant to be protected.

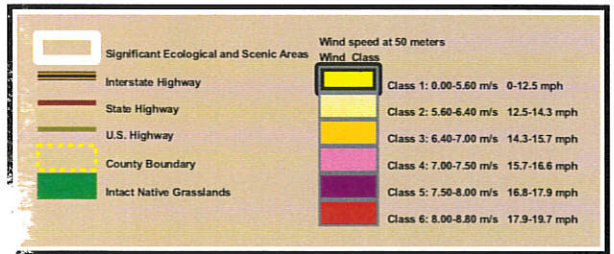
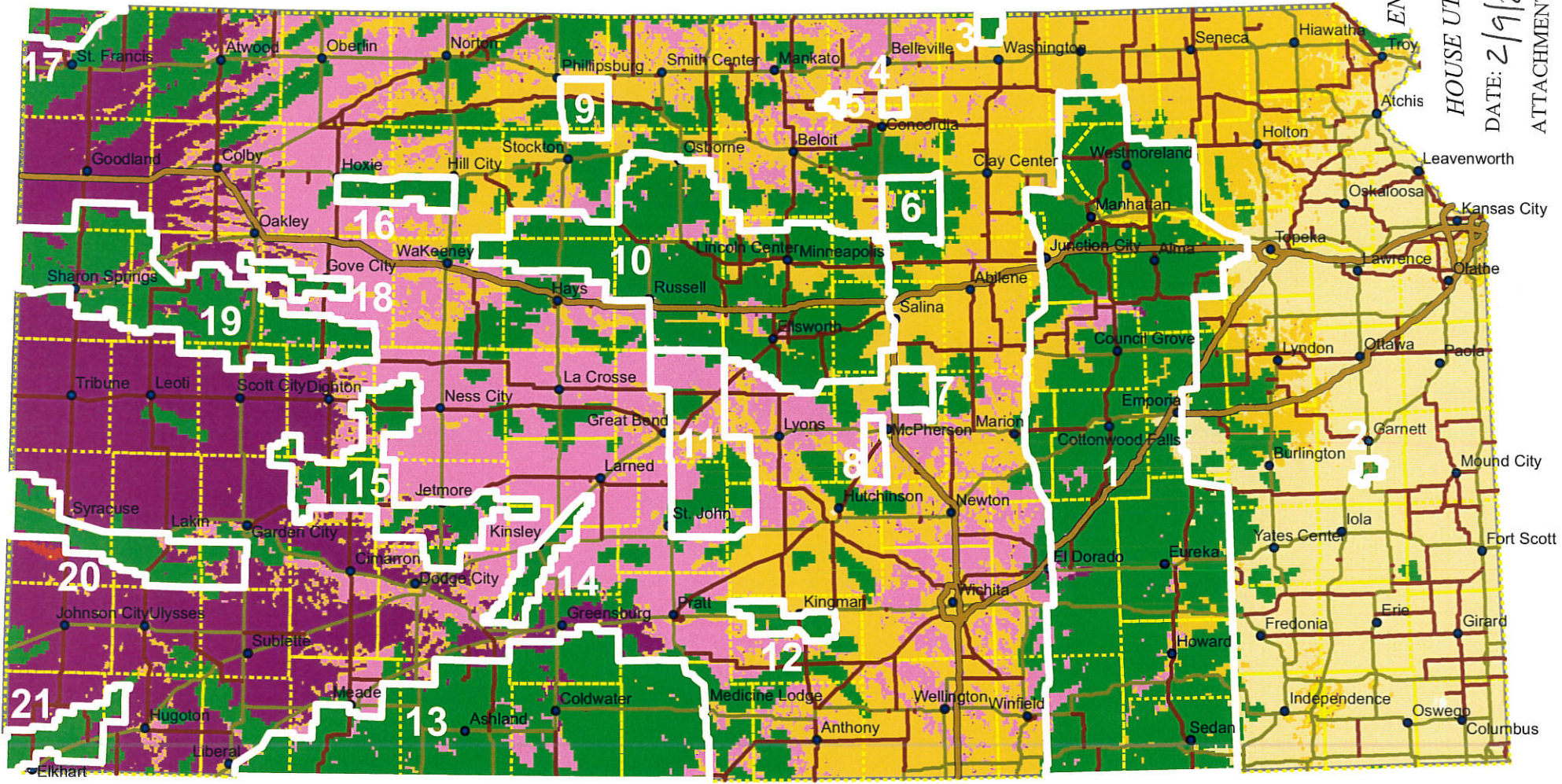
I would be happy to address any questions the Committee may have.

Alan Pollom
State Director for TNC/Kansas Chapter
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Kansas Wind Energy Development: avoiding special places

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Wind resource at 50 meters:
Digitized from "Kansas Wind Resource Map"
Coriolis Architecture & Energy
<http://www.coriolis-ae.com/kswindmap/>
accessed January 31, 2005

- 1 - Flint Hills Landscape
- 2 - Welda Prairies
- 3 - Rose Creek Prairies
- 4 - Talmo Marsh Complex
- 5 - Jamestown Marsh Complex
- 6 - Ottawa Prairies
- 7 - Maxwell Refuge Prairies
- 8 - McPherson Wetlands
- 9 - Kirwin National Wildlife Refuge
- 10 - Smoky Hills Landscape
- 11 - Cheyenne Bottoms/Quivera NWR
- 12 - Ninescah Prairies
- 13 - Red/Gypsum Hills Landscape
- 14 - Kinsley Sandhill Prairies
- 15 - Lesser Prairie-Chicken Essential Habitat Area
- 16 - South Solomon Breaks
- 17 - Arikaree Breaks
- 18 - Hackberry Creek Breaks
- 19 - High Plains Shortgrass Prairies
- 20 - Sandsage Prairies
- 21 - Cimarron Grasslands

Substitute for HOUSE BILL NO. 2035

By Committee on Energy and Utilities

AN ACT concerning scrap metal dealers; relating to the theft of certain metals; amending K.S.A. 50-619, 50-620, 50-621 and 50-622 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 50-619 is hereby amended to read as follows: 50-619. As used in this act, unless the context otherwise requires, the following words and phrases shall have the meanings respectively ascribed to them herein:

(a) "Junk Scrap metal dealer" means any person that operates a business out of a fixed location, and that is also either: (1) Engaged in the business of buying, selling and dealing in junk, or any person regulated scrap metal; (2) purchasing, gathering, collecting, soliciting or traveling about from place to place procuring junk or any person regulated scrap metal; or (3) operating, carrying on, conducting or maintaining a junk regulated scrap metal yard or place where junk regulated scrap metal is gathered together and stored or kept for shipment, sale or transfer, but shall not include antique dealers, or automotive salvage dealers dealing in wrecked vehicles as defined in this act.

(b) "Junk Regulated scrap metal yard" means any yard, plot, space, enclosure, building or any other place where junk regulated scrap metal is collected, stored, gathered together and kept, and stored or kept for shipment, sale or transfer.

(c) "Junk Regulated scrap metal" shall mean and include, in addition to items or goods commonly referred to as junk, such other used or secondhand goods as rope, scrap iron, brass, lead, copper or aluminum wire or tubing and other scrap metals, but shall not include antiques, or wrecked vehicles as defined in this act.

(d) "Antique" means any furniture, object of art, or other object, item or article made or manufactured at an earlier period of time, but shall not include junk.

(e) "Antique dealer" means any person conducting a business

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of-buying-and-selling-antiques;

(f)---"Wrecked--vehicle"--means-any-wrecked,ruined,dismantled or-inoperative-motor-passenger-vehicle-or-motor--truck,--and--any part--or--accessory--therefrom,for-which-an-original-or-assigned certificate-of-title-is-transferred-for-such-vehicle-or-truck--to an--automotive--salvage-dealer-and-later-surrendered-and-reported to-the-division-of-vehicles-of-the-state-department-of-revenue-as required-by-law;

(g)---"Automotive-salvage-dealer"--means-any-person--holding--a valid--license-under-the-provisions-of-K.S.A.-68-2201-to-66-2215, inclusive,--and--any--acts--amendatory--thereof--or--supplemental thereto,designated-as-the--junkyard--and--salvage--control--act. wire, cable, bars, ingots, wire scraps, clamps, aircraft parts or connectors made from aluminum; and copper, titanium, tungsten and nickel in any form; for which the purchase price described in K.S.A. 50-620 and 50-621, and amendments thereto, was primarily based on the content therein of aluminum, copper, titanium, tungsten or nickel.

Sec. 2. K.S.A. 50-620 is hereby amended to read as follows:
50-620. It shall be unlawful for any person to sell any item or items of junk-to-a-junk-dealer-in-this-state-unless--such--person shall--present--to--said--junk--dealer,--at--the--time--of--sale, information--as--to--the-ownership-of-such-item-or-items-of-junk-regulated scrap metal to a scrap metal dealer in this state unless such person either: (1) Receives full payment of the sale price therefor by check; or (2) shall present to said scrap metal dealer, at or before the time of sale, the information described below regarding such item or items of regulated scrap metal. Such information shall include the seller's name, address and place of business, if any. Every junk scrap metal dealer shall keep a register in which the dealer shall at the time of purchase or receipt of any item,excepting-rags-and-paper,enter-the-name, residence-and-place-of-business,if-any,of-the-person-from--whom the--junk--dealer--purchased-or-received-the-item,description-of items-purchased-and-the-price-paid-for-such-item--or--items. for

which such information is required to be presented, cross-reference to previously received information, or enter the name, residence or place of business, if any, of the person from whom the scrap metal dealer purchased or received the item, a description made in accordance with the commodity code standards of the trade of items purchased, the price paid for such item or items, and a copy of the seller's photo driver's license card or another government-issued photo identification card. The scrap metal dealer's register, including copies of identification cards, may be kept in electronic format. Notwithstanding the foregoing, this section shall not apply to: (1) Transactions for which the total sale price for all regulated scrap metal is \$50.00 or less; (2) transactions in which the seller is also a scrap metal dealer; or (3) transactions for which the seller is known to the purchasing scrap metal dealer to be an established business that operates out of a fixed business location and that can reasonably be expected to generate regulated scrap metal.

Sec. 3. K.S.A. 50-621 is hereby amended to read as follows: 50-621. It shall be unlawful for any such junk scrap metal dealer to purchase any item or items of ~~junk-after-the-effective-date-of this-act~~ regulated scrap metal in a transaction for which K.S.A. 50-620, and amendments thereto, requires information to be presented by the seller, without demanding and receiving from the seller thereof that information as-to-ownership. Every junk scrap metal dealer shall file and maintain a record of ownership-of items-purchased-pursuant-to-any-transaction-described information obtained in compliance with the requirements in K.S.A. 50-620, and amendments thereto. All records kept in accordance with the provisions of this act shall be open at all times to peace and police officers, except as otherwise prescribed by the city ordinances regulating the activities of junk scrap metal dealers, and shall be kept for two (2) years. If the required information is maintained in electronic format, the scrap metal dealer shall provide a printout of the information to peace and police officers upon request. Every scrap metal dealer that as a regular

part of their business purchases regulated scrap metal in transactions for which K.S.A. 50-620, and amendments thereto, requires information to be presented by the seller, shall through signs or written material warn sellers of regulated scrap metal that there are severe criminal penalties for thefts of regulated scrap metal.

Sec. 4. K.S.A. 50-622 is hereby amended to read as follows: 50-622. Any person violating the provisions of this act shall be guilty of a Class C misdemeanor. Any person convicted of intentionally violating the provisions of this act for the third and subsequent times within a two year period shall be guilty of a Class A misdemeanor.

New Sec. 5. (a) Theft of regulated scrap metal, as defined in K.S.A. 50-619, and amendments thereto, is obtaining or exerting unauthorized control over property, obtaining by deception or threat control over property, or obtaining control over stolen property knowing the property to have been stolen by another with intent to deprive the owner permanently of the possession, use or benefit of the owner's property.

(b) (1) Theft of regulated scrap metal of the value of \$100,000 or more is a severity level 5, nonperson felony.

(2) Theft of regulated scrap metal of the value of at least \$25,000 but less than \$100,000 is a severity level 7, nonperson felony.

(3) Theft of regulated scrap metal of the value of at least \$1,000 but less than \$25,000 is a severity level 9, nonperson felony.

(4) Theft of property regardless of the value from three separate mercantile establishments within a period of 72 hours as part of the same act or transaction or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct is a severity level 9, nonperson felony.

(5) Theft of regulated scrap metal of the value of less than \$1,000 is a class A nonperson misdemeanor.

(6) Theft of regulated scrap metal of the value of less than \$1,000 is a severity level 9, nonperson felony if committed by a person who has been convicted of theft two or more times.

(c) In addition to any term of imprisonment imposed pursuant to this section, the court shall fine the offender not less than \$5,000.

(d) This section shall be part of and supplemental to the Kansas criminal code.

Sec. 6. K.S.A. 50-619, 50-620, 50-621 and 50-622 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

Substitute for HOUSE BILL NO. 2278

By Committee on Energy and Utilities

AN ACT concerning electric and natural gas public utilities;
relating to financing of energy conservation equipment.

Be it enacted by the Legislature of the State of Kansas:

Section 1. Electric and natural gas public utilities, as defined in K.S.A. 66-101a and 66-1,200, and amendments thereto, may enter into agreements with customers for the financing of the purchase price and installation cost of energy conservation measures by such utilities. Such utilities may recover the cost of such financing and related program costs through tariffs approved by the state corporation commission pursuant to K.S.A. 66-117, and amendments thereto, and paid for by the customers benefitting from the installation of the energy conservation measures. Except as otherwise required by the tariff approved by the state corporation commission, such utilities shall assume no liability for the installation, operation or maintenance of such measures, and shall not provide any warranty as to the merchantability of the measures, its fitness for a particular purpose or its energy conservation efficiency, and no action shall be maintained against any such utility the basis of which is such liability or warranty.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

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