

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Richard Carlson at 9:00 a.m. on February 27, 2009, in Room 535-N of the Capitol.

All members were present.

Committee staff present:

Gordon Self, Office of the Revisor of Statutes
Scott Wells, Office of the Revisor of Statutes
Hank Avila, Kansas Legislative Research Department
Chris Courtwright, Kansas Legislative Research Department
Kathy Beavers, Committee Assistant

Conferees appearing before the committee:

Representative Jerry Williams
J.D. Lester, City Manager, Chanute, Kansas
Phil Perry, Home Builders Association of Greater Kansas City
Randy Braddock, Hamilton County Commissioner; Kansas Legislative Policy Group
Vaughn Flora, Kansas Rural Center
Zeina El-Azzi, Clipper Wind Power
Kimberly Gencur-Svaty, Trade Wind Energy
Mark Lawlor, Horizon Wind Energy; Co-Chair of Southwest Power Pool Commission
for Wind Coalition

Others attending:

See attached list.

HB 2074 - Interest and penalties and redemption procedures related to certain real property upon which real property taxes are delinquent.

The Chairman opened the hearing on **HB 2074**.

Staff Chris Courtwright briefed the committee on **HB 2074** and stood for questions.

Representative Jerry Williams testified in support of **HB 2074** (Attachment 1). He stated that HB 2074 is targeted at individuals habitually delinquent in their property taxes and make a business out of owning run-down homes and then renting them to low income individuals.

The purpose of the legislation is to crack down on taxpayer's who own multiple parcels, are delinquent in their property taxes and frequently exercise their statutory "redemption" rights at county tax sales. Representative Williams believes that the owners of such properties have figured out how to circumvent the system by exercising their redemption rights at the last moment. This causes additional administrative costs for the county and state and causes concerns of property taxpayers that make their payments in a timely fashion.

He referred the members to a letter submitted by Hugo Spieker, Donnie Yarnell, and Nicholas Galemore, Neosho County Commissioners (Attachment 2). He stood for questions.

J.D. Lester, City Manager from Chanute, Kansas, testified in support of **HB 2074** (Attachment 3). He stated that surveys were conducted in 2004, 2005 and 2007 to document interest in several areas regarding rental properties in Chanute. The areas of interest were construction standards, rental-housing regulations, concerns and suggestions the citizens had for their neighborhoods. The survey results showed there is broad support for the Chanute Governing Body to tackle the blight of rental property in their neighborhoods. Mr. Lester stated that this legislation would help to deter problems with rental-housing issues. He stood for questions.

Phil Perry, Home Builders Association of Greater Kansas City, testified in opposition to **HB 2074** (Attachment 4). Mr. Perry stated that he represents over 850 members in the Greater Kansas City area. Currently, property taxes are paid on lots when sold and on new homes when the property is closed. He stated that passage of this bill will place an additional burden on small business people who struggle to stay afloat.

CONTINUATION SHEET

Minutes of the House Taxation Committee at 9:00 a.m. on February 27, 2009, in Room 535-N of the Capitol.

Fifteen percent interest would be added to the property tax bill and would also include a 50% penalty that must be paid before the close of the sale. He stood for questions. Discussion ensued.

The Chairman closed the hearing on **HB 2074**.

HB 2196 - Ending the property tax exemption for renewable energy resources and technologies with the 2009 taxable year

The Chairman opened the hearing on **HB 2196**.

Scott Wells briefed the committee on **HB 2196**.

Randy Braddock, Hamilton County Commissioner; Kansas Legislative Policy Group testified in support of **HB 2196** (Attachment 5). Mr. Braddock stated that passage of **HB 2196** would repeal the current lifetime exemption for property used to generate electricity utilizing renewable energy resources or technologies, which prevents local governments from recouping costs for the additional burden the wind projects place on local services. He urged the committee to favorably consider **HB 2196** and he stood for questions.

Vaughn Flora, Kansas Rural Center, testified in a neutral position on **HB 2196** (Attachment 6). He referred to chart illustrations that show how a Production tax would be applied in Kansas. He also suggested a possibility of a Payment in Lieu of Taxes might be applied. He stood for questions.

Ms. Zeina El-Azzi, Clipper Wind Power, testified in opposition to **HB 2196** (Attachment 7). She stated that Clipper Wind Power believes it is important to share in the value creation that comes from wind energy projects. In Kansas, they plan on implementing payments in lieu of taxes to the counties in which wind energy developments come to fruition. Ms. El-Azzi stated that applying property taxes to wind energy projects would add cost to the project which would be passed on to the consumer.

She also stated that repealing the tax exemption would place Kansas at a disadvantage as it would deter investors and project development in the state. Ms. El-Azzi also stated that this bill had no grandfather clause for any existing projects. She stood for questions.

Mark Lawlor, Project Manager, Horizon Wind Energy, testified in opposition to **HB 2196** (Attachment 8). Mr. Lawlor stated that Ms. El-Azzi had also stated clearly the views of The Wind Coalition. In light of time constraints he deferred questions to Zeina El-Azzi, Clipper Wind Power and Kimberly Gencur-Svaty, Trade Wind Energy.

Kimberly Gencur-Svaty, Trade Wind Energy, testified in opposition to **HB 2196** (Attachment 9). She stated that wind energy is a renewable energy and an economic opportunity for Kansas. In her testimony she lists the following will occur from the development of nearly 7200MW of new wind energy:

- Total economic benefit to Kansas by \$7.8 billion
- New local jobs during construction - 23,000
- New long-term jobs for Kansas 3,000
- More than \$20.8 million annually for 20 years in payments to landowners
- More than \$19 million annually in local revenue to the impacted community

Committee members asked questions of Ms. El-Azzi and Ms. Gencur-Svaty.

Chairman Carlson continued, until Monday, March 2, 2009, the hearing on **HB 2196** and requested the conferees to return at that time.

The next meeting is scheduled for March 2, 2009.

The meeting was adjourned at 10:25 a.m.

JERRY D. WILLIAMS
REPRESENTATIVE, 8TH DISTRICT
NEOSHO COUNTY, WESTERN
CRAWFORD COUNTY AND
NORTHWEST LABETTE COUNTY
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CHANUTE, KANSAS 66720
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TOPEKA
HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
RANKING MINORITY: AGING AND LONG TERM CARE
MEMBER: APPROPRIATIONS
AGRICULTURE AND
NATURAL RESOURCES
BUDGET

TESTIMONY

To: The House Committee on Taxation
Honorable Richard Carlson, Chairman
From: Jerry D. Williams, State Representative, Kansas House, District #08
Re: House Bill 2074
Date: Friday, February 27, 2009

Chairman Richard Carlson and members of the House Committee on Taxation, thank you for having a hearing on House Bill 2074.

May I start today by stating what House Bill 2074 is not. House Bill 2074 is not an attempt at causing a hardship on those property taxpayers who may have fallen on bad times and are only a year behind on paying their property tax.

House Bill 2074 is targeted at those individuals who habitually do not pay their property taxes and who make a business out of owning run-down houses and rent to low income individuals. In other words, the business of being a "slum" landlord that makes our communities look bad and who causes a hardship on hard working families who pay their property taxes.

The legislation would take a two-pronged approach to cracking down on certain taxpayers who often own multiple parcels, are habitually delinquent, and tend to frequently exercise their statutory "redemption" rights at county tax sales. A number of conversations over the years with local officials and constituents have led me to believe that the owners of such property have figured out how to "game" the system by turning up to exercise the redemption rights at the last moment, often 2 to 3 years after property taxes were originally due.

This unfortunate gaming-of-the-system gives rise to a number of problems, not the least of which are additional administrative costs for the county and the state; and the equity concerns of other property taxpayers who struggle to make their payments in a timely fashion. I have been working with staff for more than two years to develop a remedy to this situation, and I am convinced that the following two statutory changes would dramatically reduce the ability of the "gamers" to continue with their current practices:

1. KSA 2008 Supp 79-2004 would be amended to increase the interest rate for delinquent property taxes to 15 percent for persons owning three or more delinquent parcels or tracts. Under current law, the rate is tied to a federal rate plus two percent and is currently set at 6 percent (4 + 2).

2. KSA 2008 Supp 79-2401a also would be amended to provide an additional tax penalty of 50 percent for certain persons who have redeemed real estate sold in the county "bid-off" sale two or more times during the previous six years.

Thank you for the opportunity to appear before you today in support of House Bill 2074. I will stand for questions.

Jerry Williams
State Representative
House District 8

DON YARNELL, 1st District
NICH S GALEMORE, 2nd District
HUGO SPIEKER, 3rd District

Board of Commissioners
NEOSHO COUNTY
P.O. Box 138
Erie, Kansas 66733

MEE RIDAY
Erie 620-44-3819
Chanute 620-431-5758
1-800-498-1008
Fax 620-244-3810

February 20, 2009

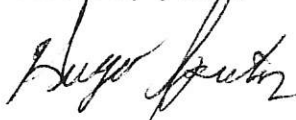
The Honorable Jerry D. Williams
State Representative District #8
Docking State Office Building
915 SW Harrison
Topeka KS 66612

Dear Representative Williams:

We, the Neosho County Board of Commissioners, whole-heartedly support the passage of House Bill 2074. In Neosho County, we have two businesses whose delinquent taxes total one-third of our 2009 county budget. The delinquent taxes due in Neosho County has steadily increased each year since the year 2000. Action needs to be taken to curtail this ever-increasing problem.

We support the two-pronged approach to increasing the interest rate for delinquent property taxes and providing an additional tax penalty as outlined in HB 2074 as a necessary measure to crack down on certain taxpayers who often own multiple parcels, are habitually delinquent, and tend to frequently exercise their statutory redemption rights at county tax sales.

Sincerely yours,



Hugo Spieker, Chairman
3rd District



Donnie Yarnell
1st District



Nicholas Galemore
2nd District

HS:DY:NG/lp

Written Only

To the Kansas House Taxation Committee

RE: HB 2074

Dear Committee Members,

My name is J.D. Lester and I have had the pleasure of being the City Manager in Chanute, Kansas since September 1st of 2008. The purpose of my testimony today is to support the changes in the statutes proposed by Representative Williams. Here is a little background on our community and some reasons for the support of these language changes.

Chanute, located in Neosho County is a town of 9,000 and as City Manager I have had the opportunity to visit with residents about a wide variety of issues and had the opportunity to examine some of the publically documented goals that were established using a community oriented process. One of the key elements identified in those goals related to the condition of housing in virtually every neighborhood in Chanute. More specifically, those conversations keyed in on the condition of houses used as rental units. For a few years now staff has taken up these specific concerns of the community. Although it was not our primary focus when dealing with rental housing issues it was amazing to us to find out how many of these rental houses had been purchased in "Tax Sales" and how many consecutive years these rental houses were showing up on the delinquent tax rolls.

To document our citizen's interest in rental property I have provided to you portions of citizen surveys conducted in Chanute in 2004, 2005 and 2007.

1. In 2004, 66.8 percent of those surveyed said minimum construction standards for residential rental property would improve Chanute neighborhoods.
2. In 2005, 50.9 percent of those surveyed said it was a high priority for them to have rental-housing regulations and standards developed and adopted. A survey was not conducted in 2006
3. In 2007, 30 percent of the respondents said what is needed the most in their neighborhood was improvements to rental housing.

According to the census Chanute has 4,246 housing units. Of the total housing stock, 1,238 (33%) are rental units. Based on city staff's work in 2004 an estimated 11 percent of the rentals were acquired through "Sheriff Sale" or "Tax Sale" and these same houses appeared in the delinquent tax notices that run in the local paper year after year. To us this was an indication that some landlords were not paying the property taxes owed on their rental houses.

Based on these estimates - 1 house out of 10 or 1 house on almost every block in Chanute is owned by a landlord that is not paying property taxes on that property.

As the survey results show there is broad citizen support for the Chanute Governing Body to tackle the blight of rental property in Chanute neighborhoods and over the recent months more city resources have been allocated to nuisance abatement with positive results. In addition the community recognizes that housing and the condition of our housing stock does have a direct impact on our economic development opportunities. Housing is, in fact, a critical component in our efforts to attract new employers to our community. Likewise, it also is a key element in our existing employers' ability to attract new talent to Chanute. With this in mind, we believe one missing element in the process, is a mechanism to deter the practice of "gaming" the system, which allows certain individuals to acquire houses cheaply through the bid-off process and then collect rent or who sit on properties which are developable avoiding the payment of property tax for 5 to 6 years. I, as well as many citizens in Chanute believe that what Representative Williams is proposing in House Bill 2074 will go a long way in providing that deterrent.

CITIZEN ATTITUDE SURVEY
CITY OF CHANUTE
NOVEMBER 2004
RESPONSES SHOWN AS PERCENTAGE

GREETINGS

In an effort to monitor, measure, and evaluate performance the City of Chanute invites you to participate by completing this Citizen Satisfaction survey. You are among 1,000 residents that are being surveyed about a variety of City facilities and services. The results of the survey will be presented to the City Commission in December. Please take a few moments to complete the survey then place the survey in the letter size envelope and mail it back to the city.

Please return the survey before November 19, 2004.

To indicate your response to the question, please put a mark in the blank next to your answer.

1. How many years have you, yourself, lived in Chanute?

Less than 5 years 11.4 5 to 9 years 6.9 10 to 19 years 12.9
20 to 29 years 13.2 30 years or more 55.5

2. Would minimum construction standards for residential rental property improve Chanute neighborhoods?

Yes, 66.8% No 1.3% do not know 20.3%

3. Should the city inspect residential rental property for compliance with minimum housing standards?

Yes, 76.3% No 14.2% do not know 9.5%

3a. If you answered yes to question 3, how often should the city inspect residential rental property?

Once a year 51.9% More than once a year 6.2% Each time a tenant moves in 41.9%

4. Which statement best describes your feeling about the city annexing property outside the current city limits.

Annexation is occurring at about the right pace 68.5
Annexation is occurring to rapidly 16.3
Annexation is occurring to slowly 15.2

2005 CITIZEN SURVEY
RESPONSES SHOWN AS PERCENTAGE

3. Listed below are specific actions that would address the above goals. Please indicate your priority for each goal

	PRIORITY		
	HIGH	MIDDLE	LOW
A. Develop and adopt rental housing regulations and standards	50.9	37.5	11.5
B. Begin "squaring-up" city limit boundaries using Annexation	19.2	45.1	35.7
C. Open a remodeled or new swimming pool prior To the 2008 swim season	48.1	29.6	22.2
D. Motivate and engage civic organizations	30.2	54.1	15.7
E. Economic Development policy for youth jobs	47.0	45.9	7.0

4. City government provides a number of services and facilities to the residents of Chanute. Please indicate whether you have used the following services or facilities in the last 12 months. If you have used the service or facility, indicate if the quality of that service or facility is excellent, good, fair, or poor.

	NO, HAVE NOT USED	YES, HAVE USED	EXCELLENT	GOOD	FAIR	POOR
a. Police protection/crime prevention	71.4	28.6	29.1	33.7	25.6	11.6
b. 911	79.7	20.3	51.6	33.9	8.1	6.5
c. Fire protection/prevention	89.7	10.3	48.8	25.6	20.9	4.7
d. Animal Control	68.3	31.7	18.4	31.6	19.4	30.6
e. Bicycle paths/trails	61.8	38.2	29.6	55.6	13.0	1.9
f. Tennis Courts	86.3	13.7	8.7	56.5	17.4	17.4
g. City parks	29.6	70.4	20.2	61.7	15.3	2.7
h. Community Centers	52.6	47.4	22.5	56.6	17.1	3.9
i. Playground Equipment	63.8	36.2	10.0	56.0	25.0	9.0
j. Swimming Pool	64.8	35.2	15.2	21.9	33.3	29.5
k. Utility billing customer service	28.3	71.7	39.6	43.3	11.2	5.9
l. Building /Zoning permit services	81.6	18.4	23.7	35.6	28.8	11.9
m. Cemetery services	85.8	14.2	37.8	46.7	8.9	6.7
n. Nuisance abatement services	94.0	6.0	7.4	11.1	29.6	51.9
o. Alliance room/Auditorium	74.3	25.7	57.1	39.0	2.6	1.3
p. Airport	90.1	9.9	39.4	48.5	9.1	3.0
q. Golf Course	81.2	18.8	19.0	39.7	22.4	19.0
r. Santa Fe Lake	39.8	60.2	26.3	61.3	11.3	1.3
s. Overall City services	19.8	80.2	20.1	56.9	17.2	5.7
t. City Government TV channel	40.2	59.8	20.9	48.7	21.5	8.9
u. Chanute's Internet web page	82.7	17.3	16.0	50.0	26.0	8.0
v. Parking Downtown	10.4	89.6	12.9	50.6	27.1	9.4

2007 CITIZEN SURVEY
 RESPONSES SHOWN AS PERCENTAGE

10. After considering the items listed below, please indicate the level of need in your neighborhood? Please check all that apply.

	Needed The Most	Needed Somewhat	Needed Least
Drug enforcement	22.6	45.7	31.6
Clean up junk in private yards	30.0	33.7	36.2
Improvements to Rental Housing	30.0	36.3	33.8
Juvenile crime enforcement	21.6	50.9	27.6
Curb repair	16.0	36.6	47.5
Street repair	24.5	39.0	36.5
Alley maintenance	24.3	39.1	36.6
Sidewalk repairs	24.8	39.7	35.5
A neighborhood action group	11.9	41.1	47.0

11. All in all, do you think Chanute is growing,

Too quickly 2.8 Too slowly 65.1 at about the right pace 32.1

12. The City strives to provide a high level of Customer Service. Please consider the services and departments listed below and mark how each measured up to your expectations.

	Exceeded my Expectations	Met my Expectations	didn't meet my Expectations	Needs Improving
Overall Customer Service	4.9	77.2	7.7	10.2
Response Time	7.0	73.7	11.1	8.2
Information on City Services	4.5	72.0	12.8	10.7
Commission meeting on TV	3.2	72.9	12.7	11.3
City web page information	4.5	76.8	10.1	8.6
Government Channel 4	2.4	79.2	7.1	11.3
Information over the phone	3.8	78.0	9.3	8.9
Information in Writing	1.4	73.4	10.3	15.0
Landfill operation	6.7	82.9	3.3	7.1
Garbage Collection	15.7	73.3	3.5	7.5
Utility billing & collections	9.4	80.9	4.7	5.1
Police Department	6.9	72.8	8.1	12.2
Municipal Court	2.8	83.3	4.2	9.8
Fire Department	11.5	83.6	1.2	3.7
Street Department	3.7	72.4	10.7	13.2
Gas Department	5.8	84.7	4.1	5.4
Water Department	5.7	84.5	4.1	5.7
Electric Department	5.7	85.3	4.1	4.9
Sewer Department	4.5	86.8	4.1	4.5
City Management	3.8	52.9	18.3	25.0
Animal Control	2.1	60.4	15.4	22.1
Building Code Enforcement	3.9	67.4	13.3	15.5
Parks & Recreation	8.1	77.2	5.3	9.3

Chanute city, Kansas - Fact Sheet - American FactFinder

http://factfinder.census.gov/servlet/SAFFacts?_event=Search&geo_id=...



U.S. Census Bureau
American FactFinder

FACT SHEET

Chanute city, Kansas

View a Fact Sheet for a race, ethnic, or ancestry group

Census 2000 Demographic Profile Highlights:

General Characteristics - show more >>	Number	Percent	U.S.		
Total population	9,411			map	brief
Male	4,405	46.8	49.1%	map	brief
Female	5,006	53.2	50.9%	map	brief
Median age (years)	37.5	(X)	35.3	map	brief
Under 5 years	597	6.3	6.8%	map	
18 years and over	7,035	74.8	74.3%		
65 years and over	1,781	18.9	12.4%	map	brief
One race	9,188	97.6	97.6%		
White	8,771	93.2	75.1%	map	brief
Black or African American	134	1.4	12.3%	map	brief
American Indian and Alaska Native	104	1.1	0.9%	map	brief
Asian	44	0.5	3.6%	map	brief
Native Hawaiian and Other Pacific Islander	4	0.0	0.1%	map	brief
Some other race	131	1.4	5.5%	map	
Two or more races	223	2.4	2.4%	map	brief
Hispanic or Latino (of any race)	366	3.9	12.5%	map	brief
Household population	9,050	96.2	97.2%	map	brief
Group quarters population	361	3.8	2.8%	map	
Average household size	2.34	(X)	2.59	map	brief
Average family size	2.92	(X)	3.14	map	
Total housing units	4,262			map	
Occupied housing units	3,864	90.7	91.0%		brief
Owner-occupied housing units	2,626	68.0	66.2%	map	
Renter-occupied housing units	1,238	32.0	33.8%	map	brief
Vacant housing units	398	9.3	9.0%	map	
Social Characteristics - show more >>	Number	Percent	U.S.		
Population 25 years and over	6,059				
High school graduate or higher	4,922	81.2	80.4%	map	brief
Bachelor's degree or higher	877	14.5	24.4%	map	
Civilian veterans (civilian population 18 years and over)	957	13.6	12.7%	map	brief
Disability status (population 5 years and over)	2,001	23.4	19.3%	map	brief
Foreign born	82	0.9	11.1%	map	brief
Male, Now married, except separated (population 15 years and over)	2,130	62.2	56.7%		brief
Female, Now married, except separated (population 15 years and over)	2,256	56.3	52.1%		brief
Speak a language other than English at home (population 5 years and over)	322	3.7	17.9%	map	brief
Economic Characteristics - show more >>	Number	Percent	U.S.		
In labor force (population 16 years and over)	4,521	61.8	63.9%		brief
Mean travel time to work in minutes (workers 16 years and over)	13.6	(X)	25.5	map	brief
Median household income in 1999 (dollars)	29,912	(X)	41,994	map	
Median family income in 1999 (dollars)	36,630	(X)	50,046	map	
Per capita income in 1999 (dollars)	16,288	(X)	21,587	map	
Families below poverty level	301	12.0	9.2%	map	brief
Individuals below poverty level	1,356	15.0	12.4%	map	
Housing Characteristics - show more >>	Number	Percent	U.S.		


Chanute city, Kansas - Fact Sheet - American FactFinder

http://factfinder.census.gov/servlet/SAFFacts?_event=Search&geo_id=...

Single-family owner-occupied homes	2,452				brief
Median value (dollars)	43,900	(X)	119,600	map	brief
Median of selected monthly owner costs	(X)	(X)			brief
With a mortgage (dollars)	580	(X)	1,088	map	
Not mortgaged (dollars)	235	(X)	295		

(X) Not applicable.

Source: U.S. Census Bureau, Summary File 1 (SF 1) and Summary File 3 (SF 3)

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**HOME BUILDERS ASSOCIATION
OF GREATER KANSAS CITY**



600 EAST 103RD STREET • KANSAS CITY, MISSOURI 64131-4300 • (816) 942-8800 • FAX (816) 942-8367 • www.kchba.org

**Testimony on HB 2074
Phil Perry, Staff VP, Governmental Affairs
House Committee on Taxation
February 27, 2009**

Mr. Chairman and members of the committee, thank you for the opportunity to appear before you today. My name is Phil Perry and I am the Staff VP of Governmental Affairs for the Home Builders Association of Greater Kansas City, an organization that represents over 850 members in the Greater Kansas City area. I am appearing before you today to speak in opposition to HB 2074, an act relating to penalties and interest on undeveloped real estate parcels, unoccupied new homes or other personal property.

As we shift through the wreckage that is the housing industry today, do we really want place an additional burden on the small business people who are struggling to stay afloat. With thousands of homes across the state that are built and unoccupied and thousands more platted and developed lots, now is not the time to place additional burdens on these small business owners. It has been common practice across the state for decades, that property taxes are paid on lots when sold and on new homes when the property is closed. This bill would not only add 15% interest to the property tax bill but also include a 50% penalty which must be paid before the sale can be closed. And this would apply only to sellers (owners) who have sold real estate two or more times in a six year period. Why now, when the markets are down, do we want to penalize an industry that has accounted for over 15% of the States Gross Domestic Product?

The Home Builders Association of Greater Kansas City strongly urges you to oppose this attempt to seek a defacto tax increase on the housing industry and all the people that they employ. Thank you and I am willing to stand for any questions you may have.

House Taxation Committee

2-27-09

Attachment 4

Do Business With A Member

Montezuma - Gray County Wind Farm

- 112.2 MW Installed.
- \$330,000/ year - Actual PILOT
- This equals \$2,941 in County Revenue per MW installed

.....

Minnesota Production Tax Applied to the Montezuma Wind Farm

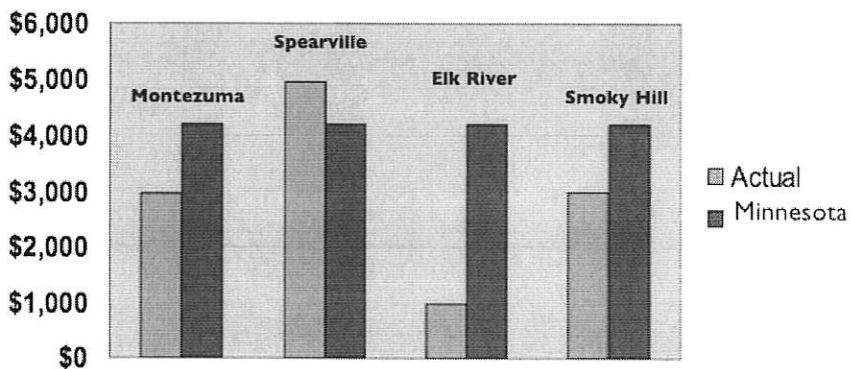
- Tax Rate = \$0.0012 per kWh
- Kansas Wind Capacity Factor = 0.40
- $1000 \text{ kW} \times 8760 \text{ hr/yr} \times \$0.0012/\text{kWh} \times 0.40 + \$4,205/\text{yr}/\text{MW installed}$

.....

KS. Pilot vs MN Production Tax

\$/MW Comparison

Annual Per MW Installed





KANSAS LEGISLATIVE POLICY GROUP

P.O. Box 555 • Topeka, Kansas 66601 • 785-235-6245 • Fax 785-235-8676
www.klpg.org

**Testimony of
Commissioner Randy Braddock
Hamilton County Commissioner**

Before the House Committee on Taxation

House Bill 2196

February 27, 2009

Chairman Carlson and Members of the Committee:

I am pleased to provide testimony in support of House Bill 2196 on behalf of the Kansas Legislative Policy Group (KLPNG) and Hamilton County. KLPNG is a bipartisan, non-profit organization of elected commissioners from 30 western Kansas counties. I appreciate the opportunity to testify on this issue, which is of great importance to Hamilton County and our member counties.

House Bill 2196 ends the lifetime property tax exemption for property used to generate electricity utilizing renewable energy resources or technologies. While we support the development of wind energy in Kansas, the current lifetime exemption prevents local governments from recouping costs for the additional burden the wind projects place on local services. A lifetime exemption shifts the tax burden to other Kansas businesses.

The tax exemption began in 1999 as a way to encourage the development of wind projects in Kansas, deemed the Saudi Arabia of wind. Ten years later, competition to develop this natural resource is fierce and will only become more competitive if Kansas passes legislation to mandate the purchase of renewable energy. The need to subsidize the wind industry no longer exists.

The project currently set to begin construction at the end of this year is a 143 megawatt, 90 turbine project. Similar size projects were built in Prowers County, Colorado and Oldham County, Texas. In Colorado, state assessment of the Powers County project will provide the county with tax revenue of nearly \$1 million a year. In Texas, Oldham

Kansas Rural Center

www.kansasruralcenter.org

Testimony before the House Committee on Taxation

February 27, 2009, Concerning HB 2196

Chairperson and Honorable Members of the Committee. My name is Vaughn Flora and I am here representing the Kansas Rural Center concerning HB 2196, relating to the Property Tax exemption for Renewable Energy Resources and Technologies. The Kansas Rural Center is neutral on the bill.

The present law exempts property used predominantly to produce and generate electricity, and this bill seeks to end that exemption. That exemption was probably in place to serve as an incentive to energy developers. In its stead, developers have customarily offered a Payment In Lieu of Taxes, known by the acronym PILOT. These PILOTs were the subject of negotiations between County Commissioners and developers and have, in some cases, been the cause of ill will within the county among residents, with allegations of corruption being floated against Commissioners in at least one case. They have become just another issue to be negotiated, and the Rural Center believes the exemption may have slowed the development process at times.

It is important that this significant new stream of revenue provide income to the counties, but there may be a way to incent developers, while normalizing and standardizing the revenue stream across the state.

Minnesota has in place a "Production Tax". This tax applies when the turbines are turning and there is a revenue stream. When there is no wind, or the turbine needs repair, there is no property tax, as we usually think of it. When the wind blows and the turbines turn, the Minnesota Production Tax rate is assessed at \$0.0012 kWh. The revenue is entirely distributed to local taxing entities within the county the generation is located, benefiting their schools and county governments.

The accompanying charts illustrate how this tax structure would be applied in Kansas. Note how the Montezuma wind farm's present PILOT returns an amount much smaller to the county. The Spearville wind farm provides much more. Only the Spearville farm negotiated a PILOT greater than what the Minnesota structure would provide. All illustrations assume the wind blows (capacity factor) 40% of the time.

Finally, the Minnesota structure imposes the tax on a sliding scale based on the size of the wind energy project. This is done to level the playing field and to encourage local ownership of smaller projects. For more information see: <http://www.newrules.org/electricity/utilitytaxmn.html>



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February 27, 2009

Testimony Presented on behalf of Clipper Windpower
to the Kansas House Tax Committee

Re: HB2196

I will keep my comments brief in the interest of your valuable time.

I would like to begin by stating that Clipper, like many of its counterparts in the wind industry, engages in a policy of contributing to the communities in which we develop projects. Clipper believes it is of great importance to share in the value creation that comes from wind energy projects with the local community. In Kansas, we plan on implementing payments in lieu of taxes to the counties in which we have wind energy developments that come to fruition.

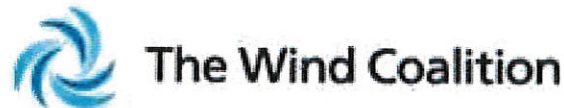
The first point I would like to bring to your attention is with regard to the impact property taxes have on the economics of a wind energy project. Property taxes, like many other added costs to a project, greatly impact the economics of a wind park. For example, for a typical 150MW wind project, the effect of adding \$3MM in property taxes impacts the energy cost by \$1.50/MWh, effectively increasing the cost to the end user of energy. If we assume an average energy cost for the total facility of \$50/MWh, an additional increase of \$1.50 is effectively a 3% increase in the sales price to the customer. Property tax exemptions and reductions allow for wind energy projects to remain competitive and affordable for customers in Kansas.

Second, Kansas is in a region that competes for project development with at least 4 other states: Oklahoma, Texas, New Mexico and Missouri. All of those states have some form of property tax exemption/reduction. Repealing this exemption in Kansas would effectively place the state at a disadvantage to others in the region. This could be yet another reason more projects are placed in states like Texas and Iowa.

Finally, the language in this bill has no grandfathering clause for any existing projects. This sends a clear signal to investors that regulations in Kansas cannot be relied upon in the long term and can have devastating consequences on the willingness of investors to put their money at risk in the state.

Thank you for your time.

Zeina El-Azzi
Development Director, South Region
Clipper Windpower Development Company, Inc.



HB 2196: New Taxation of Wind Development

Increasing taxes on wind development will have a negative impact on job creation and investment in the state and discourage one of Kansas' best economic development opportunities in tough economic times.

One of the advantages Kansas currently has over other states is the property tax incentive that this legislature has put in place. With the growing likelihood of a national RPS and the push for a national transmission highway system, wind development is poised to grow rapidly in the near term. Investors will be considering the advantages that exist from state to state in making decisions on location of new wind farms. This is not the time to be discouraging wind development.

Wind developers in Kansas routinely make payments to political subdivisions in Kansas even though they are not required to do so. The current construct in Kansas is bringing both development and additional income to local governments when in many cases neither development nor additional income to local governments would have occurred if taxes were assessed on the improvements. Counties receiving revenue from existing wind projects have expressed great satisfaction with the current arrangement.

Mark Lawlor
Project Manager, Horizon Wind Energy
Co-Chair SPP Committee, The Wind Coalition

The Wind Coalition is a non-profit association of developers, manufacturers, construction companies and public interest groups. The Wind Coalition has 34 members with investments in Kansas and throughout the central plain states.



*Submitted testimony provided to the
House Taxation Committee
February 27, 2009*

*Kimberly Gencur Svaty, on behalf of
TradeWind Energy*

House Bill 2196

Good morning Chairman Carlson and Honorable Members of the Committee. I am Kimberly Gencur Svaty and I respectfully appear before you on behalf of TradeWind Energy this morning in opposition to House Bill 2196 which would repeal the property tax exemption for renewable energy resources and technologies effective the end of this year.

TradeWind Energy

By way of background, TradeWind Energy is the leading wind energy developer in the Midwest with a development pipeline approaching 10,000MW of renewable wind generation in more than a dozen states in the Midwest – where the wind resource is the most rich and abundant. TradeWind Energy opened its doors in Lenexa, Kansas in 2001/2002 and focused primarily on wind energy development in Kansas and Missouri. Fast forward nearly eight years and TradeWind Energy's narrative is a compelling one about expansion, job creation and economic development. In 2006/2007 timeframe, TradeWind had approximately ten employees focused on wind energy development in Kansas and Missouri. In 2008, TradeWind's team grew to more than 30 employees and dozens of contractors supporting TradeWind's expanding interests throughout the Midwest. Projections show by the end of 2009, TradeWind Energy will again double its full-time staff to more than sixty, not to mention that TradeWind recently completed a large expansion of its business headquarters which continue to remain in the EcoWorks building in Lenexa, Kansas. TradeWind is the developer and part-owner of the 250MW Smoky Hills Wind Farm which is located in Ellsworth and Lincoln counties. Smoky Hills is the largest wind project in Kansas and the most visible with 22,000 motorists passing the project daily. Enel, the world's largest renewable energy developer with more than 29,000MW of renewable energy in its portfolio, is the primary owner and operators of the project.

Economic Landscape

To be sure, this is about economic opportunity for the state. The renewable energy, wind energy in particular, market is highly competitive. Kansas' utilities have some of the strongest wind generation projects in the nation from which to select. The strong winds which blow more often than not, make our native commodity a cost-competitive, economic choice. While Kansas does have a significant opportunity to grow its own consumption of renewable

energy generated via wind, perhaps the most significant economic opportunity comes under an export paradigm wherein Kansas would strive to supply other segments of the United States which do not enjoy abundant sources of renewable energy, not to mention cost-efficient renewable energy. Congress, which enjoys to the support of the Obama Administration, is preparing to consider creating a renewable energy standard (RES) of 20% renewable integration by 2030. According to the Kansas Corporation Commission (KCC), the following would occur from the development of nearly 7200MW of new wind energy:

- Total economic benefit to Kansas - \$7.8B
- New local jobs during construction – 23,000
- New long-term jobs for Kansans – over 3,000
- More than \$20.8M annually for 20 years in payments to Landowners
- More than \$19M annually in local revenue to the impacted community

Southwest Power Pool (SPP) studies show that Kansas could inject between 10,000 and 15,000MW of wind energy into market by 2030. Our neighboring states and beyond, which in many instances do not have as rich a wind-resource, have surveyed the numbers and jumped into the race at full steam ahead. Wind projects in Kansas are now in direct competition from projects in Nebraska, Oklahoma, the Texas panhandle, Arkansas, Missouri, Iowa and beyond.

Signals Drive Development

As in any competitive industry, signals drive development. For utilities looking to purchase wind, those signals are fixed fuel prices, competitive project costs, access to transmission, local community and landowner support and environmental and land-use considerations. For the industry to seed and flourish in a state, the signals are primarily derived by state policy which demonstrates a long-term commitment to a particular industry. In the case of the renewable energy business, there are a host of economic tools employed to serve as signals – a welcome mat if you will – including a state renewable portfolio standard, a state production tax credit, transmission expansion, tax exemptions, TIF incentives for development, or significant local control in facility siting, just to name a few. Kansas lacks the majority of the signals that industry considers when determining where to locate. Our development thus far has been primarily a result of the strong product we have to market. However, with other states providing sweeteners, the competitiveness of our product is diminished. The property tax exemption for renewable resources is a very helpful tool and one which if repealed would only further reduce the value of our state's abundant commodity.

There is considerable precedent from this Legislature extending property and ad valorem exemptions toward electric generation, transmission and natural gas pipelines, including

- All electric generation facilities are exempt from all property tax or ad valorem taxes for 12 years upon project completion – K.S.A. 66-104
- Peak load plants are exempt from all property tax or ad valorem taxes for 6 years upon project completion – K.S.A. 66-104
- Air pollution control devices purchased for, constructed or installed at electric generation facilities are exempt from all property taxes levied for 10 years. Similar equipment associated with a peaking facility is exempt for 4 years – K.S.A 66-128

- Any electric generation unit which captures and sequesters all carbon dioxide and other emissions and carbon dioxide capture, sequestration or utilization property are exempt from all property taxes levied for 5 years - K.S.A. 79-233 (2007)
- All electric transmission lines and appurtenances are exempt from all property or ad valorem taxes levied for 10 years - K.S.A. 66-128. (2000)
- Property tax exemption for solar, photovoltaics, landfill gas, wind, biomass, hydroelectric, geothermal electric used to generate electricity – K.S.A 79-201
- Property tax exemption retroactive to tax year 2002 for 1) all personal property actually and regularly used to collect, refine or treat landfill gas; 2) all property used to transport the gas from a landfill to a transmission pipeline; and 3) the gas itself.
- Ten-year property tax exemption for any company that builds a second nuclear power plant near the existing Wolf Creek nuclear facility.

Local control over dollars

While renewable energy developers are exempt from paying property taxes, wind developers are committed to being good, long-standing community partners. TradeWind Energy is very engaged in the Lincoln and Ellsworth communities as well as other areas in the state where they are developing. A robust Payment In Lieu of Taxes (PILOT) arrangement is in place with the counties which nears the property tax payment. The counties benefit in that they have considerable freedom with the PILOT monies, and that freedom becomes constrained with a removal of the property tax exemption. Consider the difference between Ellsworth and Lincoln Counties. Lincoln County has chosen to take all of their PILOT payments and put them in a county fund for community and county development grants. Their “Wind Power Economic Benefit Fund (WEB) will only use the interest accrued to support economic development, schools, infrastructure and community needs. The WEB has become a model for other counties. Ellsworth County, meanwhile, chose to take most of their PILOT payments and pay down the mill levy. Both are good uses of their PILOT dollars. These counties have the freedom to decide what they want to do with this direct revenue infusion, and if it came in the form of tax revenue they would be directed toward more traditional uses. The money – approximately \$3,000 per megawatt of energy, is substantial, with around \$750,000 a year being paid to the counties.

Conclusion

The state of Kansas stands to see tremendous growth in the wind industry over the next twenty years. However, although our wind is second to almost no other state in the nation, the other states with competitive wind capacity factors are also up and down the central corridor of the United States. Whether we like it or not, we are in a competition with other states to develop our resources and the opportunity to harness the power of our wind is finite. If this committee would like to look at this issue over time and consider it in the future, I would be more than happy to facilitate that conversation. However, advancement of HB 2196 would send a message to the industry that Kansas is not the place to host all of the ancillary manufacturing and other benefits that come along with a robust wind energy market. Advancing the bill would both stall development here in Kansas and, worse yet, it would send the development that would otherwise be here to our neighboring states. We cannot afford to jeopardize all of this when the long term outlook for wind is an unparalleled opportunity for our state. Thank you, and I will stand for questions at the appropriate time.



Harvesting the Power of the Wind

Smoky Hills Wind Project Fact Sheet

Project Name:

The Smoky Hills Wind Project is believed to be the most energetic site of any wind project site in Kansas.



Project Developer:

The developer of the Smoky Hills Wind Project is TradeWind Energy, LLC ("TradeWind"), which is headquartered in Lenexa, Kansas. The senior managers of TradeWind have a combined 80 years experience in the independent power development business including acquisitions and project development across the United States, Europe, Canada, and the Caribbean, as well as significant regulated utility experience.

Project Ownership:

The project will be owned by Enel North America, Inc. the wholly owned subsidiary of Enel, SpA. Enel, SpA is the third largest utility in the world, and the largest owner of renewable generation in the world, with some 29,000MWs of renewable generation that it owns and operates. Enel North America is headquartered in Boston. TradeWind Energy will have a continuing financial stake and operations role with Enel for the 20-year life of the project.

Project Location:

The Project resides in both Lincoln and Ellsworth Counties, sitting about 20 miles west of Salina, Kansas and north of Interstate 70 on both sides of Highway 14. The site enjoys tremendous visibility with more than 22,000 cars traversing the Interstate daily.

Project Size:

100 MWs (phase I)

148.5 MWs (phase II)

The fully developed 248.5MW project will generate enough electricity in an average year to power approximately 85,000 Kansas homes.

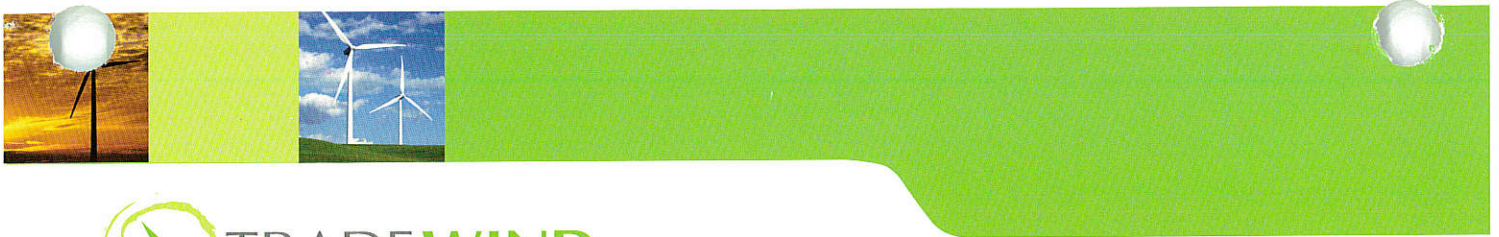
Utility Buyers:

Sunflower Electric Power Cooperative, Midwest Energy, the Kansas City, Kansas Board of Public Utilities, the City of Independence, Missouri with additional buyers to be announced.

Project Turbines:

Phase I - 1.8MW V80 turbines manufactured by Vestas, 80 meter hub height, with 80 meter blade diameter.

Phase II - GE1.5sle turbine, with an 80-meter hub height and 77-meter blade diameter.



Harvesting the Power of the Wind

Landowners and Acreage Involved:

Over 100 landowners covering 20,000 acres are involved in the project.

Construction Timeline:

Commence construction March of 2007. First turbines arrive at the site in August of 2007, and Phase I of the project was commercially operational in January 2008. Phase II will be operational in fall 2008.



Project Interconnection:

The project will interconnect to the Midwest Energy 230kV transmission line in Ellsworth, County.

County Payments:

The project expects to pay Lincoln and Ellsworth Counties a combined annual payment of \$3,000/ per MW for 10 years.

Key Project Attributes:

The project will take only approximately 1-2 percent of land out of service to build, including all land for roads, turbine foundations, and maintenance buildings.

The project is ideally located on a major Interstate highway, creating significant opportunities for education and tourism around renewable energy production, plus ease of access to and from the project site.

The project is expected to have no material affect on any Threatened and Endangered species of birds or animals based on third party studies commissioned by TradeWind.

The project enjoys broad community support.

The project is believed to be ideally located in order to obtain firm transmission service to all potential utility markets around Kansas.

The project is being built because it represents the low-cost option for wholesale electricity purchases for the utility-buyers, in addition to the significant environmental benefits of the project.

Upon completion, the Smoky Hills Wind Project will offset approximately 811,000 tons of carbon dioxide emissions per year, 1,700 tons of NOx per year, and 2,300 tons of SO2 per year.

Contacts:

For more information on TradeWind Energy or Enel please visit our web sites:

www.tradewindenergy.com or **www.enelnorthamerica.com**