

MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Richard Carlson at 9:00 a.m. on March 2, 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:

Mark Tallman, Kansas Association of School Boards
Don Moler, League of Kansas Municipalities
Mark Desetti, Kansas National Education Association
Randall Allen, Kansas Association of Counties
Dave Holtwick, Overland Park Chamber of Commerce
Jason Chan, Waste Management of Kansas
Mark Lawlor, Horizon Wind Energy
Whitney Damron, Iberdrola Wind Energy; Empire Electric

Others attending:

See attached list.

HB 2150 - Property taxation; 2% limit on valuation increases.

Chairman Carlson opened the continued hearing on **HB 2150**.

Mark Tallman, Kansas Association of School Boards testified in opposition to **HB 2150** (Attachment 1). Mr. Tallman discussed how **HB2150** would impact the following:

- ◆ Statewide Mill Levy
- ◆ Local Option Budgets
- ◆ Capital Improvement and Capital Outlay Aid

Mr. Tallman stated that Kansas Association of School Boards (KASB) thinks the Kansas tax system needs to be evaluated and overhauled to broaden the tax base by reducing the number of exemptions, allowing lower tax rates, to grow with the economy and to provide adequate funding to make the investments in education and other public services. He referred to graphs showing School District Operating Budgets and Levies as percent of Kansas Personal Income. He stood for questions.

Don Moler, League of Kansas Municipalities testified in opposition to **HB 2150** (Attachment 2). He stated that **HB 2150** is a tax shift not a tax cut and is has a clear discriminatory effect on individuals in modest neighborhoods, and rural areas, where property values are flat or may in fact be declining. Mr. Moler stated that the bill is unconstitutional because it is purporting to change a constitutional amendment with mere statutory language. He referred the members to a memorandum of law from the General Counsel of the League of Kansas Municipalities which outlines the reasons why **HB 2150** is clearly unconstitutional. He stood for questions.

Mark Desetti, Kansas National Education Association testified in opposition to **HB 2150** (Attachment 3). He stated that the intent of this legislation is to either force massive increases in mill levies or starve the government agencies. Mr. Desetti compared **HB 2150** to California's Proposition 13 which created an unfair system of taxation and burdened new homeowners in areas with declining values. He stood for questions.

Randall Allen, Kansas Association of Counties testified in opposition to **HB 2150** (Attachment 4). He stated that **HB 2150** is Robin Hood in reverse. At this time in history, people in the biggest financial squeeze are in the middle and lower ends of our economic system. He stood for questions.

CONTINUATION SHEET

Minutes of the House Taxation Committee at 9:00 a.m. on March 2, 2009, in Room 535-N of the Capitol.

Dave Holtwick, Overland Park Chamber of Commerce, testified in opposition to **HB 2150** (Attachment 5). He stated that, "placing mandatory annual increases on property values that are based on some artificial value will cause more problems than solutions." Mr. Holtwick encouraged the committee members to oppose **HB 2150** and he stood for questions.

The Chairman called attention to the Written Only testimony of the following people in opposition to **HB 2150**:

Mark Bornyak, Kansas Economic Progress Council (Attachment 6)
Ron DeGarmo, Kansas Legislation Policy Group (Attachment 7)
Allie Divine, Kansas Livestock Association (Attachment 8)
George Lippencott, American Association of Retired People (Attachment 9)
Mike Taylor, Unified Government of Wyandotte County (Attachment 10)
Northeast Johnson County Chamber of Commerce (Attachment 11)
Bob Vancrum, Greater Kansas City Chamber of Commerce (Attachment 12)

Representative Carlson closed the hearing on **HB 2150**.

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

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

Mark Beck discussed estimated tax revenues brought in by Kansas energy companies. The estimated total tax revenues would be \$13,250,000. Information requested at the February 26, 2009 Tax Committee meeting, regarding the Energy Related Property Tax Incentives, was distributed by the Property Valuation Department (Attachment 13).

Jason Chan testified in opposition to **HB 2196** (Attachment 14). Mr. Chan stated that **HB 2196**, in its current form, would have an adverse affect on a project Waste Management has had in the development stage for several years. He requested that the committee take into consideration these projects and possible amend the language to make an exception for those projects already in progress, be respected and kept in place.

Mark Lawlor, Horizon Wind Energy, testified on behalf of Robert Gardner, Wind Capital Group (Attachment 15) and John Lichtenderger, Gamesa Energy, in opposition to **HB 2196** (Attachment 16). The wind farm coalition brings capital, retail and jobs to the communities. Mr. Lawlor stated that the companies believe in supporting the communities and negotiate a fair payment to local government even where a tax abatement exists. Passing **HB 2196** would send a signal that Kansas is not interested in further wind development. He stood for questions.

Whitney Damron, Iberdrola Wind Energy and Empire Electric, testified in opposition to **HB 2196** (Attachment 17). He thinks that there is great potential for the state with wind energy. Higher taxes on the capital-intensive investments would dampen wind energy investment in Kansas. Passage of **HB 2196** would hurt the chances of Kansas to draw more investment in renewable energy. Higher taxes would mean higher rates to consumers. He stood for questions.

Chairman Carlson called attention to the Written Testimony Only from the following people in opposition to **HB 2196**:

Trudy Aron, American Institute of Architects in Kansas (Attachment 18)
Tom Thompson, Sierra Club (Attachment 19)
Kent Eckles, Kansas Chamber of Commerce (Attachment 20)

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

The next meeting is scheduled for March 3, 2009.

The meeting was adjourned at 10:50 a.m.

HOUSE TAXATION COMMITTEE

SIGN IN SHEET

DATE: March 2, 2009

Desk Name	Home Law Firm
Whitney Jamron	Thedola/ Empire
Brad Stauffer	Carte Group
JASON CHAN	WASTE MANAGEMENT
Mike Murray	FUMBURG
MARK BOZANYAK	Ks. Economic Progress Council
Dodie Wellshear	USA/Kansas
Mark Tallman	Ks Assoc. of School Boards
Dave Holtwick	O.P. Chamber of Commerce
Dan Moler	LKM
Jedee Hehn	Hein Law Firm
Mence Desetti	KNEA
John Bekelan	Prolog - smol
John Douley	KLA
Mark Lawlor	Horizon Wind Energy/Wind Coalition



Testimony before the
House Committee on Taxation
on
HB 2150 – Property Tax System
by

Mark Tallman, Assistant Executive Director/Advocacy
Kansas Association of School Boards

February 25, 2009

Mr. Chairman and Members of the Committee:

HB 2150 would essentially replace the current system of basing property taxes on fair market value with a system that simply increases the taxable value of property by 2 percent annually, regardless of changes in actual value. Obviously, this would *reduce* the actual tax rates of property which, over time, tends to increase more than this “baseline rate,” and *increase* the actual tax rates on property which is stable or declining. How would this bill affect school districts and school finance?

Statewide Mill Levy. The starting point of the current school finance system is the statewide levy, currently 20 mills, which applied to all taxable property excluding a residential exemption of \$20,000. Under **HB 2150**, the 20 mill levy will likely increase at a slower rate over time, requiring a greater increase in General State Aid than without this law. The result will be either a greater cost to the state to make up the difference (which leaves less available for increased school funding), or pressure to hold down school funding. It will also mean those school districts with growing property values will generate less local revenue over time, requiring more state aid, while those areas with slow-growing or declining property wealth will pay more through the 20 mills and receive less state aid.

Local Option Budgets. School district LOB’s are calculated as a percentage of the district’s General Fund Budget. Property values and mill rates have no impact on the amount of LOB allowed. But the assessed valuation per pupil of the district determines how much state aid, if any, the district receives. Over time, this bill will likely make districts with growing valuation appear less wealthy and receive more state aid; while slow-or no-growth districts will appear wealthier and receive less state aid.

Because of relatively low increases in the base budget per pupil, many districts have had to increase reliance on the LOB, which statewide has generally grown much faster than 2 percent per year. If districts must increase their LOBs to meet rising costs of education, then this bill is likely to cause higher mill levy rates, which will tend to further increase the burden on properties with stable or declining value, while reducing the burden on properties that are increasing in value.

Capital Improvement and Capital Outlay Aid. Districts may also receive state aid for bond payments under a formula that assists lower wealth districts. As with the LOB, **HB 2150** will tend to cause a shift among districts. Those with growing values would be capped at 2 percent and over time, appear less wealthy and receive more aid. Slow-growth or districts declining in value would appear more wealthy and receive less aid. The same shifts would also occur among the tax-payers of a district.

Districts are also allowed to levy up to eight mills for capital outlay, generally used for equipment, repair and remodeling not covered by a bond issue. There is a relatively new state aid program, which would be affected by the same shifts as in other wealth-based aid programs. However, because capital outlay is based on a mill levy, this bill would tend to lower what high-growth districts could receive, which would either reduce revenues or require a higher mill rate (unless the district is capped).

Separating property tax assessments from the value of the property is certainly a radical departure from current policy – so radical KASB has never discussed it. It seems highly unlikely such an approach would comply with the Kansas Constitution. It is also highly questionable public policy to reduce the share of educational support from property that is growing in value – presumably because of a successful economy – and increase the share on property that is economically stagnant and declining.

That is not to say KASB opposes changes in state tax policy – far from it. We simply have a different view of the problem.

First, the tax burden on Kansas taxpayers has changed very little over the past generation. Data from the Tax Foundation shows the Kansas state and local tax burden has increased just 1.1 percent since 1970, and the total tax burden has increased just 0.3 percent. These numbers are consistent with reports from the Legislative Research Department, which show the tax burden has change very little since the 1940s.

Second, the cost of operating public schools has also changed very little compared to personal income, rising from 3.6 percent in 1975 to 3.7 percent in 2008, despite the vast expansion in what schools are expected to do. School district operating levies have declined significantly since the 1992 School Finance Act, falling from around 2.0 percent of personal income to about 1.0 percent.

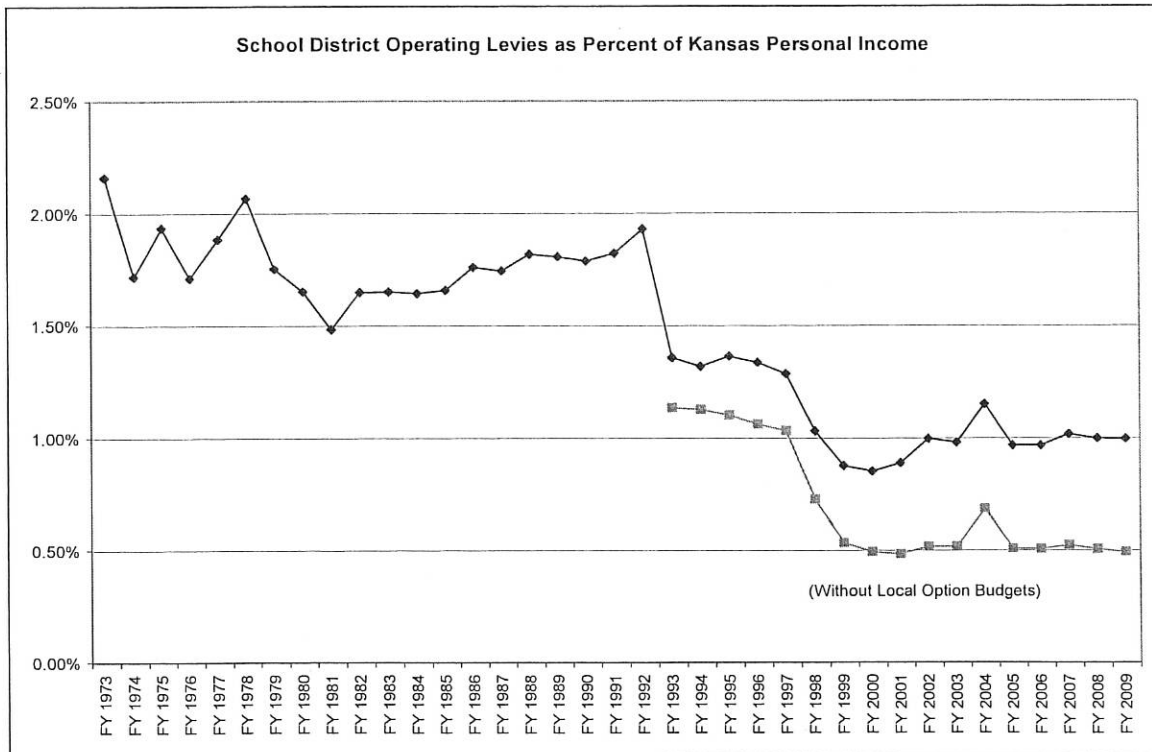
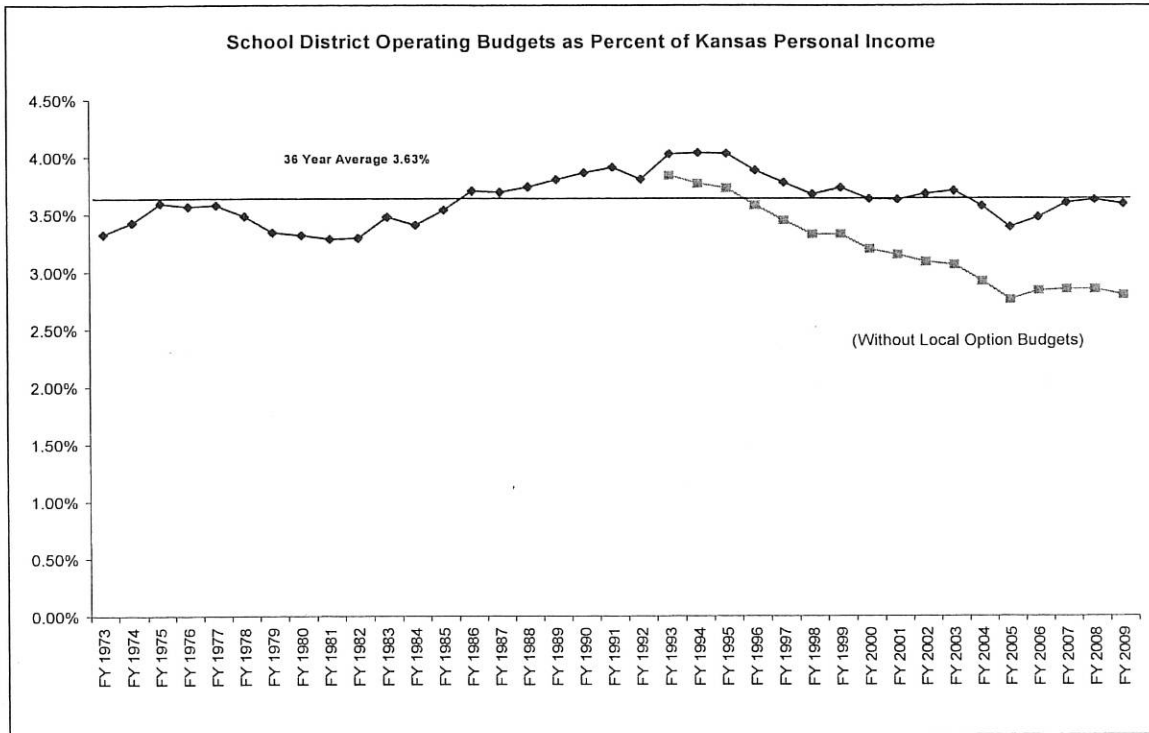
Third, funding for public education has led to significant increases in the percentage of Kansans both graduating from high school and receiving college degrees. Over this same period, the earning power of a diploma and college education has significantly increased, so investments in public education have directly led to increases in Kansas personal income and economic prosperity.

Fourth, although the overall tax burden on Kansans has remained quite stable, the mix of taxes has not. As studies from the Kansas Department of Revenue have demonstrated, recent Kansas tax policy has created a steady erosion of the tax base through property and sales tax exemptions. Now, the same thing is happening to income tax through initiatives such as the Bio-science Authority; and other transfers that reduce receipts to the State General Fund. Yet the recent Legislative Post Audit Report on Economic Development Strategies questioned the effectiveness of the hundreds of millions of dollars in forgone revenue. As a result, some taxpayers pay higher rates to compensate for the tax reductions or exemptions bestowed on others in order to provide the level of services the public demands.

Fifth, over the past decade, a relatively equal balance between the major tax sources has tilted back toward property taxes, especially residential property. That may be the reason initiatives like this bill will appeal to some. But it will only continue shifting of the tax burden, not solve the basic problems.

We believe what Kansas really needs is a comprehensive evaluation and overhaul of our tax system designed to broaden the base by reducing the number of exemptions, allowing lower tax rates, to grow with the economy and provide adequate funding to make the investments in education and other public services that keep incomes rising and allow businesses and individuals to thrive. We have joined other groups in calling for a special commission to begin this process. In light of the state's economic and revenue challenges, the need for such a process has never been more critical.

Attachments to Testimony on **HB 2105** in House Taxation Committee



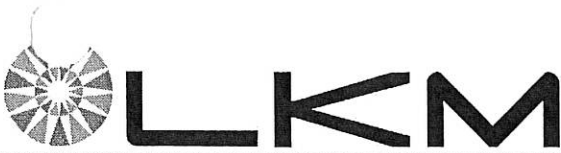
(2009, 2009 data are projections based on school finance and consensus revenue estimates)

Kansas
State-Local Tax Burden Compared to U.S. Average
(1970-2007)

Year	State				U.S. Average				
	State-Local Tax Burden	State Rank (1 is highest)	Federal Tax Burden	State Rank (1 is highest)	Total Tax Burden*	State Rank (1 is highest)	Average State-Local Tax Burden	Average Federal Tax Burden	Total Tax Burden*
1970	10.1%	23	19.6%	28	29.7%	26	10.0%	19.9%	29.9%
1971	9.9%	26	18.8%	24	28.7%	28	10.2%	19.0%	29.2%
1972	9.9%	28	19.8%	19	29.8%	26	10.6%	19.8%	30.3%
1973	9.5%	30	20.1%	18	29.7%	26	10.3%	20.1%	30.4%
1974	9.6%	30	21.4%	11	30.9%	22	10.3%	20.7%	31.0%
1975	9.4%	32	19.6%	10	29.1%	24	10.3%	19.1%	29.4%
1976	9.6%	30	20.4%	11	29.9%	25	10.4%	19.7%	30.1%
1977	9.7%	28	20.5%	14	30.3%	24	10.4%	20.0%	30.4%
1978	9.7%	24	21.1%	13	30.8%	18	9.9%	20.4%	30.4%
1979	9.2%	26	21.4%	13	30.6%	22	9.5%	20.9%	30.4%
1980	9.4%	26	22.1%	10	31.5%	14	9.5%	21.2%	30.7%
1981	9.1%	27	22.7%	12	31.9%	14	9.4%	21.9%	31.3%
1982	9.3%	30	21.3%	15	30.6%	21	9.8%	20.9%	30.7%
1983	9.5%	26	20.2%	13	29.7%	17	9.8%	19.8%	29.7%
1984	9.4%	31	19.5%	18	28.9%	25	9.8%	19.6%	29.4%
1985	9.4%	32	19.7%	20	29.1%	28	9.9%	19.9%	29.8%
1986	9.6%	31	19.4%	22	29.0%	28	10.1%	19.9%	29.9%
1987	10.2%	21	20.2%	23	30.4%	22	10.3%	20.7%	31.0%
1988	10.2%	20	20.3%	22	30.5%	22	10.3%	20.5%	30.7%
1989	10.2%	19	20.9%	12	31.2%	15	10.3%	20.7%	31.0%
1990	10.2%	19	20.5%	16	30.8%	17	10.3%	20.5%	30.8%
1991	10.3%	22	20.3%	12	30.7%	18	10.6%	20.1%	30.7%
1992	10.3%	24	19.9%	19	30.2%	26	10.6%	19.8%	30.5%
1993	10.5%	20	20.0%	26	30.4%	24	10.5%	20.1%	30.7%
1994	10.6%	16	20.3%	26	31.0%	22	10.6%	20.6%	31.2%
1995	10.7%	15	20.8%	24	31.5%	18	10.5%	21.0%	31.6%
1996	10.7%	17	20.9%	30	31.6%	20	10.5%	21.5%	32.0%
1997	10.7%	13	21.4%	29	32.1%	18	10.4%	22.1%	32.5%
1998	10.7%	16	21.7%	30	32.3%	23	10.5%	22.7%	33.2%
1999	10.4%	22	21.7%	28	32.1%	27	10.5%	22.9%	33.3%
2000	10.5%	22	22.2%	28	32.7%	29	10.5%	23.5%	34.0%
2001	10.5%	19	21.0%	31	31.6%	27	10.5%	22.5%	33.0%
2002	10.6%	11	18.9%	31	29.5%	23	10.3%	19.9%	30.3%
2003	10.8%	11	18.0%	31	28.9%	21	10.4%	19.1%	29.5%
2004	11.0%	10	17.9%	32	28.9%	23	10.6%	19.1%	29.7%
2005	11.1%	15	19.2%	35	30.3%	25	10.9%	20.6%	31.5%
2006	11.0%	14	19.8%	38	30.8%	27	10.8%	21.5%	32.3%
2007	11.2%	15	19.8%	38	31.0%	27	11.0%	21.7%	32.7%

* May not add to total due to rounding.

Source: Tax Foundation calculations based on data from the Bureau of Economic Analysis, Department of Commerce



League of Kansas Municipalities

To: The House Taxation Committee
From: Don Moler, Executive Director
Re: Opposition to HB 2150
Date: February 25, 2009

First I would like to thank the Committee for allowing the League to testify today in opposition to HB 2150. The so-called "Proposition K" is legislation that proposes to eliminate the current system of valuing of real property at fair market value, and replace it with an artificial system which will distort real property values, and adversely impact many citizens of Kansas.

It should be pointed out that HB 2150 is in fact not a tax cut, nor even a tax limitation, but rather a tax shift. The shift takes place from those properties whose values would naturally be growing at a higher rate, and places the burden on those properties in areas which are not growing or which are declining in property valuation. Thus it has a clear discriminatory effect on individuals in modest neighborhoods, and rural areas of the State of Kansas, where property values are flat or may in fact be declining. The legislation is further flawed by the fact that it arbitrarily establishes a set amount of "growth" in the property tax valuation system, which is totally divorced from reality, and from existing market forces. Unfortunately it would return us to a system of taxation where there are winners and losers, and the system would patently unfair to a large number of property taxpayers in the State of Kansas.

Finally the bill is unconstitutional on its face as a result of the fact that it is purporting to change a constitutional amendment with mere statutory language. HB 2150 creates a fiction that because all property valuations increase by 2% each year, that it is "uniform and equal." Nothing could be further from the truth. I have attached to this testimony a memorandum of law from the General Counsel of the League of Kansas Municipalities which outlines the reasons why this legislation is clearly unconstitutional. I would suggest to the committee that to believe otherwise would take the position that constitutional amendments, of any type, are easily modified by a slight of hand in ordinary statutory language. We should not further this type of activity, and we would certainly urge the committee to reject this legislation. Thank you for allowing the League to testify today. I will be happy to answer any questions the committee may have concerning the League's position on HB 2150.



MEMORANDUM OF LAW

To: Don Moler, Executive Director
From: Sandy Jacquot, Director of Law/General Counsel
Date: February 19, 2009
Re: Constitutionality of HB 2150, "Proposition K"

HB 2150, the so called "Proposition K," is a bill that proposes to eliminate the system of valuing real property at its fair market value for ad valorem tax purposes and replace it with an artificial valuation system. This has been proposed as a statutory change and not a constitutional amendment. First, it establishes a baseline value for property at its appraised value as of January 1, 2010. Then, that value is adjusted by increasing the baseline value by 2% per year, regardless of any market changes or sale of the property. In the event of a sale, the new owner inherits the adjusted baseline value, which may bear no resemblance to the sale price. Finally, improvements to property or new construction will be valued by taking like properties in the same zoning classification within a 200 foot radius in the city (1000 in the county) and determining an average baseline value per square foot. Then the value will be adjusted yearly by the same 2%.

Article 11, Section 1 of the Kansas Constitution requires that, "The legislature shall provide for a uniform and equal rate of assessment and taxation. . . ." To vary from this requirement would necessitate a constitutional amendment. The Kansas Supreme Court in *Board of Johnson County Comm'rs v. Greehaw*, 241 Kan. 119, 127, 734 P.2d 1125 (1987), stated that "Uniformity in taxation implies equality in the burden of taxation, and this equality cannot exist without uniformity in the basis of valuation. Uniformity in taxation does not permit a systematic, arbitrary, or intentional higher valuation than that placed on other similar property within the same taxing district." This has been reiterated in a long line of Kansas cases. This principle, as stated by the Kansas Supreme Court, is dispositive on the issue of the constitutionality of Proposition K, although many more cases could be cited regarding the constitutionality of using fair market value to assess property for tax purposes, and other fundamental taxation principles. It should be noted that the proponents, in their assertion of constitutionality, only look at the first sentence quoted above, determining that the 2% increase in baseline value is uniform, thus resulting in equality of the tax burden. That is merely a conclusion without any analysis.

The application of the constitutional requirement to Proposition K is best illustrated by looking at a couple of scenarios:

- House A is in a desirable neighborhood that is experiencing growth and where any homes coming up for sale only stay on the market for a short time. The average value of properties in this neighborhood have been increasing in the 3% to 5% range over the

past five years. House A, a \$100,000 home in this area after five years might be worth, for example, \$116,000. For tax purposes, however, under Proposition K, the value would be about \$110,300. Now take House B in a different neighborhood that also has a baseline value of \$100,000, but the neighborhood is experiencing many foreclosures and values are stagnant or declining. In five years, assuming a slight decline, House B is only worth \$97,000. For tax purposes under Proposition K, however, the value is \$110,300. Thus, under the arbitrary Proposition K system, the tax burden of Taxpayer A is artificially low, while the tax burden of Taxpayer B is artificially high. Both are owners of residential homes that began with the same baseline values, but the result of Proposition K is a shift in the tax burden under a systematic valuation scheme that results in intentional higher valuations for some homes and lower valuations for others. This results in unequal assessment and taxation, in violation of Article 11, Section 1 of the Kansas Constitution.

- The same result is reached if a comparison is evaluated of new construction to homes already built. Under Proposition K, new construction is valued by taking the average square foot value of either the baseline or adjusted baseline value of homes in similarly zoned areas within a 200 foot radius. Without belaboring the point, this new value does not take into consideration the cost to build the house or any differences in property that might exist between the comparisons and the new construction. Further, if there are no properties within a 200 foot radius, the nearest ten improvements are used to determine the average, even further attenuating any likeness between the properties. Again, this is an arbitrary system of valuation that results in the same inequality of taxation between properties.

Anytime a fair market value based real property assessment system is replaced with one that is based on arbitrary factors, such as the proposed 2% increase per year in valuation, the danger is an unequal burden of taxation. As demonstrated, Proposition K, while it may sound like a tempting approach to valuing properties, results in an assessment and taxation burden that is anything but uniform and equal. It shifts the tax burden by over valuing some homes and under valuing others. It may not be imposed through an ordinary statutory change, but must be passed as a constitutional amendment.



**Mark Desetti, Testimony
House Committee on Taxation
February 25, 2009**

HB 2150

Mr. Chairman, members of the committee, thank you for the opportunity to share our thoughts on **HB 2150**.

There is an old saying I think of whenever faced with a problem with my personal budget. When the cash situation at home gets a little tight, I look at our home budget and tell myself, "If you're in a hole, stop digging."

And I can stop the digging in one of two ways. I can stop spending, and I can look for ways to increase my revenue.

But the most foolish decision I could make when faced with a budget shortfall is to advocate for a reduction in my salary.

Proposition K is not just advocating for a reduction in salary; it is quitting my good job and taking part time work in a fast food establishment instead.

The Kansas tax system has a "structural deficit." Structural deficits result when spending increases outpace revenue collections. This happens because inflation on what the state buys (primarily services) goes up faster than the consumer price index and at the same time, the revenue system (taxes) does not grow at the same pace.

All the budget plans this year seek to cut our way out of a structural deficit. The thought is, if we can just cut spending enough to match revenue, we'll be okay. At the same time, the tax committees are looking at ways to reduce revenue further. You are hearing bills on new sales tax exemptions and a whole variety of other tax cuts.

Here you are faced with a proposal not just to provide a little tax relief but to radically alter the system of property valuations in a way that will, in the long term, destroy the state's property tax system.

Why might you hear complaints about property taxes?

There is a simple answer to this question. Tax policy in this state for a number of years has so altered the system that we have become overly reliant on the property tax – and the residential property tax in particular. Decisions by the legislature to approve so many individual tax cuts and reductions have pushed local units of government to depend more and more on the only tax over which they have some real control – the property tax.

The plethora of sales tax exemptions have dramatically narrowed the sales tax base. Instead of "broadening the base" as you have so often been advised, you have narrowed it. This simply depresses sales tax collections, a portion of which goes to support local services. Local governments look to property taxes to make up the legislatively-granted exemption.

A host of business tax cuts has had the same effect. The equipment and machinery tax cut is a recent example. Local units of government that utilized their share of that tax had to turn to other tax sources to make up the loss.

Right now the legislature is "holding the line on taxes" but telling local units of government – in particular, schools – to raise local property tax rates. You have been debating bills to increase capital outlay levies, to establish additional "special" capital outlay levies for insurance and utilities, to issue no fund warrants to cover late payments from the state.

Instead of maintaining a balanced tax system, you are adding inches upon inches to one leg of that much lauded three-legged stool.

So, what can be done about this "structural problem?"

First, let's be honest. No one has addressed the structural deficit we have now. What the plans do is cut spending to match appropriations. But the fact is that the state cannot cut its way out of a structural deficit.

The fiscal outlook for a state depends on two basic factors: (1) the revenue system – that is, what is taxed, how much it is taxed, and to a lesser degree fees that are imposed and what comes in from the federal government; and (2) the things that drive what it costs to keep doing what we do now.

When the revenue system is not structured to keep up with the cost drivers, you get a structural deficit. You can cut your way out of it temporarily but unless you address the revenue system, eventually the deficit will return.

What Kansas has done is to tinker with the revenue system only by reducing what it takes in. This is not to say that some tax cuts were not the right thing to do. Maybe the elimination of the franchise tax will spur more job creation and expansion; maybe it won't. But – at least in the near term – it simply reduces available revenue to the state.

At the same time taxes were being cut, other issues have driven costs higher. Two of the biggest cost increases have come in health care and K-12 education.

Health care costs are out of control. Inflation in this sector has far outstripped inflation in the economy as a whole or in other expenditure areas. K-12 education costs have also increased significantly due to many factors. Obviously the finding that the legislature had failed in its constitutional duty to provide for schools and the resulting funding increases had an impact. But one cannot completely ignore the continuously increasing demands put on schools by legislators both in the state legislature and the congress. Please remember, the judicial system based its finding on the Legislature's own studies about what it costs to meet the Legislature's and State Board's requirements on schools. Educational costs keep rising because we keep asking schools to produce more results. Since the Montoy case, the Legislature has not reduced any requirements on schools. Under NCLB, requirements are rising every year, and new bills asking schools to do more continue to be introduced, debated, and passed.

Additionally those things that the state pays for generally outpace increases in the consumer price index – the most common inflation factor. The cost of services rises more rapidly than the cost of goods. If your system is structured to meet the CPI, you will go into a structural deficit.

Inevitably, when I am making these points, someone will look at me and say, "Mr. Desetti, you forget that in 2002 we raised taxes by \$292 million."

Well, no, I haven't forgotten. Nor have I forgotten that that tax increase came in the wake of about \$900 million in tax cuts granted in the boom days of the late nineties and in the context of an economic downturn due to the high tech bubble burst and the events of September 11, 2001.

Since 2005 the legislature has granted a number of tax cuts (including repealing some of the 2002 increases). Those cuts for 2010 will cost the state about \$180 million in lost revenue. On top of that, the decision last year to not decouple one provision of our tax code from the federal tax code cost the state another \$80 million. These cuts and losses amount to nearly wiping out the tax increase of 2002.

So how does this all relate to HB 2150?

HB 2150 purports to make our system of property appraisal for tax purposes simple and transparent. Well, I agree that it does that. It also seeks to ensure that over time our system will produce an ever smaller amount of revenue in proportion to property values.

Kansas schools depend to a large extent on a statewide 20 mill property tax levy augmented by the local option budget (LOB) which is also a property tax levy.

HB 2150 directs that property taxes will increase by no more than two percent unless a mill levy is increased. This means that the revenue collected under any property tax levy – including the 20 mill statewide levy – could not increase more than two percent. Therefore, state revenue to schools could not increase more than two percent in any year.

Since the LOB is tied to general fund budgets and is another property tax levy, LOB revenues could not increase by more than two percent per year. This would lock schools into sub-inflationary funding increases in most years.

Should the general fund budget of the district increase by more than two percent, school districts would need to raise LOB mill levies in areas where values are rising quickly just to maintain the LOB percentage.

The same would be true for cities and counties. Where property values are kept artificially low, mill levies would have to be increased simply to maintain police and fire protection, road maintenance, and other vital services.

Why will a 2% index cause large cuts in services or large increases in mill levies?

In examining data from the United States Bureau of Labor Statistics, I found that from 1986 to 2008, the CPI-U has increased more than 2% in all but three years. In 1986 it was 1.9%. In 1998 and 2002 it was 1.6. It has been as high as 5.4% in 1990.

Add to this the fact that about 75% of the state's expenditures are for services – education and social services – which increase at a faster rate than the consumer goods measured in the CPI-U and it is clear that the intent of **HB 2150** is either to force massive increases in mill levies (a highly unpopular decision that would be very difficult to make politically) or the slow starvation of government agencies.

The California experience

HB 2150 is similar to California's Proposition 13. What has been the impact on education there?

Prior to the passage of Proposition 13, the California education system was the envy of the nation. They had an outstanding K-12 system and provided post secondary education to residents at the lowest rates in the nation.

I lived and taught in California in the years shortly after Proposition 13 passed. My experience was teaching in an elementary classroom only a few years after the impact began to be felt. I was a bilingual elementary teacher in a school where over 80% of the students were immigrants from Latin America, Armenia, Korea, Vietnam, the Soviet Union, the Phillipines, and a number of middle eastern nations including Turkey, Iran, Syria, and Iraq. All of my students lived in poverty and in any year, at least 1/3 of them spoke no English at all.

Despite all of these challenges, my class size ranged from 33 to 35 students. The few classroom aides available were paid with federal funds. Services to students that had been eliminated included counselors, social workers, assistant principals, physical education teachers, music teachers, art teachers, and library media specialists. Planning time for elementary teachers was eliminated as a result.

I was also a homeowner in California. I lived in a neighborhood of 1954 tract houses of 1200 square feet. My home in 1983 cost me \$110,000. By about 1989 comparables in my neighborhood were selling for nearly \$250,000. Since Proposition 13 allows for a new market valuation when a house is sold, my new neighbors were paying significantly higher property taxes than I was. My property taxes were much higher than those of people who had purchased

just a few years before me. My next door neighbor put a small addition on his living room. The addition was taxed at a different market rate. He complained to me after completion of the addition that he was paying nearly as much in taxes on his small addition as he had been on the entire house before.

Proposition 13 has simply created an unfair system of taxation and pushed the burden onto new homeowners and those in areas with declining values.

HB 2150 will have a similar effect for Kansas. While valuations for people in homes rising in value will be kept artificially low thus reducing the impact of their tax burden over time, valuations for people in homes declining in value will be pushed artificially high, creating a higher tax burden for them.

Establishing fairness, stability, and transparency

In this crisis, we wish to remind legislators that decisions that put Kansans out of work will only serve to exacerbate the economic challenges we face. Decisions that will hamper the ability of our schools to continue their improvement and potentially harm the future work force of our state will do little to encourage business investment, particularly in the kinds of businesses in the bio-sciences that you have worked so hard to attract.

For several years now, KNEA has been one of several organizations asking the legislature to modernize the Kansas tax system. For all the talk under the dome about "broadening the tax base," what we have done is to narrow it. If the state were to "broaden the base" – that is, apply a tax on more things – the rates for all taxes might even go down. We could relieve the pressure on residential property taxes. If the sales tax were imposed on services, it might be possible to eliminate it on food as some states have done. There are innumerable ways in which the state could modernize the tax system, provide for stability in revenue collections, and make fairness a hallmark.

We believe that if Kansas were to modernize the tax system – to make it stable as well as fair to both businesses and individuals – the state would have appropriate revenue to fund the whole variety of state services that your constituents depend on and appreciate. And while every revenue system is subject to extreme swings in the economy, those swings can be moderated.

You can appropriately fund K-12 and post secondary education. You can fund needed services for the developmentally and physically disabled. You can provide a comprehensive highway program to help businesses move goods and resources. You can provide for public safety.

In closing, we would once again urge the legislature to form a blue ribbon panel of economists, legislators, business representatives, and non-profit representatives to thoroughly examine the Kansas tax system and make recommendations that would make the system capable of providing for quality state services through good and bad economic times and be fair to both businesses and citizens.



TESTIMONY

concerning HB 2150

Changing the Basis of Determining Property Tax Values in Kansas
House Taxation Committee

Presented by Randall Allen, Kansas Association of Counties

February 25, 2009

Chairman Carlson and members of the committee, I am Randall Allen, Executive Director of the Kansas Association of Counties. Thank you for the opportunity to present testimony in opposition to HB 2150, which represents a fundamental departure from the system of property valuation for ad valorem property tax purposes.

HB 2150 does **nothing** to reduce the total aggregate property tax burden in Kansas. Rather, it represents a shift in the property tax burden *from* properties of which values are increasing at relatively higher rate *to* other properties of which values are increasing at a lower rate, or are holding steady, or are even declining. HB 2150 is a property tax shift from persons who own properties in neighborhoods with rising values to persons who own properties in generally older and often declining neighborhoods. It is Robin Hood in reverse, at the very time in our history when the people in the biggest financial squeeze are in the middle and lower ends of our economic system.

Too often, we forget that the amount of property taxes paid by any single parcel owner is a product of a formula: assessed valuation times (x) the mill levy rate (\$1 in taxes for every thousand dollars of valuation). If we artificially impose an assessed valuation, the mill levy rate adjusts upward (or downward) to produce the amount of revenue required in a budget. As the mill levy rate adjusts to offset the artificial nature of the assessed valuation, the tax burden necessarily shifts to other classes of properties. This is blatantly unfair.

In the past decades, the State of Kansas and our 105 counties have expended a tremendous amount of political and fiscal capital to make the property tax system more modern and reflective of economic realities. To impose an artificial cap on the valuation of any parcel would negate much of this progress. The property tax assessment system is surely not perfect, but it is considered to be one of the best in the United States. We urge the committee to reject HB 2150.

Thank you, Mr. Chairman, for the opportunity to testify on this bill. If you have questions, I will try to answer them at the appropriate time.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to the Randall Allen or Melissa Wangemann at the KAC by calling (785) 272-2585.



Testimony in opposition to HB 2150

Submitted by Dave Holtwick
On behalf of the Overland Park Chamber of Commerce

House Committee on Taxation
Thursday, February 26th, 2009

Chairman Carlson and Committee Members:

My name is Dave Holtwick and I am Vice President of Government Affairs with the Overland Park Chamber of Commerce. I am appearing today on behalf of our board of directors and our nearly 900 member companies. I appreciate the opportunity to share this written testimony in opposition to House Bill 2150.

Simply stated, the Chamber has a long standing position in opposition to placing artificial limits on appraised property values and on placing tax lids on local government. While this legislation proposes to change the property appraisal system in the state, I believe the true intent goes much further than that and will have consequences that other states that have implemented property tax caps are trying to find ways out of.

Placing mandatory annual increases on property values that are based on some artificial value will cause more problems than solutions. I encourage you to oppose HB 2150!

Thank you very much for your time today.



Statement in Opposition to HB 2150

House Taxation Committee

February 25 & 26, 2009

Mark Boranyak—Capitol Strategies

Thank you for giving the Kansas Economic Progress Council the opportunity to express its opposition to House Bill 2150.

The Kansas Economic Progress Council (KEPC) was formed to draw together organizations and businesses interested in advancing sound public policy in Kansas to enhance our state's quality of life. KEPC is a state-wide business organization whose members include businesses, local chambers and local and state trade associations.

While the organization's initial efforts focused on opposing TABOR and TABOR LITE, the organization is also concerned about other formulaic tax and expenditure limitations that would have a negative impact on our state's economic development. HB 2150 is one such measure.

HB 2150 would replace current fair market values with a rigid formula that would increase property values, except agricultural property, by 2% each year, regardless of real fair market value. Under the bill, baseline property values would be set on January, 2010 and would never be reset.

HB 2150 seems to be modeled after Proposition 13 in California, but it is much worse. In California when property changes ownership its value is rebased at the market value. HB 2150 has no such provision. So, over time, there is no relation between a property's market value and the property taxes paid on the property. Such a plan has unintended negative consequences.

HB 2150 Would Harm Kansas Communities

HB 2150 breaks the link between property value and assessment, with unfortunate consequences for cities through Kansas. Local governments turn to property taxes as a stable source of revenue in periods

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of slower economic growth as more volatile sales and income tax receipts decline. Economic downturns like the one the state is currently experiencing constrict state budgets, including state aid to municipalities, thus placing increasing pressure on local revenues. It is poor public policy to *artificially* control local municipalities' ability to raise revenue at a time when state dollars could decline.

Studies have found that property tax limits have not led to shrinkage in the public sector, but instead forced communities to produce revenue from other sources in order to maintain existing services. Such shifts, however, can place great tax burdens on low-income residents than if the property tax were maintained. This results in a more regressive tax environment for Kansas communities.

HB 2150 is clearly designed to reduce revenues to municipalities at a time when economic conditions are already reducing revenue. Moreover, this proposal has surfaced just a couple of years after the Legislature reduced revenues to municipalities by eliminating the tax on machinery and equipment. Although "slider payments" to municipalities were included in the legislation to help make up for lost revenue, these payments are in jeopardy due to the state's budget problems.

The state's projected FY2010 budget deficit of over \$1 billion may well involve cuts in state aid going to municipalities. Passing HB 2150 would make it even more difficult, or impossible, for communities to make up for lost revenues in order to provide for basic services and to improve their communities...

HB 2150 Will Hurt Economic Development

Kansas communities rely on property taxes to provide essential services and programs that make businesses and communities flourish. This includes good public schools, good roads, safe bridges, good public safety, recreational opportunities, and the other infrastructure needed to attract and keep jobs and businesses in the state. Kansas, like other states, places emphasis on attracting young workers with high skill levels. Recent trends show that these individuals are increasingly deciding where they want to live before they decide on their career options. Therefore, it is important that Kansas communities be able to afford to provide the services and quality of life to attract these people to work in their communities throughout the state. Highly educated and skilled workers don't want to and don't have to settle for communities with poor infrastructure. That's why HB 2150 is bad for economic development in the state of Kansas.

HB 2150 has other unwelcome consequences. If passed, this measure, over time, will shift property taxes to less profitable businesses because prime commercial properties tax values will have been kept artificially low. These properties will not have paid their fair share of the overall tax base. Additionally, some properties become much more valuable based on external factors, such as a road improvement, paid for by taxes, or increased development in a given area. Why should state law provide a tax benefit to a particular taxpayer who just happened to be in the right place at the right time at the expense of other taxpayers?

HB 2150 May Interfere with Long Established and Successful initiatives to Promote Economic Development in Communities

City officials in Wichita have already expressed concern that HB 2150 could leave that city with a Tax Increment Financing (TIF) Debt that would have to be paid by a tax increase spread across the entire city (Wichita Eagle, February 15, 2009). Since TIF is used in communities throughout the state, this proposal could cause similar problems in other areas of the state

HB 2150 Could Result in Tax Increases

Under the bill, home assessments increase automatically 2% each year, regardless of market values. Most market values in Kansas, like the rest of the nation, are flat to declining. As an example, the Shawnee County appraiser recently announced that property valuations would remain essentially flat; some would go up a little and some would go down a little. If HB 2150 was already law, most people living in Shawnee County would receive a property tax increase. This unintended result would likely affect many other homeowners throughout the state during a time of economic distress

HB 2150 Will Hurt the Legislature's Efforts to Balance its Budget

Under HB 2150, the property tax appeals process is moved from local governments to the State Court of Tax Appeals. At a time when the state is looking to balance and reduce its budget this bill would add more costs, more state employees and place additional strains on an already strained State General Fund.

HB 2150 Should Be Rejected

The Kansas Economic Progress Council believes this measure is bad for communities and economic development. KEPC strongly encourages the Taxation Committee to reject this measure.



KANSAS LEGISLATIVE POLICY GROUP

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

**Testimony of
Commissioner Ron DeGarmo
Morton County Commissioner
President, Kansas Legislative Policy Group
Before the House Taxation Committee**

House Bill 2150

February 25, 2009

Dear Chairman Carlson and Members of the Committee:

The Kansas Legislative Policy Group (KLPG) is pleased to provide written testimony in opposition to House Bill 2150. The KLPG is a bipartisan, non-profit corporation of elected commissioners from 30 western Kansas counties. We appreciate the opportunity to submit remarks on this issue, which is of great importance to our member counties.

House Bill 2150 creates an artificial cap on property tax valuations tied to an arbitrary number that does not take into account market conditions and population growth. The purpose of the legislation is noble but the method used will only cause the transfer of tax burden from those most able to pay to those least able to pay. Those who have not had a property tax valuation increase will be forced into paying higher taxes under this proposal.

House Bill 2150 is merely a way for the state to impose limits on taxing and spending by local governments. The KLPG believes any such authority should be left to local governments who are beholden to local constituents and better able to address local concerns and issues. The state of Kansas should not dictate local priorities by seeking to control local spending and taxing.

Thank you for your consideration and the opportunity to present these written remarks.



Since 1894

TESTIMONY

To: House Committee on Taxation
Representative Richard Carlson, Chair

From: Allie Devine, Vice President and General Counsel

Date: February 25, 2009

Subj: **House Bill 2150**

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 5,000 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seed stock, cow-calf and stocker production, cattle feeding, dairy production, grazing land management and diversified farming operations.

Members of the Committee we appreciate the opportunity to offer written testimony in opposition to HB 2150.

As outlined by the proponents, the proposal calls for a reworking of the real estate appraisal process of residential and commercial properties for ad valorem tax purposes. The first step in the new process would be to establish a baseline appraisal for all residential and commercial properties based upon their value on January 1, 2010. There would be no further changes in appraised value. The baseline would increase by 2% annually. New construction or re-classified agricultural land would be appraised based upon an average annual per square foot appraisal of similar properties. We understand through conversations with some of the proponents, that the principle objective of the proposal is to provide an incentive for investment by limiting taxation on "wealth" in the form of real property.

Our primary objection with this proposal is the "shift" in property taxes resulting from the "freezing" of appraised values of one or two classes of property while other property values continue to be reappraised according to market or income fluctuations. In this proposal the valuations of residential and commercial properties would be "locked" on January 1, 2010. The appraised value of this class would increase by two percent per year. Meanwhile, the other classes of real property, like agricultural land,

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would continue to experience movement in their valuations (regardless of the method of valuation). It appears to us that holding some valuations constant while other valuations "move" would result in a taxation shift to those with increasing values. The proposed 2% increase would not likely keep pace with the changes of other classes.

Our members are concerned with the rapid growth of government and associated costs to taxpayers. Our members also understand the need for public infrastructure. However, as the economy slows, our members are very concerned about the costs of government on business and our ability to remain competitive in local, regional, national, and international economies.

In our simplistic view, we do not believe the appraisal process is the problem. The problem appears to be a lack of political will to stop spending or spending is the result of public will to achieve certain results. In other words, it appears some want more government spending. In either case, appraisals are part of a "process" not the sole solution to the issues.

We appreciate the opportunity to listen to the discussions on this issue and will continue to evaluate this and any other proposal on our membership interests. Thank you.



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February 25, 2009

The Honorable Richard Carlson, Chair
House Committee on Taxation

HB 2150 – Property Taxation

Good Morning Chairman Carlson and members of the House Committee on Taxation. My name is George Lippencott and I am the AARP Volunteer Coordinator for Economic Security. AARP appreciates this opportunity to provide written testimony on House Bill 2150 concerning property taxation as related to valuation and assessment methodologies. AARP represents the views of more than 376,000 members in the state of Kansas.

The Flint Hills Center for Public Policy has developed a document "Proposition K: A Better Property Tax System for Kansas" that addresses this issue in some depth. It provides data that substantiates that property valuations and the resulting property taxes have risen rapidly in some jurisdictions in Kansas over the span of this decade. This is not a surprise to the committee. It goes on to suggest a new methodology to accomplish the property valuation process. What is most remarkable is that the process recommended would not of itself restrain the growth in property taxes.

House Bill 2150 would introduce a new property valuation process that is different from the traditional and well understood appraisal process in use by most jurisdictions. It would likely lead to there being multiple valuations for a property as lending agencies and others continued to seek a "sales" based value rather than an "adjusted baseline" value. While it is not completely clear, the proposed methodology might well lead to an inappropriate transfer of tax responsibilities from commercial property to residential property. At the end of the day, whether the proposed "baseline" value is a more appropriate or more "equitable" valuation is far from clear. It certainly will be a less well understood valuation. One has to wonder why a proposed fundamental change to a well understood valuation methodology is offered as a solution for property tax relief. Why not just address the property tax itself.

AARP has long championed home ownership as one element in addressing financial security. It has generally been considered a positive outcome when property valuations increase over time, thereby providing the potential for a "nest egg" for the homeowner. We see no reason to depart from that perspective because property valuations have been increasing rapidly. We believe that the proper way to address property valuations is on the tax side. AARP has testified before this committee as to the pressures many of our seniors (and other taxpayers) are feeling because of escalating property taxes in some jurisdictions in Kansas. In the last few years the legislature has acted to address this challenge. The restored traditional Homestead Property Tax Relief Program and the Selective Assistance for Effective Senior Relief Program are positive efforts toward property tax relief for seniors and others. Last session the legislature considered a property tax deferral mechanism as an additional short term means of protecting low income seniors from rapid property tax increases. These are all positive steps.

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We believe, and many experts agree, that the preferred approach to property tax relief requires a rebalancing of the sources and apportionment within those sources of revenue available to Kansas and our local jurisdictions. Of the three major sources of government income (income, property and sales) Kansas has slowly become increasingly dependent on property taxes. Our local jurisdictions are heavily dependent on this source. We lag in the percentage of our revenues that we obtain from the income tax. AARP also believes that the tax burden should be distributed according to people's ability to pay. Only the income tax offers the opportunity to increase the progressivity of our revenue generation process.

In view of the expected short fall of funding next year it may well be time (past time) to consider a change to our income tax levy to establish a more progressive approach. This should be overlaid with some form of income tax sharing with our local jurisdictions so as to provide a solid basis for a long term reduction in the property tax burden.

There have been significant increases in certain property tax levies in Kansas since the beginning of the decade. AARP believes that targeted tax relief to the more vulnerable among our senior population is a positive short term approach to addressing that impact. We believe that a rebalancing of our revenue sources here in Kansas so as to reduce dependency on property taxes while increasing the progressivity of our income tax is the preferred long term solution. House Bill 2150 does not contribute to these goals.

Thank you, Mr. Chairman, for permitting AARP to offer our thoughts on property taxation as it relates to valuation and assessment methodologies.



Testimony

Unified Government Public Relations
701 N. 7th Street, Room 620
Kansas City, Kansas 66101

Mike Taylor, Public Relations Director
913.573.5565 mtaylor@wycokck.org

House Bill 2051 "Proposition K" Assessed Property Valuation Limits

Delivered February 25, 2009
House Taxation Committee

The Unified Government opposes House Bill 2051 which would place artificial and arbitrary caps on the assessed value of property. The Unified Government supports property appraisals based on fair market value and asserts that contrived valuation formulas such as the one set forth in Proposition K are inequitable and unconstitutional.

The designers of Proposition K have created a flawed framework in which they argue the measure is Constitutional. But using a statutory change to alter the intent of the Constitutional mandate for fair and equal taxation just doesn't work. While the artificial 2% limit might be equal, it produces very unfair and unequal outcomes. The Constitutional requirement to assess property based on fair market value can not be met when a phony valuation percentage is applied.

The goal of Proposition K appears to be to limit the amount of taxes collected by local governments. The measure won't accomplish that goal and in the process of trying, will make a mess of the property taxation system in Kansas. It will instead produce a system where properties increasing in value are given a tax break and properties which are declining in value are penalized. And none of it will have anything to do with the real fair market value of the property.

The Unified Government believes arbitrary, mandated taxing and spending controls of any kind on local government infringe on the rights of citizens to determine the appropriate level of government services for their community.

The best way for the Kansas Legislature to help create and maintain affordable property taxes in local communities is to fully fund the revenue sharing program known as the Local Ad Valorem Tax Reduction Fund (LAVTR). Under LAVTR, dollars collected in local communities by the State of Kansas, are shared with local governments and directly applied to lowering property tax levies. This time-tested partnership—started decades ago and cancelled in 2003—provides dollar for dollar reductions in property tax bills. This partnership is a far better way to influence property tax rates than artificial and arbitrary controls such as caps on assessed valuations or tax and spending lids on local governments.



Written Testimony on HB 2150
House Committee on Taxation
February 25, 2009

Mr. Chairman and members of the committee, the Northeast Johnson County Chamber of Commerce thanks you for this opportunity to provide written testimony on HB 2150. The Chamber represents ten Cities: Fairway, Merriam, Mission, Mission Hills, Mission Woods, Northern Overland Park, Prairie Village, Roeland Park, Westwood, and Westwood Hills, and over 300 members. Longstanding legislative policy has stated "...we ...oppose any constitutional and statutory limits on state and/or local taxes as well as restrictions on government spending..."and as such, we stand in opposition to this bill.

HB 2150 would mandate that property tax valuations be imposed on January 1, 2010 and would remain as such for the life of the property. And all such valuations would increase on the 1st of January each year 2% regardless of what the market is doing. We feel that this limiting factor would place harmful restrictions on economic development, tax incentives, and other measures which rely on incremental growth assessment values for financing.

The Chamber also questions the constitutionality of this proposal, as it mandates restrictions on local governments in direct opposition to the "home rule" provisions of the Kansas Constitution. Additionally, school districts who are at the top of their Local Option Budget limits, would have no way to keep up with inflation or increases in fixed costs. But most importantly, while this legislation seeks to cap "runaway appraisals" but takes an approach that is like "throwing the baby out with the bath water", it does not account for the market driven corrections that are taking place today. As property values decrease across the state, this proposal will grant a 2% increase yearly with little regards for the true facts.

Again, we thank you for your time and strongly urge you to reject HB 2150 and allow cities, counties, school districts, and other taxing authorities the constitutional right to govern in the manner for which they were elected.

TESTIMONY .TO THE HOUSE TAXATION COMMITTEE
IN OPPOSITION TO HB 2150

Robert Vancrum, Kansas Government Affairs Specialist
Greater Kansas City Chamber of Commerce
February 25, 2009

The Greater Kansas City Chamber of Commerce, representing over 3000 businesses in Kansas, and 50% of whose board members are associated with businesses based in Kansas, must rise in opposition to HB 2150. In the first place, we have a standing policy adopted and re-adopted by our Board over several years, which states that we will: “Oppose constitutional and statutory limitations on state and/or local taxes and restrictions on government spending...”

But even beyond that we believe the bill’s changes should be opposed because they could be discriminatory between classes of property and would have some interesting impacts at a time in which many real estate values have generally declined, since it would mandate a 2% increase. This bill would mandate an artificial valuation of any residential or commercial real estate at its baseline value plus 2%, regardless of what is actually happening to the valuation in the market place.

Further, the bill says that you are to ignore improvements to specific real property unless they bring the value of all similarly zoned property within 200 feet to an average square foot value that was above your baseline value. That seems to require some very detailed fact finding and is confusing and burdensome to say the least.

I am certainly no constitutional law expert, but I would also ion how such a change would meet the Kansas constitutional mandates. I would hope that someone who can would seek an attorney general’s opinion about this legislation before it moves forward. We would be opposed however even if it is determined to be constitutional.

I’d be happy to stand for questions now or later.

ENERGY RELATED PROPERTY TAX INCENTIVES

Independent Power Producers (IPP)(not rate based regulated)

- (1) Exemption for all **electric generation facilities** described in K.S.A. 2008 Supp. 66-104(e) as follows:
 - Property must be newly constructed.
 - Property placed in service after January 1, 2001.
 - Property is not in the rate base of a public utility company.
 - If a **base load plant**, the exemption starts from commencement of construction and continues for **12** taxable years immediately following the taxable year in which construction is completed.
 - If a **peak load plant**, the exemption starts from commencement of construction and continues for **six** taxable years immediately following the taxable year in which construction is completed.
 - K.S.A. 2008 Supp. 79-257 (a) and (b).
 - Applies to all tax years commencing after December 31, 2000.
- (2) Exemption for all **pollution control devices** purchased for or constructed or installed at electric generation facilities described in K.S.A. 2008 Supp. 66-104(e) (see (1) above).
 - If a **base load plant**, exemption starts from purchase or commencement of construction or installation for **12** taxable years immediately following the taxable year in which such property is purchased or construction or installation is completed.
 - If a **peak load plant**, exemption starts from purchase or commencement of construction or installation for **six** taxable years immediately following the taxable year in which such property is purchased or construction or installation is completed.
 - K.S.A. 2008 Supp. 79-257 (c) and (d).
 - Applies to all tax years commencing after December 31, 2000.
- (3) Definitions:
 - IPP property is defined as all or any portion of property used solely in the generation, marketing and sale of electricity generated by an electric generation facility described in K.S.A 2008 Supp. 66-104(e) (see (1) above).
 - IPP property does not include property used in generating electricity by nuclear resources or technologies or by renewable energy resources or technologies as defined in K.S.A. 2008 Supp. 79-201 *Eleventh*.
 - Peak load plant is defined as an independent power plant used during maximum load periods.
 - K.S.A. 2008 Supp. 79-256

Public Utility Electric Generation (rate base regulated)

- (1) Exemption for all **electric generation facilities** and additions to electric generation facilities described in K.S.A. 2008 Supp. 66-128(b)(2)(C) as follows:
- Electric generation facility or addition to a facility placed in service on or after January 1, 2001.
 - For a **base load plant**, the exemption starts from commencement of construction and for **ten** taxable years immediately following the taxable year in which construction of the property is completed.
 - For a **peak load plant**, the exemption starts from commencement of construction and for **four** taxable years immediately following the taxable year in which construction of the property is completed.
 - K.S.A. 2008 Supp. 79-258 (a) and (b).
 - Applies to all tax years commencing after December 31, 2000.
- (2) Exemption for all **pollution control devices** purchased for or constructed or installed at electric generation facilities described in K.S.A. 2008 Supp. 66-128(b)(2)(C) (see (1) above).
- If a **base load plant**, exemption starts from purchase or commencement of construction or installation for **ten** taxable years immediately following the taxable year in which such property is purchased or construction or installation is completed.
 - If a **peak load plant**, exemption starts from purchase or commencement of construction or installation for **four** taxable years immediately following the taxable year in which such property is purchased or construction or installation is completed.
 - K.S.A. 2008 Supp. 79-258 (c) and (d).
 - Applies to all tax years commencing after December 31, 2000.
- (3) Peak load plant is defined as an electric generation facility used during maximum load periods. See K.S.A. 2008 Supp. 79-258 (e).

Electric Transmission Lines

- Exemption for all electric transmission lines and appurtenances described in K.S.A. 2008 Supp. 66-128(b)(2)(D) as follows:
 - Electric transmission line as defined by K.S.A. 2008 Supp. 66-128(c):

Line or extension of line with an operating voltage of 34.5 kilovolts or more which is at least five miles in length and which is used or to be used for the bulk transfer of electricity.
 - All towers, poles and other necessary appurtenances to such lines, which will be connected to an electric generation facility.
 - Placed in service on or after January 1, 2001.
- Right-of-way on which such lines are located.
- Exemption applies to all property constructed after December 31, 2000 and for the 10 taxable years immediately following the taxable year in which construction of the property is completed.
- Applies to all taxable years after December 31, 2000.
- K.S.A. 2008 Supp. 79-259

Kansas Electric Transmission Authority

- Transmission facilities owned by the Authority are exempt to the same extent that such facilities would be exempt if owned by a private entity. K.S.A. 2008 Supp. 74-99d11(c).
- “Transmission facilities” defined to mean electric transmission facilities or related supporting infrastructure, including any interests therein, or both. K.S.A. 2008 Supp. 74-99d02(c).
- Transmission facilities are not required to be wholly located within Kansas. K.S.A. 2008 Supp. 74-99d09(b).

Production and Generation of Electricity (Renewable Energy)

- Exemption for property (real and personal) actually and regularly used predominantly to produce and generate electricity.
- Utilizing renewable energy resources or technologies.
- Renewable energy resources or technologies includes, wind, solar, photovoltaic, biomass, hydropower, geothermal and landfill gas resources or technologies.
- Exemption is for as long as property continues to be used for this exempt purpose.
- K.S.A. 2008 Supp. 79-201 *Eleventh*.

Landfill Gas

- Exemption for personal property actually and regularly used predominantly to collect, refine or treat landfill gas or to transport landfill gas from a landfill to a transmission pipeline.
- Also exempts the landfill gas produced.
- For all taxable years after December 31, 2001.
- K.S.A. 2008 Supp. 79-201 *Twelfth*,

Integrated Coal Gasification Power Plants

- Defined to mean a facility that is located in Kansas; converts coal into synthesis gas that can be used as a fuel to generate energy; and uses the synthesis gas as a fuel to generate electric energy. K.S.A. 2008 Supp. 79-225(d)(3) & 79-32,238(c).

The exemption is for:

- The purchase, construction or installation of real or tangible personal property for incorporation in and used as part of an integrated coal gasification power plant for which construction of the new plant begins after December 31, 2005.
- Any real or tangible personal property purchased, constructed or installed for the expansion of an existing plant of which the construction or expansion begins after December 31, 2005, if the capacity of the plant is increased by at least 10% due to the expansion.
- All real and personal property purchased for or constructed or installed after December 31, 2005, to comply with air emission standards imposed by state or federal law.
- The exemption is from and after purchase or commencement of construction or installation and continuing for 12 taxable years immediately following the taxable year in which construction or installation is completed.

K.S.A. 2008 Supp. 79-225.

Crude Oil Refineries

- Defined to mean an industrial process plant located in Kansas where crude oil is processed and refined into petroleum products. K.S.A. 2008 Supp. 226(d)(4) & 79-32,217(e).

The exemption is for:

- Any new refinery constructed after December 31, 2005.
- Expansion of an existing refinery if the capacity is increased by at least 10% construction of which begins after December 31, 2005.
- Real or tangible personal property used in the restoration of production of a refinery after December 31, 2005, which refinery has been out of production for five or more years.
- The exemption is from and after purchase or commencement of construction or installation of such property and for the **10** taxable years immediately following the taxable year in which construction or installation is completed.

K.S.A. 2008 Supp. 79-226.

Qualifying Pipeline

- Defined to mean a pipeline located in Kansas that is used primarily for transportation of crude oil or natural gas liquids and has a length of more than 190 miles in Kansas and to which refineries or natural gas liquid processing facilities in this state have access. K.S.A. 2008 Supp. 79-227(d)(2) & 79-32,223(d).

The exemption is for:

- Any new qualifying pipeline, construction of which begins after December 31, 2005.
- The exemption is from and after purchase or commencement of construction or installation of any real or tangible personal property purchased, constructed or installed for incorporation in and used as part of a new qualifying pipeline and for the **10** taxable years immediately following the taxable year in which construction or installation is completed.

K.S.A. 2008 Supp. 79-227.

Integrated Coal or Coke Gasification Nitrogen Fertilizer Plants

- Defined to mean a facility located in Kansas that converts coal or petroleum coke into synthesis gas and uses the synthesis gas to produce nitrogen fertilizer. K.S.A. 2008 Supp. 79-228(d)(3) & 79-32,228(b).

The exemption is for:

- Any real or tangible personal property purchased, constructed or installed for incorporation in and used as part of a new integrated coal or coke gasification nitrogen fertilizer plant, construction of which begins after December 31, 2005.
- Any real or tangible personal property purchased, constructed or installed for the expansion of an existing plant of which the construction or expansion begins after December 31, 2005, if the capacity of the plant is increased by at least 20% due to the expansion.
- The exemption is from and after purchase or commencement of construction or installation of such property and for the **10** taxable years immediately following the taxable year in which construction or installation is completed.

K.S.A. 2008 Supp. 79-228.

Nuclear Generation Facility

Exemption for any **new nuclear generation facility** property, which is defined to mean:

- any real or tangible personal property;
- purchased, constructed or installed for incorporation in and used as part of a nuclear generation facility producing electricity or electric power;
- of which construction begins after December 31, 2006; and
- is within three miles of a nuclear generation facility that is in existence on January 1, 2007.

The exemption is:

- from and after purchase or commencement of construction or installation; and
- continuing for 10 taxable years immediately following the taxable year in which construction or installation is completed.

The owner or owners of any new nuclear generation facility property shall pay to the appropriate taxing subdivisions a payment in lieu of taxes in an amount equal to the amount which would have been levied upon the real property portion of such property.

K.S.A. 2008 Supp. 79-230.

Electric Generation Facility Waste Heat Utilization System

Exemption for any **waste heat utilization system** property, which is defined to mean:

- any real or tangible personal property;
- purchased, constructed or installed after December 31, 2006, for incorporation in and used as part of a waste heat utilization system, which is defined to mean:
 - facilities and equipment for the recovery of waste heat generated in the process of generating electricity at an electric generation facility located in Kansas and the use of such heat is to generate additional electricity or to produce fuels from renewable energy resources or technologies as defined in K.S.A. 79-201 *Eleventh*.

The exemption is:

- from and after purchase or commencement of construction or installation; and
- continuing for 10 taxable years immediately following the taxable year in which construction or installation is completed.

K.S.A. 2008 Supp. 79-231.

Biomass-to-Energy Plant

Exemption for **biomass-to-energy plant**, which is defined to be:

- an industrial process plant located in Kansas where biomass is processed to produce annually any of the following and co-products:
 - not less than 500,000 gallons of cellulosic alcohol;
 - liquid or gaseous fuel or energy in a quantity having BTU value equal to or greater than 500,000 gallons of cellulosic alcohol; or
 - oil produced for direct conversion into fuel in a quantity having BTU value equal to or greater than 500,000 gallons of cellulosic alcohol.

K.S.A. 2008 Supp. 79-229 & 79-32,233.

The exemption is for:

- any real or tangible personal property purchased, constructed or installed for incorporation in and used as part of a **new** biomass-to-energy plant, construction of which begins after December 31, 2005; and
- any real or tangible personal property purchased, constructed or installed for the **expansion** of an existing biomass-to-energy plant of which construction or expansion begins after December 31, 2005, if the capacity of the plant is increased by at least 10%.

The exemption is:

- from and after purchase or commencement of construction or installation of such property; and
- for the 10 taxable years immediately following the taxable year in which construction or installation is completed.

K.S.A. 2008 Supp. 79-229.

Biomass is defined to be:

- any organic matter available on a renewable or recurring basis, including solid and liquid organic waste, but excluding:
 - (1) petroleum oil, natural gas, coal in lignite, and any products thereof; and
 - (2) corn or grain sorghum suitable for human consumption.

K.S.A. 2008 Supp. 79-32,233.

Biofuel Storage and Blending Equipment

Exemption for any **storage and blending equipment**, which is defined to mean:

- any equipment which is used for storing and blending petroleum-based fuel and biodiesel, ethanol or other biofuel, and
- is installed at a fuel terminal, refinery or biofuel production plant after December 31, 2006.

Such equipment does not include equipment used only for denaturing ethyl alcohol.

The exemption is:

- from and after installation of such equipment; and
- continuing for 10 taxable years immediately following the taxable year in which installation is completed.

K.S.A. 2008 Supp. 79-232

Carbon Dioxide Capture, Sequestration or Utilization Property

Exemption for:

- any carbon dioxide capture, sequestration or utilization property; and
- any electric generation unit which captures and sequesters all carbon dioxide and other emissions.

Exemption is:

- from the date of purchase or commencement of construction or installation;
- for the 5 taxable years immediately following the taxable year in which construction or installation is completed; and
- applies to all taxable years commencing after December 31, 2007.

Carbon dioxide capture, sequestration or utilization property means:

- any machinery and equipment used to capture carbon dioxide from industrial and other anthropogenic sources or to convert such carbon dioxide into one or more products;
- any carbon dioxide injection well; and
- any machinery and equipment used to recover carbon dioxide from sequestration.

Carbon dioxide injection well means:

- any hole or penetration of the surface of the earth used to inject carbon dioxide for underground storage or for enhanced recovery of hydrocarbons;
- any associated machinery and equipment used for such injection of carbon dioxide; but
- does not include underground storage.

K.S.A. 2008 Supp. 79-233

Structures Used to Store Cellulose Matter

Exemption for:

- all storage structures designed and predominantly used for the storage of cellulose matter or other related agriculturally derived material;
- to be used in the production of cellulosic alcohol and co-products;
- for any eight of the 10 calendar years next following the calendar year in which such storage structure was newly constructed or first assembled;

Exemption is:

- limited to a total of eight years for each such individual storage structure; and
- only applies to storage structures newly constructed or first assembled after December 31, 2006.

County appraiser may remove the property from the tax rolls without application being filed with Court of Tax Appeals. K.S.A. 2008 Supp. 79-213(l)(5).

K.S.A. 2008 Supp. 79-201d *Fourth*.

Construction Period Exemption

- If Court of Tax Appeals determines that a newly constructed property qualifies for exemption, the property will be exempt while it was being constructed for a period not to exceed 24 months.
- Applies to exemptions granted pursuant to K.S.A. 2008 Supp. 79-201 *Eleventh* and *Twelfth* and K.S.A. 2008 Supp. 79-259.
- K.S.A. 2008 Supp. 79-213(j)

Application for Exemption Filed with Court of Tax Appeals

- Owner of property requesting an exemption must file an application for exemption with the county appraiser where the property is located or with the Director of the Division of Property Valuation if the property is state assessed.
- Application is forwarded to the Court of Tax Appeals for review and a decision.
- Except for the exemption for structures used to store cellulose matter, all of the exemptions discussed above, including the Kansas Electric Transmission Authority exemption, require an application be filed before the property may be removed from the tax rolls.
- K.S.A. 2008 Supp. 79-213.

Low Production Oil Leases

- Ad valorem tax exemption for oil leases that produce three barrels or less per producing well.
- Ad valorem tax exemption for oil leases that produce five barrels or less per producing well if the well has a depth of 2,000 feet or more.
- Exemption does not apply to royalty interest.
- K.S.A. 2008 Supp. 79-201t

Property Tax Refund for Oil Lease Property

- Provides for 50% property tax refund if the average daily production per well is 15 barrels or less **and** the price of oil is \$16 or less per barrel.
- Refund is paid by the director of taxation from the income tax refund fund.
- K.S.A. 2008 Supp. 79-255

Industrial Revenue Bonds

- 10 year exemption for all real and personal property purchased with bonds.
- K.S.A. 2008 Supp. 79-201a *Second*.

Economic Development

- 10 year exemption for real and personal property used exclusively to:
 - Manufacture articles of commerce;
 - conduct research and development; or
 - store goods or commodities sold or traded in interstate commerce.
- Article 11 § 13 of the Kansas Constitution. Also see K.S.A. 2008 Supp. 79-251 for property that is leased.

The material contained herein is informational only and is not intended to serve as specific legal advice. The Court of Tax Appeals or the appeals courts determine whether a specific property qualifies for exemption.

**WASTE MANAGEMENT TESTIMONY
IN OPPOSITION TO HOUSE BILL 2196**

TO: HOUSE TAXATION COMMITTEE
FROM: JASON CHAN, DISTRICT MANAGER
SUBJECT: OPPOSITION TO HOUSE BILL 2196
DATE: 2/26/2009

Chairman Carlson and members of the Committee thank you for taking time to hear our concerns regarding House Bill 2196. This measure in its current form will have an adverse effect on a project that Waste Management has had in active development for several years.

The Rolling Meadows Recycling and Disposal Facility (RDF) Landfill Gas to Energy (LFGTE) Plant has been a conceptual idea for over five years. Waste Management of Kansas, Inc. has been working towards utilizing the landfill gas generated at the landfill to produce renewable energy. In the last year and a half, after years of effort progress was made on an agreement between Waste Management of Kansas, Inc. and a local energy company for a cooperative agreement to generate electricity with the landfill gas. Waste Management, Inc. has over 80 of these projects currently operating throughout the United States, with a commitment to develop another 50 to 60 plants within the next 5 years. The Rolling Meadows RDF LFGTE Plant will consist of seven Caterpillar 3516 Engines and would generate approximately 5.6 megawatts of electricity, or enough electricity to power approximately 3,700 residences. This is the first project of this type within Kansas, and will be a positive result for the township, county, and state. Support for this project from the Kansas Department of Health and Environment already exists, and the electricity is considered renewable energy. The project is solely funded by private business dollars with an approximate price tag well over 10 million dollars. Waste Management of Kansas, Inc. is excited about being able to move this project forward and hopes that this legislation will not create a barrier to preventing this project from being completed.

This legislation takes us by surprise and affects projects that have been years in the making. The legislature needs to give a heads up/window of opportunity for the business community to adjust, so that proposed projects that are near the ground breaking/construction phase are not affected.

In many cases, renewable energy projects involve multiple parties, including utilities that need to understand these new technologies, their benefits and their costs and to determine whether the investment will yield a return. Negotiating these projects with multiple parties takes time and a lot of the factors can be in flux, changing over time, creating a dynamic of uncertainty about whether a particular project will move forward or not. Despite some of these technologies having proven themselves, like landfill gas to energy which has been implemented for over 20 years, there still is a perceived business risk; because they are relatively new technologies. Thus, there is a long planning window where project proposers work together to educate each other about their part in the project,

whether it is from the proposed technology standpoint, the utility, or the end user of the energy produced.

This legislation impacts those projects whose parties have made the ultimate decision to (bite the bullet) and move ahead. Some of these projects have been negotiated for the past 2-3 years, are on the cusp of breaking ground, have worked out (pro forma) anticipated business costs for the coming years and have negotiated these costs amongst the various project proposers. This legislation affects those future cost projections, impacts already negotiated projects---especially those that have not---but are ready to go ahead and break ground in 2009.

For these reasons, we propose that you not pass this bill out of Committee. If you do decide to take action we would request that the language make an exception for those projects that are breaking ground in 2009 only. Tax exemptions for these projects could be given an end date, allowing tax exemptions only for a specified period of time for these new renewable energy projects. This would allow a narrow group of projects that have planned and whose financials include the anticipated tax exemption, to proceed with the tax exemption, but only for a specified timeframe. These projects would pay the sales tax on any new capital after the window closes. The limited tax exemption window would also allow any other new business ventures in renewable energy the opportunity to make adjustments in their cost projections. This would make for a much smoother transition back to applying the tax to this industry and would be a way to minimize any impact on plans for future projects.

Thank you for the opportunity to provide input into this process. We hope that you will carefully consider the impact of this legislation on renewable energy projects that will be abruptly affected by this legislation. We look forward to working on any language changes that are required to address our concern.

Senators,

My name is Robert Gardner and I am a resident of Leawood, Kansas. I am also the Director of Project Development for Wind Capital Group. Our company has been developing wind projects located in Kansas for the last two years. We are also developing projects in 15 other Midwestern states. The wind energy industry has become extremely competitive, not only between developers but also between states as to which state will receive the benefits of the investment in their rural areas.

Given the current economic climate in America, any rural community would clearly welcome with open arms, a capital investment of \$300 Million. Which is the approximate cost of a 150MW wind farm. That same 150MW wind farm would:

1. Employ more than 150 construction workers, predominantly hired from the local labor force.
2. Purchase 33,000 cubic yards or 3900 truckloads of cement from the nearest cement plant, for the building of the foundations.
3. Purchase 2900 tons of steel rebar for the foundations.
4. Purchase 70,000 tons or about 4000 loads of gravel and aggregate from the nearest quarry, to make the access roads, crane pads, lay down yards, and permanent roads.
5. Hire local truckers to transport the purchased materials to the site.
6. The 150 construction workers all need places to live and eat during the construction phase, bringing revenue to local hotels, restaurants, grocery stores and local retail stores. Typically a 150MW wind project would have a construction schedule lasting 10 months. And finally,

7. Employ a permanent operations and maintenance crew of 12 full-time, well-paid employees.

Now is not the time for any state to make itself less attractive for wind development. Passing this bill will be a strong signal that Kansas is not interested in further wind development.

My company's position has always been that wind farms should pay their fair share of taxes into the local area. Even when there exists a tax abatement, such as is currently the law in Kansas, we negotiate a fair payment to be made to the local government. Wind farms need tax certainty, in order to be financeable. Kansas has in place a statute which allows for that certainty. Repealing the statute will cause wind farm developers to look for other venues for their projects. Venues which are interested in attracting large rural area investments bringing significant economic growth.

I would urge you to seriously consider the negative impact that this bill will have on our rural communities.

Gamesa Energy testimony in opposition to Kansas HB 2196 which would repeal the property tax exemption for renewable energy resources and technologies.

Gamesa Energy USA is engaged in the business of developing wind energy projects. We currently have two projects under development in Kansas. One project is located in the central part of the state and the other is located in the southern part of the state. We have plans to pursue other projects in the state.

Renewable energy projects are often installed in rural areas. Our wind energy projects bring local investment and create local jobs, improving the economic vitality of these communities. This clean form of energy has long term economic and societal benefits.

Renewable energy projects are financially challenging to build. Property tax exemptions and reductions allow for wind energy projects to remain competitive and affordable for customers in Kansas. Assigning additional expenses (taxes) to renewable energy resources negatively impacts project economics.

Kansas competes with several neighboring states for wind energy projects. The addition of new taxes could be the difference whether wind energy developers invest in Kansas or a neighboring state.

Renewable energy sources are an integral component of the overall supply mix. They help diversify generation portfolios, avoid emissions, and stabilize energy costs for Kansas electricity consumers.



TESTIMONY

TO: The Honorable Richard Carlson, Chair
And Members of the House Taxation Committee

FROM: Whitney Damron
On behalf of Iberdrola Renewables, Inc.

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

DATE: February 27, 2009

Good morning Chairman Carlson and Members of the House Taxation Committee:

I am Whitney Damron and I appear before you today on behalf of Iberdrola Renewables, Inc., in opposition to HB 2196, which would repeal the property tax exemption for renewable energy investments in Kansas beginning with TY 2009.

Iberdrola Renewables is America's second-largest developer and operator of wind energy generation. We own and operate the 150 MW Elk River Wind Power Project in Butler County and have over 600 megawatts of wind projects in advanced stages of development in Stevens and Ellis Counties, Kansas.

Iberdrola Renewables and its predecessor company, PPM Energy, believe that under the right conditions Kansas can be a national leader in the development and generation of electricity from wind. Our company would like to grow in Kansas, by investing capital in new wind generation plants to serve electric consumers in Kansas and other states.

Many factors contribute to a decision to build a wind project, including quality of the wind resource; access to transmission; siting requirements; demand for the power; and project economics.

Here is our company's perspective on these factors: Kansas has an excellent wind resource. Siting wind projects in the State has been, in our experience, simple in some places but difficult in others. Access to transmission to move wind power to markets is limited but there is hope for improvement in the work being done by regulators and the Southwest Power Pool. Kansas does not have a statutory Renewable Portfolio Standard but the State's utilities have been working to meet the renewable targets the Governor has asked them to meet. Overall, power prices in Kansas and across the Southwest Power Pool are relatively low.

This mixed report card makes it all the more important for the State to incent investment by improving project economics, and the property tax exemption in current law is a valuable step in this direction.

Our wind-generation opportunities in Kansas do not just compete against other companies. Potential Iberdrola Renewables projects in Kansas also compete for a limited number of turbines and a limited amount of capital that our company has to invest in any given year. Margins are very narrow so incentives like this one are important.

By lowering project costs, this tax relief helps to convert potential Kansas wind developments into price-competitive investments. Conversely, higher taxes on these very capital-intensive investments would dampen wind energy investment in the State.

Some may believe that the wind industry has matured sufficiently and that it is time to end incentives like this one. The growth of the wind industry is, however, less than a decade old and remains on tentative ground. Elk River has been commercial for just three years. In general, the current economic recession has adversely affected growth plans and investor confidence in the renewable energy industry. Pressure on project economics and cash flow is greater than ever, and so is the scrutiny of potential investments.

By making investments in Kansas wind energy less economically attractive, HB 2196 would hurt the chances of the State to draw more investment in wind energy here. It is the wrong bill at the wrong time. We urge the Committee to reject it.

On behalf of Iberdrola Renewables, Inc., I thank you for your consideration of our comments today and would be pleased to stand for questions at the appropriate time.

WBD

Iberdrola Renewables, Inc.

www.iberdrolarenewables.us



TESTIMONY

**TO: The Honorable Richard Carlson, Chair
And Members of the House Taxation Committee**

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

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

DATE: February 27, 2009

Good morning Chairman Carlson and Members of the House Taxation Committee. I am Whitney Damron and I appear before you today to offer comments on HB 2196 on behalf of The Empire District Electric Company.

By way of information, Empire is an investor-owned, regulated utility providing electricity, natural gas and water service with approximately 215,000 customers in Kansas, Missouri, Arkansas and Oklahoma. Empire is a Kansas corporation headquartered in Joplin, Missouri.

Empire uses a diversified energy portfolio to provide electric service to its customers, which currently includes coal, natural gas, wind and hydro power. The company generates electricity through its own coal, natural gas and hydro-electric generation assets and also obtains power through purchase power agreements with other electric providers and utilities as well as electricity from the spot market.

In 2005, Empire entered into an agreement with Iberdrola's predecessor company, PPM Energy, for a 20 year purchase power agreement for electricity generated from the 150 MW wind farm located in Elk County, Kansas. That facility went online in December of 2005.

In December of 2008, Empire entered into a 20 year purchase power agreement with Horizon Wind Energy for a 105 MW wind farm located in Cloud County, Kansas.

Passage of this bill would result in increased electric rates for Empire's customers, due to contractual obligations in one of the two purchase power agreements. As you are likely aware, taxes upon utilities are traditionally born by the ratepayers.

Perhaps there are occasions when the Kansas Legislature adopts tax policy in an effort to incent economic development in our state and the results are either not quantifiable or inconsequential. The property tax exemption the Kansas Legislature adopted for renewable energy is not such a case study. Since the adoption of this exemption, literally hundreds of millions of dollars have been invested in Kansas developing wind farms providing economic development in predominantly rural communities, including construction and operational jobs, revenue sharing with local units of government and land owners. Hundreds of millions of dollars, if not billions of dollars of investment are currently being evaluated for investment in our state.

The State of Kansas told the renewable energy industry the state was open for business in 1998 through this exemption. Today, through HB 2196, there is a different message being given to the renewable energy industry.

It is a fact that the United States will see significant investments in renewable energy assets and technologies in the next decade and beyond, particularly under the direction of the Obama Administration and the Federal stimulus programs. Kansas is uniquely positioned to take advantage of these programs and our own renewable portfolio standards, should one be adopted by the Kansas Legislature.

As a result of these initiatives, renewable energy will very likely become a mandated energy source for our resident electric utilities. But that does not mean assets will be placed on the ground in Kansas. Legislation such as HB 2196 will encourage investment in our surrounding states, which have wind characteristics similar to our state. As a result, we could see investment in renewable generation, technology, jobs, land owner royalty payments and economic development grow in our surrounding states rather than here in Kansas.

Property tax incentives adopted by the Kansas Legislature in the late 1990's have done exactly what the Legislature intended – incited renewable energy investment in Kansas. HB 2196 sends the wrong message to the renewable industry at perhaps the worst possible time.

Empire, as a contractor for renewable electricity generated in Kansas would respectfully suggest the Kansas Legislature should continue to be a proponent of renewable generation, as that is where the industry is heading. If we are to grow the energy development opportunities in our state, which will ultimately benefit its ratepayers, legislation such as HB 2196 should not be passed.

On behalf of The Empire District Electric Company, I thank you for consideration of our comments today and would be pleased to stand for questions at the appropriate time.

WBD

The Empire District Electric Company
www.empiredistrict.com



AIA Kansas
A Chapter of the American
Institute of Architects

February 27, 2009

TO: House Taxation Committee
FROM: Trudy Aron, Executive Director
RE: Opposition to HB2196

President
David S. Heit, AIA
Topeka
President Elect
J. Michael Vieux, AIA
Leavenworth
Secretary
Hans Nettelblad, AIA
Overland Park
Treasurer
Nadia Zhiri, AIA
Lawrence

Richard Brown, AIA
Wichita
Christie Carl, AIA
Abilene
Randle L. Clark, AIA
McPherson
Keith Diaz-Moore, AIA
Lawrence
Dale R. Duncan, AIA
Olathe
Gwenda S. Gigous, AIA
Topeka
David Livingood, AIA
Lawrence
Peter Magyar, Assoc. AIA
Manhattan
Katherine Nichols, Assoc. AIA
Lawrence
Gary Nevius, AIA
Overland Park
C. Stan Peterson, FAIA
Topeka
Daniel Sabatini, AIA
Lawrence
Charles Smith, AIA
Topeka
Daniel (Terry) Tevis, AIA
Lenexa
Jason VanHecke, AIA
Wichita

Good Morning Chair Carlson and Members of the Committee. Thank you for allowing us to provide written testimony in opposition to HB 2196

AIA Kansas is a statewide association of architects and intern architects. Most of our 700 members work in over 120 private practice architectural firms designing a variety of project types for both public and private clients. Our members are designing tomorrow's building today. These buildings are meeting the triple bottom line: environment, people and economy.

AIA Kansas strongly opposes HB 2196. It is another reason why clean, renewable energy companies will move from Kansas and it will certainly preclude new companies to settle here.

Kansas has the 3rd greatest wind resources in the US; we have 300 sunny days per year. We are in the middle of America which means shipping components from here is not as costly as from many other areas of the country. But, Kansas policies are putting us at a terrible disadvantage. HB 2196 and the other Kansas energy policies will undoubtedly mean we miss out on any stimulus for renewable energy.

AIA Kansas urges the Committee to recommend HB2196 unfavorably for passage. Let's do all we can to encourage clean, renewable sources of energy and the business that support that goal.

Thank you.

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

700 SW Jackson, Suite 209 · Topeka, KS 66603 · 800-444-9853 or 785-357-5308 · info@aiaks.org www.aiaks.org

House Taxation Committee
3-2-09
Attachment 18

**Testimony before the House Taxation Committee
February 27, 2009
Opposing H.B. 2196**

Chairperson 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 opposition to H.B. 2196.

The Sierra Club supports incentives for renewable energy generation property especially for wind and solar energy. It believes that these incentives help to bring renewable energy sources up to a level playing field with other sources of energy. It is difficult to compare all the various ways energy receives incentives at the state and federal levels.

In Kansas there are a number of property tax exemptions for energy. Between KSA 79-225 and 79-233 there are 9 different property tax exemptions for energy property. These include one for a new, not yet planned, nuclear power plant, crude and natural gas pipelines, refinery plant property, coal gasification power plants and more.

These incentives are to encourage development of these sources of energy and bring business to Kansas that is not now here. In some cases, there are payments in lieu of taxes involved. Renewable energy has been and will continue to bring new jobs to Kansas. With the abundant solar and wind resources and its central location Kansas has the potential to provide clean renewable energy for itself and much of the rest of the country.

Furthermore, the Sierra Club believes that the development of renewable energy will decrease demand for electricity generated from fossil fuels. This will decrease the amount of greenhouse gas being emitted into the air that contributes to global warming.

The Sierra Club recommends the committee continue to support incentives for the renewable energy industry by not supporting HB 2196.

Sincerely

Tom Thompson
Sierra Club



**Written Testimony before the House Tax Committee
House Bill 2196 – Repeal of Property Tax Exemptions for Renewable
Energy Sources & Technologies
Presented by J. Kent Eckles
Vice President of Government Affairs
Friday, February 27th, 2009**

The Kansas Chamber appreciates the opportunity to submit written testimony in opposition to House Bill 2196, which would repeal property tax exemptions for the renewable energy sector.

Kansas has abundant wind resources, yet among our bordering states we rank in the middle of the pack in installed megawatts of wind power (as of 2007), standing behind Colorado and Oklahoma, but ahead of Missouri and Nebraska (See first attached chart). The State also has not one single wind or solar manufacturing facility, while every one of our peer states except Missouri has this manufacturing base in place. (See second attached chart). Passing this legislation will hinder the State from becoming more competitive in this emerging energy sector.

Additionally, fostering the renewable energy sector of our economy has the potential to help achieve synergies with the State's existing aviation manufacturing & workforce base. With layoffs continuing throughout the State due the economic downturn, we do not believe now is the time to essentially raise taxes on an emerging sector of our economy and place the State at a further competitive disadvantage.

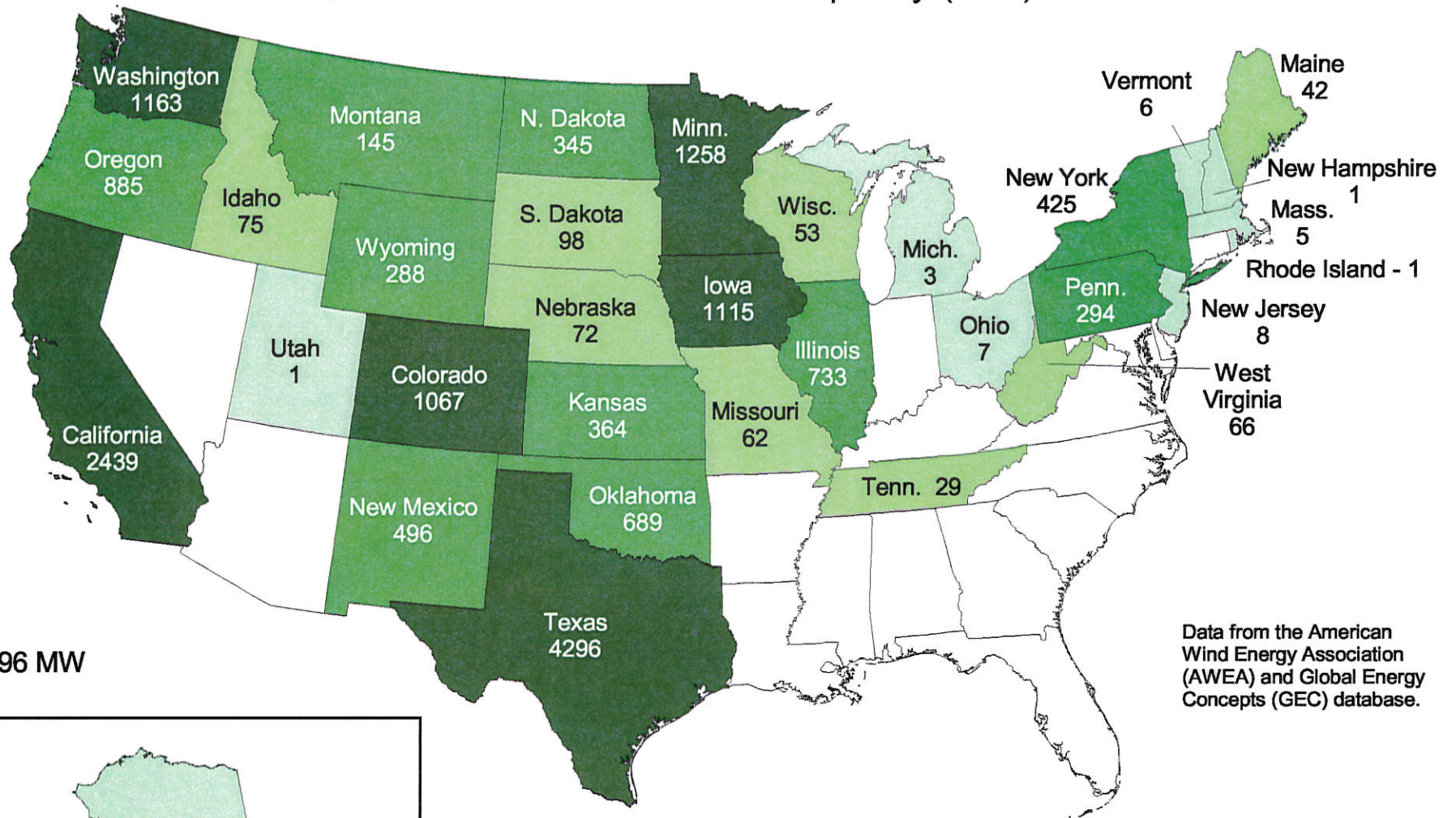
Again, we appreciate the opportunity to offer written testimony in opposition to HB 2196.

The Kansas Chamber, with headquarters in Topeka, Kansas, is the leading statewide pro-business advocacy group moving Kansas towards becoming the best state in America to live and work. The Chamber represents small, medium, and large employers all across Kansas. Please contact me directly if you have any questions regarding this testimony.



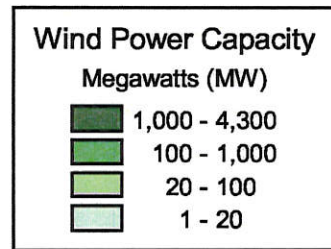
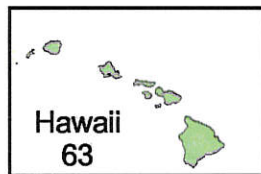
835 SW Topeka Blvd. Topeka, KS 66612 785.357.6321

2007 Year End Wind Power Capacity (MW)



Total: 16,596 MW
(As of 12/31/07)

Data from the American Wind Energy Association (AWEA) and Global Energy Concepts (GEC) database.



U.S. Department of Energy
National Renewable Energy Laboratory



Solar & Wind Industry Manufacturing Facilities

Online, Announced and Expansions in 2008



Wind

Online, Announced and Expansions in 2008 through end of September

COMPANY	LOCATION	COMPONENT	JOBS*
ONLINE			
1. Acciona	West Branch Iowa	Turbines	110
2. ATI/Thunder Bay	Alpena Mich.	Castings/Foundry	150
3. Vestas	Windsor Colo.	Blades	700
4. Wausaukee	Cuba City Wis.	Nacelle Housings	40
5. GE Energy	Memphis Tenn.	Part Operation Ctr.	
6. GE Energy	Schenectady N.Y.	Parts Fulfillment Ctr.	150
7. Katana Summit/T Bailey	Columbus Neb.	Towers	100
8. TPI Composites	Newton Iowa	Blades	500

ANNOUNCED

1. Fuhlander AG	Butte Mont.	Turbines	150
2. LM Glasfiber	Little Rock Ark.	Blades	1,000
3. Nordic Windpower	Pocatello Idaho	Turbines	160
4. Northstar Wind Towers	Blair Neb.	Towers	100
5. RTLC Windtowers	McGregor Texas	Towers	75
6. Sector 5 Technologies	Delwein Iowa	Fabrication/Assembly	99
7. Nordex	Jonesboro Ark.	Turbines/Blades	600
8. Siemens #2	Elgin Ill.	Mechanical Drives	300
9. Siemens R&D	Boulder Colo.	R&D	50
10. Tower Tech/Broadwind	Abilene Texas	Towers	150
11. Tower Tech/Broadwind	Sioux Falls S.D.	Towers	150
12. Trinity Structural Tower	Newton Iowa	Towers	140
13. Vestas #2		Towers	400
14. Vestas R&D	Houston Texas	R&D	150
15. Dragon Wind	Lamar Colo.	Towers	100
16. Hexcel		Prepreg Glass	
17. Martifer	San Angelo Texas		225
18. Minster Wind	Minster Ohio	Components/Castings	140
19. Vestas	Pueblo Colo.	Towers	500

EXPANSIONS

1. Genzink	Holland Mich.	Generator frames	20
2. K&M Machine-Fabricating	Cassopolis Mich.	Hubs/Gearboxes	120
3. Siemens	Fort Madison Iowa	Blades	278
4. Wausaukee	Wausaukee Wis.	Nacelle Housings	30
5. Acciona	West Branch Iowa	Turbines	10
6. DMI	Tulsa/West Fargo Okla./N.D.	Towers	350
7. Rotek	Aurora Ohio	Bearings	150
8. Ahlstrom Specialty Reinforcements	Bishopville S.C.	Composites	56
9. Merit Gear	Antigo Wis.	Gears	45

*Jobs figures are expected jobs once facility is running at full capacity.
Source: American Wind Energy Association



Solar

New and Expansions in 2008 through end of October

COMPANY	LOCATION	COMPONENT	JOBS
NEW			
1. Suniva Inc.	Norcross Ga.	Solar Cells	100
2. Dow Corning Corp.	Freeland Mich.	Solar Panels	
3. Shoals Technology Group	Gallatin Tenn.	Solar Energy Panels	100
4. SpectraWatt Inc./Intel Corp.	Hillsboro Ore.	Solar Cells	
5. OptiSolar Inc.	Sacramento Calif.	Solar Panels	500
6. Evergreen Solar Inc.	Midland Mich.	Solar Panels	101
7. Flabeg	Brackenridge Pa.	Solar Mirrors	300
8. Solar Power Industries, Inc.	Belle Vernon Pa.	Solar Cell Production	396
9. Underwriters Laboratories (UL)	San Jose Ca.	Photovoltaic Testing	
10. United Solar Ovonic	Battle Creek Mich.	Solar Laminate	350
11. Sanyo Solar of Oregon, LLC	Salem Ore.	Silicon/Solar Parts	200
12. Schott AG/Schott Solar	Albuquerque N.M.	Solar Panels	350
13. Sencera International	Charlotte N.C.	Solar Panels	65
14. Komax Systems York	Springettsbury Twp Pa.	Photovoltaic Mfg. Equip.	70
EXPANSIONS			
1. SolarWorld	Camarillo Ca.	Solar Modules	
2. Ascent Solar Technologies	Thornton Colo.	Photovoltaic Film	65
3. First Solar	Perrysburg Ohio	Thin Film Solar Modules	134

Source: Conway Data New Plant Database