



January 30, 2023

The Honorable Adam Smith and Members
House Committee on Taxation
Kansas State Capitol - 300 SW 10th St.
Topeka, Kansas 66612

Dear Chairman Smith and Members of the Committee:

On behalf of NextEra Energy Resources, LLC (NEER), I am writing in support of HB2110, which would allow businesses in certain industries to elect to calculate the share of their taxable income subject to tax in Kansas using a single sales factor apportionment (SSFA) formula in lieu of the currently required three-factor formula comprised equally of property, payroll and sales.

Just a quick word about NextEra Energy Resources and our activity here in Kansas. NextEra Energy Resources is an affiliate of Juno Beach, Florida-based NextEra Energy, Inc., one of the largest clean energy companies in the country. NextEra Energy Resources, together with its affiliated entities, is the world's largest generator of renewable energy from the wind and sun and a world leader in battery storage.

At the end of 2022, our company operated ten wind farms in Kansas representing more than \$2 billion of capital investment. Currently, we have two wind farms, a solar facility and an energy storage system under development, which, when complete, will nearly double our capital investment in Kansas. NextEra Energy Resources provided \$9.3 million of annual payments to property owners and \$5.9 million in annual property taxes in 2021.

Multi-state companies must apportion their income to the states in which they conduct business based on the method required by each state. Historically, states were uniform in their use of the "three-factor formula," using equally weighted fractions of property, payroll and sales in the state to those items everywhere in the U.S. and dividing the result by three. This fraction is then applied to the taxable income of the corporation to determine the portion of the company's income that would be subject to the state's income tax.

Beginning with Iowa in the mid-1970s, states gradually began to trend towards increasing the weight of the sales factor while diminishing the other two factors. Today, 46 states impose a corporate income or franchise tax. Of those 46 states, 30 use SSFA, 10 use three-factors with a heavier weighting on sales, and six, including Kansas, use equally weighted three-factors. Of Kansas's neighbors, Colorado, Iowa, Missouri, Nebraska and Texas use SSFA and Oklahoma allows double weighting of sales for certain taxpayers to encourage and reward capital investment.

The current method of using an equal weighting of property, payroll and sales makes it more expensive and difficult for multi-state companies, particularly very capital-intensive companies, to expand their businesses within the state of Kansas. As these companies expand their physical presence by increasing personnel and investing in infrastructure and assets, their apportionment fraction increases in the state, therefore subjecting more of the multistate taxable income to tax within the state of Kansas.

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Therefore, inclusion of payroll and property in the factor provides a disincentive to locate or expand in Kansas relative to other states that use SSFA, particularly for capital intensive companies. SSFA is market driven and economically neutral with regards to investing and hiring. Most states that have adopted SSFA have done so to alleviate this increased burden and encourage companies to expand within the state, thus promoting economic development and growth.

Kansas should choose policies that ensure competitiveness with other states and that drive business and economic development in the state, including single sales factor apportionment for certain industries. As such, we strongly urge the Committee to take favorable action to recommend HB2110 for passage.

Our thanks to the Committee for the opportunity to submit this testimony.

Sincerely,



Michele T. Wheeler
Vice President, Regulatory and Political Affairs
NextEra Energy Resources, LLC