



*Submitted testimony provided to the
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The Kansas Advanced Power Alliance*

Neutral Testimony on HB 2397

Good afternoon Mister Chairman, Madame Vice Chair, Madame Ranking Minority and members of the Committee. Thank you for the opportunity to provide neutral comments on behalf of the Advanced Power Alliance on House Bill 2397 dealing with foreign ownership of land in Kansas. The members of the Advanced Power Alliance include the more than forty businesses in the clean energy industry including the developers, owners, and operators of the wind, solar, and battery storage facilities in the state.

The relationship between our developers and Kansas landowners is a voluntary one. In 2005, shortly before the State's second wind farm came online, the Kansas Legislature - with the industry's support - passed legislation specifying that wind and solar projects developed in Kansas are not public utilities and therefore do not have the right of eminent domain. No wind farm or solar facility or any of its associated facilities can be built on a landowner's ground without their express consent via a contract for lease. Every project our members build is on land that has been acquired through a private lease agreement with that landowner. The landowner continues to own the property. In fact, in 2011, the Legislature passed a bill, again with the industry's support, prohibiting the wind rights to be severed from the land rights unlike oil and gas whether the mineral interests are severed from the land. The wind lease is considered a minority interest in the property, similar to an oil and gas lease. That minority interest lasts for the duration of the lease, which includes the development period and the period of time when there is an operating wind or solar farm on the property. The lease expires when the project is no longer operating and has been decommissioned at the developer's expense per the lease agreement.

The first wind farm built in Kansas is the Gray County Wind Farm. The project came online in 2001. In just over twenty years, the State has seen 43 more wind farms come online, with one under construction and two more announced for construction. This represents a more than \$15 billion investment of private capital with more than 20,000 direct and indirect jobs. Our projects provide a guaranteed revenue stream to our host landowners equaling nearly \$50 million in annual landowner lease payments



and millions of dollars annually provided in community investments and taxes paid. This has all come without a dollar of State General Fund investment or incentive.

Wind and solar technologies were first developed in the United States in the 1970s but moved overseas following a change in the political winds. The European companies that imported our technology spent two decades further developing and perfecting it. Those same European companies re-shored the clean energy technology in the late 1990s in the United States. There are more than 70,000 component parts in a single wind turbine. In 2005, 85% of those component parts were made overseas and imported into the United States. Fifteen years later, that number flipped so more than 85% of the turbine's component parts are made in the United States – many here in Kansas at the Siemens Gamesa nacelle manufacturing facility in Hutchinson. Of the 20 largest utilities in the world, 15 are operating in the state of Kansas.

The Advanced Power Alliance includes members that are foreign-owned, publicly traded American-based utilities, and even members that are home-grown companies that began here in the state of Kansas. Our power offtakers include in-state and out of state electric utilities as well as large commercial and industrial customers – some of the biggest names in domestic and global business.

Our members that are predominately foreign-owned abide by the Agricultural Foreign Investment Disclosure Act (AFIDA) and report their leasing interests to the United States Department of Agriculture. Those leasing interests are then included in the AFIDA's annual report. AFIDA exempted the oil and gas industry in 1978 because as a lease agreement it did not make sense to include their leasing interests in the report. As a matter of policy, APA submits that wind energy development is largely similar to the oil and gas industry as a wind farm - like an oil and gas lease - does not prohibit farming or ranching on the property. While a wind farm may lease upwards of 20,000 acres across the project footprint, the actual impacted acreage is less than 1% of the total leased acreage.

We believe we understand what is trying to be achieved in HB 2397. However, any energy industry that is leasing agricultural land – whether it is wind and solar or oil and gas – would have an “ownership interest” in that property as currently defined in HB 2397. We would ask that the committee carefully deliberate the broad, sweeping and perhaps unintended consequences of this bill.