



Since 1894

Date: January 25, 2023

Re: **SB 49 AN ACT concerning wind energy conversion systems; relating to aviation obstruction lighting; requiring new wind energy conversion systems to be constructed with light-mitigating technology systems prior to the commencement of operations subject to the approval of the federal aviation administration.**

- **Oral-In Person**
- **Proponent**

From: Aaron M. Popelka, V.P. of Legal and Governmental Affairs, Kansas Livestock Association

To: Senate Committee on Utilities  
Sen. Robert Olson, Chair

*The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing more than 5,700 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seed stock, cow-calf, and stocker cattle production; cattle feeding; dairy production; swine production; grazing land management; and diversified farming operations.*

Thank you, Chairman Olson, and members of the Committee, for giving the Kansas Livestock Association (KLA) the opportunity to share our views on SB 49. KLA supports SB 49 as a means to protect landowner property rights in regard to wind energy developments.

Recently, KLA members revisited policy concerning wind energy developments. With the proliferation of these developments various concerns have arisen in regard to how these developments are sited and operated. While KLA believes participating landowners should have the right to enter into wind energy leases, these types of developments are also accompanied with externalities that affect neighboring property rights. As a result, KLA members adopted policy that states: "THEREFORE BE IT RESOLVED, the Kansas Livestock Association supports legislation to protect the private property rights of landowners adjoining, but not participating in wind farm developments."

KLA would prefer legislation to adopt reasonable setback distances for wind towers from homes, livestock facilities, and other habitable structures, but in the absence of such a bill, light mitigation requirements are necessary. One of the more common complaints from landowners near wind developments are the bright, blinking, synchronized, red lights. This externality is extremely disruptive to rural residents, who prior to the development, were able to enjoy a clear night sky. SB 49 would ensure that wind developers install available light-mitigating technologies to be better neighbors and mitigate adverse environmental impacts.

The only suggestion KLA submits for Committee consideration is to remove the option for “light intensity dimming solution technology” in lines 34 and 35 of page one. While intensity of the lights can be an issue, it is the presence of the constant, synchronized blink that is the issue.

Aircraft detection lighting systems (ADLS) for wind farms is not a novel concept. North Dakota has required wind tower light mitigation technology since August 1, 2017, and a number of wind farms have implemented ADLS in North Dakota, gaining approval from the Federal Aviation Administration (FAA).<sup>1</sup>

In addition, some recent wind farm agreements with Kansas counties, like the NextEra agreement with Republic County,<sup>2</sup> have included the requirement the wind developer apply to FAA for ADLS as a condition of the agreement. These agreements, however, are optional and do not require the wind developer to gain FAA approval of an ADLS before beginning operations. If FAA initially rejects an ADLS application, the developer can simply move forward with traditional lighting instead of adjusting the FAA application to gain ADLS approval. SB 49 would ensure that wind developers plan wind farms where ADLS systems are possible and put forth FAA applications that will be approved.

KLA appreciates the opportunity to appear as a proponent of SB 49. We ask that the Committee recommend the bill favorable for passage when it works the bill.

---

<sup>1</sup> See N.D.C.C. 49-22-16.4 (2021); see also Jill Schramm, *Wind farms seek extensions to deadline for light mitigation*, Minot Daily News, Dec. 3, 2021, available at <https://www.minotdailynews.com/news/local-news/2021/12/wind-farms-seek-extensions-to-deadline-for-light-mitigation/>.

<sup>2</sup> High Banks Wind, LLC, Development Agreement, at 3, available at [https://www.thebellevilletelescope.com/uploads/1/1/4/1/114196443/high\\_banks\\_development\\_agreement.pdf](https://www.thebellevilletelescope.com/uploads/1/1/4/1/114196443/high_banks_development_agreement.pdf).