



Since 1894

Date: January 30, 2025

To: Senate Committee on Judiciary
Senator Kellie Warren, Chair

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

Re: **SB 61 AN ACT concerning electric public utilities; relating to eminent domain; requiring an electric public utility to pay a landowner's attorney fees when a party appeals the award of the court appointed appraisers and the landowner prevails.**

Position: Proponent, In-Person

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing nearly 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, Chair Warren and members of the Committee, for allowing the Kansas Livestock Association (KLA) the opportunity to share our support for SB 61, requiring an electric public utility to pay a landowner's attorney fees when a party appeals the appraisers' award and the jury renders a verdict that is greater than the appraisers' award in an eminent domain action.

At the heart of this bill, is the need to protect landowners and private property rights in Kansas. Farm and ranchland accounts for 87.5 percent of all land in Kansas, making farmers and ranchers the largest group impacted by the siting of electric transmission across the state. Our members feel the effects of these projects directly in their daily lives and operations. They believe that private property rights are one of the basic pillars of a free enterprise society and therefore should be preserved by the State. Per K.S.A. 26-501(a), "Private property shall not be taken by eminent domain except for public use and private property shall not be taken without just compensation."

When electric utility companies approach members with plans for new transmission lines and other structures under the threat of eminent domain, landowners lose the ability to effectively negotiate for the use of their land. Currently, under K.S.A. 26-101, corporations and partnerships have the right of eminent domain if issued a certificate of convenience by the Kansas Corporation Commission (KCC). Through this process, the landowner is to be compensated at fair market value for the taking. However, the concept of fair market value is centered around a willing seller and a willing buyer. Our members will be the first to express they are not willingly

entering into these transactions, but understand they do not have a legitimate choice with the threat of eminent domain looming. KLA policy “supports legislation that provides for full compensation to property owners for any property interest taken through eminent domain.”

SB 61 simply encourages fairness in the process and allows landowners to appeal without the predetermined deterrent of legal fees if they have reason to believe the amount determined by the appraisers was insufficient. If the amount determined by the appraisers is without error and is found to be at or over the amount determined by the jury, no attorney’s fees would be owed. It is only in instances where a jury has found that the amount offered is less than what they determine to be fair market value that a landowners attorney’s fees should be paid by the opposing utility company. This is just one way to help protect landowners when land is taken through eminent domain.

Thank you for the opportunity to submit KLA’s views to the Committee. KLA asks the Committee to approve SB 61 favorably for passage.