



Since 1894

To: Senate Committee on Local Government
Sen. Carolyn McGinn, Chair

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

Re: **SB 325 AN ACT concerning property; relating to wind and solar energy facilities; requiring appropriate zoning of land prior to construction of such facilities; establishing protest procedures for county zoning resolutions; requirements for the recordation of wind and solar energy leases and easements.**

Date: January 25, 2022

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, Chairwoman McGinn and members of the Committee, for giving the Kansas Livestock Association (KLA) the opportunity to share our views on SB 325. KLA supports a balanced approach to protecting property rights in regard to wind energy developments. We believe that SB 325 advances that cause, but KLA has a number of questions about this proposal and believes that perhaps better solutions exist. As a result, KLA is neutral on the bill.

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 the tactics used to secure leases. 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 effect 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."

Much of the discussion among KLA members centered on reasonable forms of setback requirements from homes, structures, and non-participating property lines. In the absence of such setbacks, affirmative zoning requirements, with some ability for affected landowners to challenge a zoning change, might be a solution. Before KLA can support such a concept, however, a number of questions about SB 325 remain unanswered:

- KLA strongly supports the ability of counties to choose not to impose zoning regulations. What does SB 325 mean for such counties?

- SB 325 only allows wind energy developments in industrial zones. If a county changes zoning to the industrial class across wide swaths of rural areas, does this zoning change also invite heavy manufacturing and other traditional industrial classed property uses into the zone?
- What does it mean to be contiguous to the industrial zone? What if a developer submits a wind energy development plan that asks the county board of commissioners to limit the industrial zone to only areas where the towers and access roads will be built, and the industrial zoned areas are set back to be wholly contained within the property lines of participating properties – at that point are there no contiguous parcels?
- In regard to the lease filing requirements, what happens if the lease is not filed within 30 days? Is the lease automatically void or can it be voided by a non-participating neighbor or a future landowner?

KLA appreciates the opportunity to share its perspective with the Committee about the need to balance property rights between landowners participating and not participating in wind energy developments. KLA believes SB 325 is a good start to this process, and reasonable protections should be adopted. Without further clarification, however, KLA prefers reasonable setbacks compared to the zoning system imposed by this bill.