

- Thank you for the opportunity to address this Committee.
- Name is Bill Scopp. I have been a resident of KS since about 1980 and a rural landowner in Linn County since 1995. I have spent 37 years in the leasing industry, primarily in equipment leasing but also in some real property leasing.
- I am here as a PROPONENT of Senate Bill #323.
- Senate Bill #323 is a crucial step to protecting Kansas Landowner rights –specifically related to Industrial Energy Development and the “real property” leases that are pushed upon trusting, if not naïve’, landowners, by the industrial energy developers. This includes Industrial Wind development and Industrial Solar development.
- I am NOT an attorney so I am clearly not attempting to provide any legal advice or review, rather to provide a perspective from years in the leasing world and as a concerned and vested Kansas property owner and citizen.
- I have had the opportunity to review an Industrial Wind Developer/tenant proposed lease that was presented in Linn County, Kansas.
- This proposed lease agreement has also been reviewed by an attorney and I recognize that there simply is not sufficient time to go over all the concerns and risks placed on a landowner in the lease. But I would like to address some of the material concerns that exist in leases that were presented to landowners to sign as part of an industrial wind development, and that is the focus of Senate Bill 323. This bill aims to address a primary issue and concern related to providing for open and fair disclosure and dialog among landowners who are presented with a land lease for an industrial energy

development. And provide for a reasonable amount of time for a landowner to make a decision.

- Logic and common sense would suggest that any landowner would be free to discuss their specific lease agreement with other landowners who are participating in an industrial energy development. But that is NOT always the case. Most industrial energy development leases include extensive “CONFIDENTIALITY” clauses that restrict a landowner from discussing any part of the agreement they executed. And that confidentiality clause further enjoins them from discussing certain post lease signing activities or actions of the tenant/industrial energy developer.
- Any and all industrial energy developers will have substantial monetary invested in any project. But that money pales in comparison to the real risk it places on the landowner, and ultimately on the County in which the development is proposed, as well as the State. This includes a host of financial as well other risks such as land and landowner health and even the livelihood of the operators of the property on which an industrial energy development is built. And this restriction ultimately includes accountability of the developers to the landowners over the course of any land lease.
- The complexity and scope of the tenant (industrial energy developer) drafted and tenant favoring land leases is simply mind-boggling. The lease I reviewed is 57 pages long. 57 pages! And that is without any sort of addendum(s) that include real property land descriptions. The only reason any lease would possibly be 57 pages long, is if one of the parties (Tennant/Lessee/industrial energy developer) is pushing as much risk as possible, onto the other party (Owner/Lessor/Landowner) -- and that is exactly the case with the agreement I reviewed. This land lease, in my opinion, is not in any way an equitable or mutually beneficial agreement and it is

reasonable to believe the language in any other industrial energy developer's drafted agreement will mirror this.

- In my 37 years in the leasing world, I have NEVER seen any agreement more egregious or one sided. This lease places virtually unlimited risk on landowners and at the same time it indemnifies the developer from virtually all liability. Again, the agreement lacks any reasonable level of mutual benefit between the landowner and the industrial energy developer tenant.
- Which is why it is imperative that this committee take action to, at a minimum, provide a cautionary notice and encourage any person or entity, considering entering into an industrial energy development land lease, to seek qualified counsel or advise prior to agreeing to and signing a lease.
- The lure of what appears to be “easy money” and developer created time sensitive pressure to execute an agreement, could lead to a devastatingly bad outcome for any property owner who does not fully understand the ramifications of lease contract. This includes simple landowner “given” rights that are potentially relinquished via the lease, and the long-term risks to not only that property, but to the financial wellbeing of the landowner and its local government.
- It is crucial to understand that these industrial energy development leases do not treat landowners equally. They allow for and grant to the developer/tenant virtually unlimited easements beyond a footprint for the base energy device (example: windmill) and those additional easements granted to an industrial energy developer include; rights to add an unlimited number of buildings, add roads, drainage modification, power and transmission line installations, installation of substations, etc.... And the scope of the lease agreement can even restrict a landowner from using some if not all of their property, allows the developer to take and use water, remove trees, re-route drainage

and riparian strips, and potentially limit a landowner from even using his property for ag, hunting, fishing, or ultimately, their livelihood.

- It is exceedingly important that landowners understand not only the ramifications of any lease of their property to an industrial energy developer, but also to have a reasonable opportunity to understand the larger “picture”. That includes understanding what other potential participating landowners may be agreeing to and what impact those other leases may have on their property as a result of another landowner participation in an industrial energy development.
- Senate Bill 323 provides, at a minimum, a notification to any property owner considering participation in an industrial energy development, to be diligent and proceed cautiously.

I urge those on this committee and anyone who will be voting on this bill, to put Kansas and the very landowners who have made this great State, first! Move this bill forward and sign it into law. At a minimum, this bill will afford free and open discussion among/by prospective landowners about the risks they will legally bind themselves to by virtue of the industrial energy development lease, versus any perceived economic benefits. And provide for fair and open discussion on the long-term impact to not only their own land, but to land belonging to their neighbors, who by the way, may choose to not participate in a development but still materially affected by the decision of adjoining landowners.

Respectfully submitted, Bill Scopp.