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Testimony of
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Before the Senate Committee on Utilities
Regarding Senate Bill No. 353

February 10, 2022

Chairman Thompson, Vice Chair Peterson, Ranking Member Francisco and Committee Members,

My name is Alan Claus Anderson and I am a practicing attorney and the Vice-Chair of the Energy Practice Group at Polsinelli, a national law firm that provides a wide breadth of legal services to both Kansan businesses and the individual residents of Kansas. I am also an adjunct Professor of Law at the University of Kansas School of Law where I teach Renewable Energy Law Practice and Policy. Thank you for allowing me to appear before you today to discuss the many fatal flaws and destructive policies contained in Senate Bill No. 353 (the "Bill").

A. INTRODUCTION

Polsinelli is a law firm with over 900 lawyers with offices across the United States. We are fortunate to work for clients in all areas of energy production, from oil, gas, and coal, to renewable energies such as wind and solar. I also study and teach renewable energy law and the impacts of both good, and bad, policy. I am a proud Kansan and have had the good fortune of working with various Kansas state agencies to attract business to Kansas, and our firm has a long track record of unwavering support for this great state.

B. OVERVIEW

Currently you have before you Senate Bill No. 353. In this testimony I am going to lay bare the technical and legal flaws that make it unworkable, and I will discuss the intrinsic qualities of this Bill that make it poisonous to this state's long-held support of the principles underlying the United States and Kansas Constitutions including belief in the freedom to contract, support of free market capitalism, commitment to local control of land use, protection of property rights, and support for intelligent and competent evidence in our decision making.

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C. BILL TERMS SUMMARY

On its face, this Bill imposes new unfunded mandates on Kansas Counties and government-imposed mandates upon Kansas landowners' private contracts. Additionally, this Bill would shut down significant amounts of our state's electricity production. A few of the most onerous requirements are detailed below.

This Bill Creates De Facto Zoning and overrides Current Zoning

- Before commencing construction, and regardless of whether a county is zoned or unzoned, or has already established a conditional use permit process, the Board of County Commissioners of each county must develop, evaluate, and approve an "application for construction of the facility."
    - This means that Counties that already have zoning and established a conditional use permit process that meets the needs of the local community will be overridden;
    - Counties that have chosen not to be zoned will have a state mandate to create a poorly defined faux zoning process without any effective guidance, without meeting the zoning enabling act standards, and without any funding to establish or administer this process.

- The "application for construction of the facility" must be developed, reviewed, and approved by the County Commissions;
    - The Bill then includes a series of non-sensical mandated requirements that must be included.
        - Because this Bill now requires that every county include this information in its application, those counties will have to spend the time and money to review and administer the mandated requirements;
        - Many of the requirements are otherwise covered by federal law, requiring counties to spend time and money on redundant bureaucracy;
    - This is another mandated layer of bureaucracy that does not respect the local county's choice, does not include guidance, and provides no funding to create and administer this mandate.

- Regardless of whether the County has adopted zoning, has already gone through the process to review and approve a Conditional Use Permit, or has the resources, expertise, or desire to review such applications, every Board of County Commissioners must hold a public hearing on each "application for construction of the facility" at least 20 days, but not more than 90 days, after the publication of notice, and must deny the application if the Board finds that the developer failed to comply with any of the requirements set forth in the Bill section;
    - We already have a statutory process in zoned counties for reviewing and approving conditional use permits, so this creates an unnecessary added, and potentially conflicting, series of requirements;

  - What this really does is create faux zoning in unzoned counties without going through the reasoned process afforded by the Zoning Enabling Act or providing the due process that has been established by statute and over a century of Kansas Court decisions when enacting zoning.

- Mandates a minimum setback of 1 mile or 10 times the height of the turbine, whichever is greater, from each of the following:
  - Non-participating landowner property lines
    - This one-mile setback means that only parcels greater than a full section can even potentially be considered for leasing. On its face, this requirement likely takes away the property rights for landowners that do not have parcels that are less than a full section;
  - Public buildings
    - This term is undefined and it is not clear whether it would apply to buildings used by the public or owned by a governmental body;
  - Airports
    - Defined to include non-existent concepts that have no FAA or other recognition so long as they may, at some point, turn into a private unregulated airstrip;
  - Federal wildlife refuges;
  - Public hunting areas
    - This term is undefined and possibly could apply to any area that is privately owned and randomly leased to the public; and
  - Public Parks;
    - This term is undefined.

- Mandates that a project will never generate "instantaneous wind turbine noise" in excess of 35 decibels as measured at the property line of adjacent landowners;
  - To be clear, there is no land use in any of these counties, including oil and gas, farming, ranching, manufacturing, that meets this standard.

This Bill Also Takes Away Landowners. Property Rights and Freedom to Contract

- Going beyond any "siting" criteria, the Bill takes away landowners' freedom to contract by requiring intentional poison pill provisions in landowners' private leases or easements, including provisions specifying that:
  - A landowner has the right at any time to engage any person providing wind turbine acoustic noise measurements to verify compliance;
    - This applies regardless of reasonableness, regardless of credentials or expertise in such field, and regardless of scientific methodologies used;
  - The developer is responsible for the payment of the costs to hire such individual and have that individual conduct noise measurements on the property;

        - These costs must be reimbursed regardless of the outcome of such tests, regardless of the number of times such measurements are conducted, regardless of the qualifications of the party conducting such measurements, and regardless of the tools and methodologies used;
    - The developer must shut down any turbine that is found to be operating with noise levels in excess of such decibel limitation and shall take measures to mitigate the decibel output of such turbine prior to continuing operation;
        - This section provides no recourse from intentional, or even simply reckless, attempts to provide false "measurements," and instead mandates project shutdown;
    - This Bill does not allow the landowner the right to eliminate this absurd provision. This new provision, which would be required to be inserted into every lease, is ripe for abuse and is completely untenable for modern commerce. No business, in any industry, would agree to enter into contracts that introduce this much risk, uncertainty, and likelihood for bad faith action. Mandating a poison pill provision be included in every lease destroys the foundational benefit of the bargain of leases, and represents a tangible threat to Kansas landowners' ability to freely negotiate agreements for the use of their property.

This Bill is Written to Apply Retroactively

- The title to the Bill states that the Bill is "establishing certain operating conditions for existing facilities". Consistent with this intent to apply retroactively to existing facilities, SB 353 mandates that every operator of a facility that **has** "**commenced** operation in the state" shall ensure that no permanent residential dwelling shall experience any shadow flicker under normal operating conditions;
    - This clearly and explicitly states that this applies to "operators", of a facility that "has commenced" operation. This does not say that is applies to developers "will develop a facility" or that "prior to commencing" a facility and therefore the only conclusion is that this would apply retroactively to all previous projects.

These requirements are not intended to provide reasonable health and safety standards. They are designed to help facilitate an end to the renewable energy industry in Kansas by replacing local land use decisions in the counties with mandates from Topeka and having the state legislature dictate the terms of privately-negotiated contracts impacting Kansas landowners' rights to utilize their private property. These proposed requirements demonstrate a disregard for our century-old system of local control of land uses, a taking of private property rights, a lack of trust in the intelligence of our rural citizens, an attack on the freedom to contract, a rejection of our capitalist economic system, and a taking of a natural resource from property owners.

D. THE BILL IMPLICATES THE RIGHTS, FREEDOMS AND PROPERTY INTERESTS PROTECTED BY THE KANSAS CONSTITUTION AND THE COUNTY HOME RULE ACT

Through a new mandate for zoned and unzoned counties to establish and implement an "application for construction of the facility," SB 353 attempts to implement new faux zoning requirements without following the well-established process for protecting county autonomy and due process for the Kansas landowners that would have their rights encroached upon.

Injury to property rights, and an attack on the free markets, should not be imposed arbitrarily and capriciously and should only be inflicted upon citizens after careful deliberation, and only when justified by substantial and competent evidence. Fortunately, the Kansas Constitution and Statutes provide us additional protections, and established regimented processes, for such deliberation. Our state decided long ago that the Counties know their communities better than the distant, and often differing, legislature in Topeka, and it is therefore the Kansas Counties that can best address most of the local affairs which uniquely affect their citizenry.

Article 12, Section 5 of the Kansas Constitution provides that "Cities are hereby empowered to determine their local affairs and government." Mirroring this sentiment, the County Home Rule Act provides that county commissions may do "***all … acts in relation to the property and concerns of the county, necessary to the exercise of its corporate or administrative powers***" and that "the board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate …."[1] In recognition of the breadth of the effect of this foundational premise, the Kansas Supreme Court has repeatedly recognized that "home rule powers are to be liberally construed for the purpose of giving to counties the largest measure of self-government."[2]

There is no governmental action more local than zoning. In fact, the well-entrenched policy of Home Rule in Kansas is brought into sharp focus in the realm of zoning and recognizes local communities are rightfully the best authority to decide what uses of property should be allowed, or restricted, based upon the community's own unique goals and values. Even at this local level, restrictions of property rights and deviations from the goals of free market capitalism are limited by the Constitution and statute. This is demonstrated most clearly by the Kansas Zoning Enabling Act, which requires the collection and consideration of localized input before restricting private property rights.

In direct contrast to the Home Rule policy of Kansas, Senate Bill No. 353 does not amend the Kansas Home Rule Act, yet it would strip away the rights of cities and counties to determine their local affairs and to self-govern in the most fundamental of ways. In addition to trampling on the goals and protections of the Constitution, and an open disdain for free market capitalism, this Bill demonstrates an attempt at government overreach into the rights bestowed upon the Counties

[1] K.S.A. 19-101.

[2] *Board of County Comm'rs of Trego County v. Division of Property Valuation*, 261 Kan. 927, 934 (1997); *see also*, *General Bldg. Contractors v. Board of Shawnee County Comm'rs, Shawnee County* 275 Kan. 525, 536 (2003); *Missouri Pacific Railroad v. Board of Greeley County Comm'rs,* 231 Kan. 225, 227 (1982).

to determine their own individual procedures for zoning applications, and encroaches upon substantive zoning decisions, such as allowable setbacks.

E. THE BILL TRESPASSES UPON THE RIGHTS PROTECTED BY AND THE GOALS OF THE KANSAS ZONING ENABLING ACT

The Kansas Zoning Enabling Act gives cities and counties the power to enact planning and zoning laws and regulations "for the protection of the public health, safety and welfare."[3] The Zoning Enabling Act also sets forth specific steps for the adoption of zoning regulations. These steps include the creation of a planning commission, the development of a comprehensive plan, the drafting and adoption of subdivision regulations, the drafting and adoption of zoning regulations, and the review and issuance of special use and building permits.[4] These steps require public notice and public hearings before any decisions are made.[5] Such notice and hearings are critical because they facilitate participation and feedback from the individuals directly impacted by the decisions.

The statute addressing the comprehensive plan requires that it include intensely fact-specific considerations uniquely related to the local community:

> (a) The general location, extent and relationship of the use of land for agriculture, residence, business, industry, recreation, education, public buildings and other community facilities, major utility facilities both public and private and any other use deemed necessary; (b) population and building intensity standards and restrictions and the application of the same; (c) public facilities including transportation facilities of all types whether publicly or privately owned which relate to the transportation of persons or goods; (d) public improvement programming based upon a determination of relative urgency; (e) the major sources and expenditure of public revenue including long range financial plans for the financing of public facilities and capital improvements, based upon a projection of the economic and fiscal activity of the community, both public and private; (f) utilization and conservation of natural resources; and (g) any other element deemed necessary to the proper development or redevelopment of the area.[6]

Further, Kansas law requires that the local government review and reconsider the comprehensive plan at least once each year. Here, the proposed Bill not only fails to reference the statutorily-mandated comprehensive plan process, it utterly disregards the critical importance of this localized review process and its role in informing the reasonableness of land use decisions. Instead, the proposed Bill proposes to circumvent all of the local considerations and regular updates built into the comprehensive planning and zoning process, and instead mandates for both zoned and unzoned

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[3] K.S.A. 12-741(a).

[4] K.S.A. 12-741 *et seq*.

[5] *See, e.g.*, K.S.A. 12-747, 12-749, 12-756.

[6] K.S.A. 12-747.

counties a new pre-construction process that bypasses the protocols and safeguards built into the planning and zoning process.

We must always remember why our great state has had the insight to require comprehensive planning and to require the consideration of significant evidence: because zoning laws affect, and can ultimately injure, the property rights of our citizens. Property rights are protected by the United States and Kansas Constitutions and, for better or worse, zoning interferes with free market capitalism. The action of zoning, which inherently restricts property rights, must be done sparingly and with intense deliberation, neither of which are allowed by Senate Bill No. 353. Rather, the Bill prevents property owners from making their own decisions regarding the best and most economic use of their property and usurps the role of local elected officials to evaluate the reasonableness of restrictions and craft conditions on development proposals that are appropriate given the unique characteristics of the project, the subject property and the county in which is the project and property are located.

Not only is the type of incoherent application of de facto zoning evidenced by the new pre-construction application requirements exactly what the Zoning Enabling Act is designed to prevent, the Bill also shows an appalling apathy to the United States and Kansas Constitutions, local control of zoning, and the cherished concept of free markets.

F. THE BILL IMPLICATES THE FEDERAL AND STATE CONSTITUTIONS AND TRAMPLES UPON THE GOALS OF ESSENTIAL DUE PROCESS PROTECTIONS FOR LANDOWNERS

Professor Armen Alchian, emeritus professor of economics at the University of California, Los Angeles has stated that, "***One of the most fundamental requirements of a capitalist economic system—and one of the most misunderstood concepts—is a strong system of property rights***."[7]

When a statute or local ordinance is enacted that takes away the ability for a landowner to use his or her property in the most economically efficient manner, we create great harm to that person. Any action that we know harms the citizens of our state by injuring their property rights must only be taken sparingly, honestly and after legitimate due process in which justifications and impacts of the law have been subjected to an in-depth and reasoned analysis. In particular, our government bodies must be cautious with any proposed action that would impose blanket regulations restricting the manner in which our citizens can use their property, as such an action can too easily harm the free market system. I am confident that this Committee has no interest in taking such action recklessly.

Fortunately, the United States and Kansas Constitutions provide us strictures that prevent injury to property rights, and the attendant disdain for free market capitalism, inherent to this Bill. The Fourteenth Amendment of the United States Constitution provides that no state shall "***deprive any person of life, liberty, or property, without due process of law*** …." Likewise, Section 18 of Kansas Bill of Rights provides that "***[a]ll persons, for injuries suffered in person, reputation or property, shall have remedy by due course of law***."

[7] The Concise Encyclopedia of Economics, 2008.

This foundational concept of due process requires careful and reasoned deliberation whenever a governmental body proposes to restrict the rights of individuals to utilize their property as the individuals deem appropriate and beneficial. Our system of localized zoning was enacted on the premise of facilitating careful and reasoned deliberation by placing authority over land use decisions in the hands of local elected officials and members of zoning boards who are most familiar with the needs of the local community and the landowners. Local zoning authorities are charged with basing their decisions on substantial, competent evidence and within the context of a comprehensive plan, which requires careful and thoughtful review at the ground level in the locus to which they pertain.

Senate Bill No. 353 neither attempts to understand the needs of local communities nor is it remotely based upon substantial, competent evidence. In fact, it goes directly against the desires of local communities, based solely on justifications from debunked junk science. The Bill is an ill-conceived attack on one particular industry. There simply is no justifiable basis to intentionally injure the property rights of our citizens when all of us are already protected by local authority and discretion to implement zoning. To pass this Bill is to show utter disregard for the United States and Kansas Constitutions and to tread upon the principles of free market capitalism that have served our state and nation so well.

G. THE BILL SUBSTITUTES LOCAL EXPERIENCE AND EXPERTISE FOR BUREAUCRATIC FIAT

Subject to the protections we are provided in the Kansas Constitution and statutes, every county in the State of Kansas has the right and authority to decide how it will exercise local control over land uses within its boundaries based on the desires of its citizens and the unique characteristics of the county. These local communities can determine their own vision of the community in which they live and work, and endeavor to achieve that vision through the locally elected leadership that knows the communities better than those far away in the Kansas legislature.

Over the decades, local communities all over the State of Kansas have used the Zoning Enabling Act to establish systems of zoning regulations that are best suited to serve their needs. Some local communities have used zoning regulations to attract businesses, other local communities have used zoning to encourage sustainable development, and yet other local communities have determined that their needs are best served by remaining un-zoned. Some communities have studied and adopted zoning provisions governing wind energy projects that describe setbacks and other restrictions that the local county has determined are reasonable and appropriate for its residents. In each case, the decisions were made based on community involvement and input. The Bill proposes to turn this century-old process of local authority on its head by taking control away from local communities. The Bill would impose blanket restrictions on land use, and inflict injury on property rights, without any consideration of the unique interests of each community. This Committee, and the Kansas Legislature sitting here in Topeka, should not paternalistically overreach its authority into every county in this state, and override the will of these local communities when this authority has long rested with those that know their communities best.

In this case, Senate Bill No. 353 is attempting to take away the right of private citizens to make use of the great wind resource that exists on their land through state-imposed regulations on private property rights. This Bill's aggressive attempt to take and control Kansas citizens' wind resources should shock any member of the Committee that believes in free markets and property rights. In Kansas, consideration of actions that could lead to such an injury to property rights is rightfully left to the local communities instead of the state.

Since the first Kansas wind project was developed in the late 1990's and constructed in 2001, numerous counties across the state have experienced the significant benefits that wind projects bring and have developed regulatory regimes tailored to the specific needs of their local communities. They have done this based upon real experience instead of discredited, internet-based charlatanism. No fewer than 32 counties across the state are currently directly benefitting from wind projects within their borders, and that number is consistently growing. Many counties, such as Ellsworth, Ford, Gray, Kingman, Lincoln, Pratt and others, have decided to host multiple projects within their communities after experiencing first-hand how much the opportunities of hosting wind energy projects outweigh the costs. Revenues derived from these projects have been used to improve county infrastructure, emergency services, schools, and colleges across the state, and directly bolstered the bottom lines of countless Kansas farms and ranches.

Every county has the right govern land use complimentary to its own community's goals and shared beliefs. This Committee should not allow such local experience and expertise to be undermined by bureaucratic fiat from Topeka, especially when it comes from those who do not have experience in wind energy overriding the deep experience of those who do.

H. THERE IS NO SCIENTIFIC OR ENGINEERING BASIS FOR THE PROPOSED REGULATIONS

As previously stated, the Fourteenth Amendment of the United States Constitution provides that no state shall "deprive any person of life, liberty, or property, without due process of law …." Likewise, Section 18 of Kansas Bill of Rights provides that "All persons, for injuries suffered in person, reputation or property, shall have remedy by due course of law."

There is simply no legitimate scientific or engineering basis for the proposed setbacks and other restrictions contained in Senate Bill No. 353. If you believe we must be cautious when we injure our citizens' property rights, the cavalier and irresponsible terms contained in this Bill will be an affront to your sensibilities.

Fortunately, we have nearly two decades of experience with operating wind energy projects in Kansas. The direct evidence of those projects contradicts the irrationality of the terms contained in Senate Bill No. 353, especially when considering the legally dubious nature of taking property rights away from the citizenry. Using radical fringe "experts" that have no peer-reviewed publications as a basis to make untruthful claims cannot be seen as a rational basis for a taking of thousands of Kansans' property rights. There are so many successful wind energy projects operating in this state, established with rational and scientific-based siting protocol, that this Bill becomes even more malodorous.

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I. SENATE BILL 353 IS AN ATTACK ON THE FREEDOM TO CONTRACT

SB 353 is also an attack on the freedom of contract. It makes Kansas landowners' agreements to utilize the resources on their property untenable, it mandates unnecessary and expensive regulatory requirements and expensive burdens for counties, and it unilaterally voids agreements that would otherwise provide vital revenue streams for Kansas farms and ranches.

Professor David Pierce, the preeminent property law and oil and gas professor in the State of Kansas has stated, *"[f]reedom of contract is the foundation of the American economy and our capitalist society*."[8] Likewise, the Kansas Supreme Court has recognized the fundamental importance of freedom of contract, holding that "*[i]t is the ancient legal maxim that contracts freely and fairly made are favorites of the law*"[9] and "*[t]he paramount public policy is that freedom to contract is not to be interfered with lightly.*"[10]

As Professor Pierce reminds us, an attack upon the freedom of contract is an attack upon the foundation of the American capitalist system. Senate Bill 353 is exactly the type of attack that those that want to protect the foundations of the American economy must reject. When we so blatantly attack the freedom to contract and let the state dictate how private citizens can contract to use their land, we are also telling them that those in the Legislature are smarter than they are and must step in and paternalistically dictate how Kansas landowners can use their land.

Section 1(b)(4) of Senate Bill 353 requires private contracts to include language and requirements that are clearly meant to be fatal to the landowner's right to contract. In this section, the contract must state that the landowner has the right at any time to contract with any person providing wind turbine acoustic noise measurements to verify compliance with the Bill. This applies regardless of reasonableness, regardless of credentials or expertise in such field, and regardless of scientific methodologies used. Additionally, the developer is responsible for the payment of such costs, regardless of the number of times such measurements are conducted, regardless of the qualifications of the party conducting such measurements, and even if such unqualified person is using non-scientifically sound tools and methodologies. However, the Bill doesn't even feign reasonableness in the process prior to taking away the property rights of landowners of companies. If such unscientific and faulty "measurement" is claimed to be at a level that is above the Bill's requirements, the developer must shut down the turbine. This section provides no recourse from intentional, or even simply reckless, attempts to provide false "measurements," and instead rewards such abuse by mandating a shutdown of the nearest turbine.

[8] David Pierce, Freedom of Contract and the Kansas Supreme Court, Journal of the Kansas Bar Association (Feb. 2017), *available at* https://cdn.ymaws.com/www.ksbar.org/resource/dynamic/blogs/20170925_094028_30821.pdf.

[9] *Kansas Power & Light Co. v. Mobil Oil Co*., 426 P.2d 60 (Kan. 1967).

[10] *Foltz v. Struxness*, 215 P.2d 133, 139 (Kan. 1950), quoting 12 Am. Jur., Contracts 172, p. 670.

There should be no doubt these intentional poison pill provisions would make it impossible for developers to agree to such terms. The result of the bad policy of Senate Bill 353 would be to take away the property rights of thousands of Kansans that want to enter into private contracts to use their property as they, and their communities, deem best. This Bill would have this Legislature tell the residents of counties across the state, such as Gray County, Ford County, Kingman County, Washington and Republic County, that they cannot voluntarily enter into a wind or solar lease because they can't be trusted to make their own decisions.

Of course, government overreach into the private contracts of citizens is not a new concept, and in fact has been a driving focus of the American political system from its inception. James Madison addressed both the impropriety of retroactive application, and legislative bodies interference with the freedom to contract in Federalist Paper Number 44:

> "Bills of attainder, ex-post facto laws, and **laws impairing the obligations of contracts**, **are contrary to the first principles of the social compact, and to every principle of sound legislation**....**The sober people of America are weary of the fluctuating policy which has directed the public councils. They have seen with regret and indignation that sudden changes and legislative interferences, in cases affecting personal rights,** become jobs in the hands of enterprising and influential speculators, and snares to the more-industrious and less-informed part of the community. **They have seen, too, that one legislative interference is but the first link of a long chain of repetitions, every subsequent interference being naturally produced by the effects of the preceding**."[11]

These comments, first published on January 25, 1788, still ring true today. Indeed, James Madison and the writers of the Federalist Papers could have based these comments upon Senate Bill 353.

J. SENATE BILL 353 AND THE BAD POLICY OF RETROACTIVE IMPLICATION

Consistent with the title to the Bill that provides it is "establishing certain operating conditions for **existing facilities**", Section 2 of Senate Bill 353 mandates that every operator of a facility that **has** "**commenced** operation in the state" shall ensure that no permanent residential dwelling shall experience any shadow flicker under normal operating conditions. This Bill explicitly is written in the past tense to apply to facilities that have already commenced operation. Had the Bill stated that it only applies to future facilities, it would have written such mandates in the future tense, such as: "any facility that commences operation shall…." or "prior to commencement of operation….".

To pass this Bill would be to shut down up to 40% of the energy production in the State of Kansas without any regard to the impact of Kansas citizens or the grid. To pass this Bill would be a choice by the state to cancel thousands of private contracts made voluntarily by Kansas landowners, without any legal justification, and without these landowners' desire to have the contracts cancelled.

[11] Emphasis added.

This is a fatal assault on any rational energy policy and an attack on the freedom of contract and our capitalist system. Moreover, every person already has legal remedies if there are improprieties relating to the contracting process or if they are illegally impacted by a renewable energy facility.

K. CONCLUSION

Senate Bill No. 353 neither attempts to understand the needs of local communities nor is it remotely based upon substantial, competent evidence. Instead, the Bill appears to be an ill-conceived attack on one particular industry and a clear attack on our centuries old belief in local control of land use. Otherwise, these same terms would apply to other contracts such as oil and gas or agricultural uses. There simply is no justifiable basis to take away the right of counties to decide what land uses they deem best or to intentionally injure the property rights of our citizens when all of us are already protected by basic contract law and the local authority and discretion to implement zoning. To pass this Bill is to show utter disregard for the United States and Kansas Constitutions and to tread upon the principles of free market capitalism that have served our state and nation so well.