

Before the Senate Utilities Committee
Presented by Zack Pistora, Kansas Sierra Club
Opponent Testimony on SB 279
March 23, 2021



Chairman Thompson and Honorable Members of the Committee,

Thank you for the opportunity to provide oppositional testimony on SB 279, known as the *Wind Generation Permit and Property Protection Act*. This legislation establishes new setback distances for wind farms, as well as siting regulations for both wind and solar facilities. In short, we feel that current regulations, procedures, and local jurisdiction are wholly adequate. **SB 279 seems way too heavy on regulation that will negatively impact property rights, business prospects, community interests, and environmental well-being for Kansas. Thus, we oppose SB 279.**

The Sierra Club, including the Kansas Chapter, has been very proactive and sensitive to wind siting impacts for decades now. It is with deep respect for both human and environmental conditions that we offer the following comments:

The Sierra Club recognizes that social and environmental impacts of wind generation require serious consideration, including certain distinctions for areas concerned with aviation, critical wildlife habitat, iconic lands, and home residences.

Our Kansas Chapter has long realized that the placement of wind farms in some areas may be controversial. That is why we developed a fair and sensible position in 2010 that provides for respect for landowners' property rights, public safety, and environmental sustainability. To that point, we emphasize *"nothing humans do is without environmental consequences... as more sites are proposed for development, we need appropriate safeguards to ensure wind farms do not cause undue harm..."*

Our Sierra Club organization, nationally, echoes the same sentiment, *"The Sierra Club recognizes that all forms of power generation entail environmental tradeoffs, and that there are drawbacks to wind development. The most contentious issues include visual and wildlife impacts..."* Still, *"the Sierra Club believes that in most instances, many of the negative impacts of wind can be managed... we believe that with adequate site planning the benefits of wind power in reducing the threat of global warming and pollution will substantially outweigh wind's negative impacts."*[As stated in the Sierra Club's national wind siting advisory]

Our 2010 position, along with our policy guidance nationally, provides for key safeguards, including some of which the spirit of SB 279 invokes:

1. Turbines should be set back at least 2000 feet from residences unless permission is given by the resident for a shorter distance.
2. Federal aviation rules require specific lighting on turbines; this lighting should always be minimized for aesthetic reasons, unless specific lighting is shown to reduce bird or bat mortality.
3. Wind farms should be kept five miles away from significant water bird resting sites along flyways/migration routes and set back 8 to 10 miles away from officially designated scenic byways.
4. Generally, the Sierra Club opposes development in protected areas, such as national and state parks, wilderness areas and wildlife refuges, and areas of cultural significance or sacred lands. Specifically, special areas like the iconic "Heart of the Flint Hills" and critical habitat areas like Cheyenne Bottoms and Quivira National Wildlife Refuge should be prohibited from wind development.
5. Wind developers should embrace minimal impact practices, especially upon the land and surrounding neighbors with respect to noise. We expect wind developers to have a responsibility to be good neighbors and work to collectively solve problems with the public.
6. We believe that the local political process is an appropriate venue for resolving wind siting issues.

However, because SB 279 puts forward setback requirements on wind facilities way beyond our policy's 2000-foot setback distance, we feel that SB 279 goes too heavy in regulating and restricting wind development for Kansas.

In our view, the wind industry has done quite well in being responsible, transparent, inclusive, and fair in their siting and operation in their development of 40 wind farms in Kansas. Kansas is actualizing its opportunity to capitalize upon the economic, environmental, and community advantages of wind and contribute to our nation's energy supply, while maintaining good community partnership and environmental stewardship at the local level. With current siting regulations and the wind sector's good practices, Kansas has been able to attract *billions* of dollars in economic investment and create thousands of direct and indirect jobs in the last decade. In doing so, rural Kansans and their communities have collectively gleaned millions of dollars in direct lease payments and local donations from wind companies, without selling out the values or land that Kansas holds dear.

We feel that local government guidelines and stakeholder negotiations suffice for wind siting at this time. If landowners are communities are indeed worried about industrial encroachment, the Kansas Chapter, as a grassroots nonprofit, commits to being a fair broker between concerned Kansans, energy companies, and the natural environment to resolve issues. However, at this time, we have not received any major complaints over the last decade from our members or supporters on wind siting.

If the Legislature wishes to examine appropriate setback distances regarding industrial development, the Kansas Sierra Club encourages lawmakers to consider setbacks for enterprises with more negative environmental impacts.

We certainly agree that quality of life concerns and property rights/protections are important considerations for Kansas government. In fact, the Kansas Sierra Club has advocated for increased property rights protections for a long time, especially when it comes to industrial practices and the resulting pollution and hardship put upon ordinary Kansans. The Legislature ought to prioritize these property protections instead:

- Property damages caused by manmade earthquakes induced by oil and gas industry's wastewater disposal.
- Odor, air quality, noise, and sight protections from other industrial ventures, such as large animal feedlots or barns, oil refineries, chemical/industrial plants, fracking rigs, and more.
- Landowner safeguards from toxic chemical drift from pesticides onto neighbors' land and crops.
- The prospect of up to 333,000 chickens at 1320ft away from a home or 100 ft away from a property line.
- Maintaining the private property right of landowner conservation easements.
- Allowing individuals to capture solar energy without unfair, expensive utility charges.

Above all, the Kansas Sierra Club encourages all lawmakers and concerned Kansans to realize that wind power represents an advantageous and *necessary* enterprise for our state. Our state's current role in cultivating clean, renewable energy is of both national and global importance in terms of carbon-free electricity production and mitigating global warming.

We face a dire reality of extreme weather and climate volatility escalated by human-sourced greenhouse gas pollution. We must embrace our unique opportunity, nay- *obligation* to do what we can to help urgently transition our nation's energy portfolio. While the impacts of climate change become ever so clear and dangerous, we must step up and make tough sacrifices. Not since World War II has it been so crucial for the USA to help save the world.

While the Kansas Sierra Club holds dear the preservation of land, safety, and natural aesthetics of Kansas, SB 279 goes too far in placing onerous limits on vital wind development, that Kansas, the United States of America, and the world so desperately needs.

Thank you,

Zack Pistora | Legislative Director and State Lobbyist, Kansas Chapter of Sierra Club
zackpistora@gmail.com | 785-865-6503

The Sierra Club is the largest grassroots environmental organization dedicated to enjoying, exploring, and protecting our great outdoors. The Kansas Chapter represents our state's strongest grassroots voice on environmental matters for more than forty years.