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To: Senate Committee on Utilities  
Sen. Mike Thompson, Chair

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

Re: **SB 353 AN ACT concerning wind generation facilities; relating to construction and setback requirements; requiring local boards of county commissioners to approve applications for construction; establishing certain notification and health and safety requirements; establishing certain operating conditions for existing facilities.**

Date: February 9, 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, Chairman Thompson, and members of the Committee, for giving the Kansas Livestock Association (KLA) the opportunity to share our views on SB 353. KLA supports SB 353 as a balanced approach to protecting property rights in regard to wind energy developments.

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 for wind turbines from homes, structures, and non-participating property lines. It is this concept of the bill that KLA supports and which this testimony addresses. Setbacks operate to protect surrounding landowners who may not want a wind turbine on their property from the noise, blinking lights, ice throw, and other externalities created by a wind turbine placed in close proximity to their property. Under current law, wind turbines could be placed very close to a non-participating home, livestock facility, or other structure by simply locating the turbine on an adjoining, but separately owned parcel. If a landowner turns down an initial

lease offer, a developer could simply identify a neighbor to engage in a lease. As a result, the initial landowner would have no revenue, but all the adverse effects of the wind turbine.

At the same time setbacks allow an easy waiver if both a wind developer and a landowner agree to place a tower within the statewide setbacks. By entering into a lease, a landowner becomes a participant, and the setbacks are waived.

Setbacks can also work to the developer's advantage. Reasonably calibrated setbacks can give all developers a predictable development plan across the state. The livestock industry has had setbacks for nearly three decades, and while not without occasional challenges, provide a predictable method for siting and constructing confined feeding facilities.

KLA appreciates the opportunity to appear as a proponent of SB 353. We ask that the Committee recommend the bill favorable for passage when it works the bill.