



Testimony Provided To
House Commerce, Labor & Economic Development
Kimberly Gencur Svaty, Public Policy Director
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In Opposition to House Bill 2766

Mr. Chair, Vice-Chairman, and Ranking Member and members of the committee,

Thank you for allowing the Kansas Advanced Power Alliance to appear before you today in opposition to House Bill 2766. I appreciate the opportunity to come before you today on behalf of the Kansas Advanced Power Alliance and the forty-plus members of our organization which represent a diverse cross section of the world's leading energy companies, energy investors, energy consumers in the advanced power industry. Most of these organizations have business interests in Kansas via operating energy projects or those under development, purchase power agreements, development headquarters or manufacturing facilities. Our member assets in Kansas span the state from the most densely populated to the least, from the fastest growing to those with the most rapid population decline. Since the first wind farm came online in 2001, the wind energy industry has invested nearly \$20 billion private dollars in Kansas and created more than 20,000 direct and indirect jobs in both rural and urban Kansas with several billion dollars of new energy projects in the pipeline.

We do not believe HB 2766 as drafted has impact on our members and their ability to do business in Kansas. However, we are opposed to the bill principally because of lines 24-26 on page three includes leasing as a defined form of interest. We oppose any measure that would include leasing in discussions on foreign ownership. Our industry primarily leases ground from willing Kansas landowners.

It is important to understand what a lease is. A lease is a conveyance given by a landowner to another entity for the right to perform a specific activity. That activity is spelled out in the lease, as well as the defined time within which that entity has the right to perform that activity. The lessee can only do what the lease allows them to do for the specified period in the lease. If the lessee ever steps outside what they are allowed to do, they can and would lose their lease.

Leases are one of the clearest methods of ensuring that Kansas can enjoy outside investment – reducing the overall tax burden on Kansas taxpayers and improving our economy – while also knowing exactly what the leasing entity is doing and how long they will be doing it. HB 2766's central premise: "we just need to know what these companies or individuals are up to here in Kansas" is answered in a lease. In accordance with a lease and its terms, parties must legally define what they intend to do, for how long and the landowner must agree to it.

While we believe HB 2766 does not impact our members as currently written, some of our members – even American founded and based companies – are publicly traded entities and there may be a point in the future where they could reach a threshold of ownership from one of the countries listed that is greater than 5%. Publicly traded companies are just that – publicly traded – and our companies are making multi-hundred million dollar investments in Kansas and need greater regulatory certainty that they will not have to divest on the sudden chance that their ownership changes even marginally.

The clean energy industry was founded in the United States, but due to political winds was pushed outside the US for the better part of two decades in the 1980s and 1990s. During that time, the industry was exported to Europe where it blossomed and grew exponentially. As the industry moved back to the United States, we have worked diligently to develop the manufacturing supply chain on American soil including in Kansas. Developing a domestic supply chain for the energy economy creates American jobs, improves the efficiency at which we can build, lowers costs, and ensures our community and national interests are protected and secure. We want to invest even more in Kansas. HB 2766 could severely curtail our ability to further build out our supply chains, hurting Kansas' competitive business edge against its neighboring states.

Our industry works very closely with a litany of federal agencies on scores of federal permits and approval processes. There is a Department of Defense Clearinghouse which the industry and DOD stood up several years ago to ensure appropriate siting of clean energy projects. Via the Federal Aviation Administration's permitting process, the Department of Defense reviews every clean energy project under consideration and evaluates against the multi-faceted needs and interests of the military and national security. The FAA and DOD review and approve the placement of every single proposed solar farm and the specific potential placement of every single wind turbine proposed in the United States to ensure our nation's strategic interests and capabilities are preserved.

We understand the committee's interest in public safety and the protection of privacy for Kansans. Our members believe in those rights as well, and we signal that belief by having Kansans maintain ownership of their land even when we are investing millions of dollars on their property. For this reason, we have long supported a policy to ensure clean energy projects do not have the right of eminent domain and we supported legislation to ensure that wind rights are not severed from the land rights unlike oil and gas leasing. By maintaining the wind rights with the land, it restricts nefarious activities of those with ill-intentions not seeking the best interests of the landowners.

The Advanced Power Alliance works with communities to develop homegrown energy that can be used locally while also putting another product in the marketplace like our wheat, airplanes and cattle. We understand state policymakers' desire to further underscore the work of the federal government when it comes to foreign direct investment and ownership in the states. However, any policy must be carefully crafted and narrowly focused to ensure a broader, overly onerous net is not cast.

We are happy to stand for questions at the appropriate time.