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Date: January 25, 2023

Re: **SB 46 AN ACT concerning wind energy conversion systems; relating to aviation obstruction lighting; requiring existing wind energy conversion systems to install light-mitigating technology systems subject to the approval of the federal aviation administration.**

- **Oral-In Person**
- **Proponent**

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

To: Senate Committee on Utilities
Sen. Robert Olson, Chair

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 Olson, and members of the Committee, for giving the Kansas Livestock Association (KLA) the opportunity to share our views on SB 46. KLA supports SB 46 as a means to protect landowner 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 operated. 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 affect 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."

KLA would prefer legislation to adopt reasonable setback distances for wind towers from homes, livestock facilities, and other habitable structures, but in the absence of such a bill, light mitigation requirements are necessary. One of the more common complaints from landowners near wind developments are the bright, blinking, synchronized, red lights. This externality is extremely disruptive to rural residents, who prior to the development, were able to enjoy a clear night sky. SB 46 would ensure that existing wind developments install available light-mitigating technologies to be better neighbors and mitigate adverse environmental impacts.

One suggestion KLA submits for Committee consideration is to remove the option for “light intensity dimming solution technology” on lines 34 of page one. While intensity of the lights can be an issue, it is the presence of the constant, synchronized blink that is the issue.

A second suggestion is the Committee consider a different deadline than “six months after the execution of a new power offtake agreement” following the January 1, 2024 effective date. If a power offtake agreement is long-term in nature, communities could go decades before a change is made. Instead, the Committee should consider North Dakota’s approach to retrofitting existing wind developments. N.D.C.C. 49-22-16.4(3) states:

By December 31, 2021, every wind energy conversion facility for which the commission issued a certificate of site compatibility before June 5, 2016, must be equipped with a functioning light-mitigating technology system that complies with the rules adopted by the commission. After public hearing, the commission may grant a waiver or an extension of time based on technical or economic feasibility considerations.

This statute was enacted in 2017 and gave more than four years for existing wind developments to apply for and implement aircraft detection lighting systems (ADLS). In addition, it allows for waivers and extensions of the deadline in extenuating circumstances to be granted by the regulatory agency. A number of wind farms have implemented ADLS in North Dakota, gaining approval from the Federal Aviation Administration (FAA), while others have successfully sought extensions when necessary.¹

KLA appreciates the opportunity to appear as a proponent of SB 46. We ask that the Committee recommend the bill favorable for passage when it works the bill.

¹ Jill Schramm, *Wind farms seek extensions to deadline for light mitigation*, MINOT DAILY NEWS, Dec. 3, 2021, available at <https://www.minotdailynews.com/news/local-news/2021/12/wind-farms-seek-extensions-to-deadline-for-light-mitigation/>.