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Date: March 16, 2023

Re: **SB 49 AN ACT concerning wind energy conversion systems; relating to aviation obstruction lighting; requiring new wind energy conversion systems to install light-mitigating technology systems prior to the commencement of operations; requiring existing wind energy conversion systems to install light-mitigating technology systems upon execution of a long-term power offtake agreement; authorizing any county to issue revenue bonds to finance some or all of the costs of the installation of a light-mitigating technology system; making all such installations subject to the approval of the federal aviation administration.**

From: Jackie Garagiola, Associate Counsel, Kansas Livestock Association

To: House Committee on Energy, Utilities, and Telecommunications
Rep. Leo Delperdang, 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 Delperdang, and members of the Committee, for giving the Kansas Livestock Association (KLA) the opportunity to share our views on SB 49. KLA supports SB 49 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 49 would ensure that existing and new wind developments install available light-mitigating technologies to be better neighbors and mitigate adverse environmental impacts.

More importantly, KLA would ask for an amendment for 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. KLA asks therefore for the attached amendment.

Other states, such as North Dakota, have implemented similar legislation. This 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 49. 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/>.

(b)(1) On and after January 1, 2026, any developer, owner or operator of a wind energy conversion system that has commenced commercial operations in the state without a light-mitigating technology system shall apply to the federal aviation administration for installation and operation of a light-mitigating technology system that complies with federal aviation administration regulations 14 C.F.R. § 1.1 et seq. within **the shorter of five years after the effective date of this act or** six months after the execution of a new power offtake agreement related to such wind energy conversion system. If approved by the federal aviation administration, the developer, owner, or operator of such wind energy conversion system shall install the light-mitigating technology system on approved turbines within 24 months following such approval.