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To: House Committee on Judiciary
Rep. Fred Patton, Chair

From: Jackie Newland, Associate Counsel, Kansas Livestock Association

Re: **SB 395 – AN ACT concerning privacy rights; relating to real property; imposing restrictions on access and surveillance by employees of the Kansas department of wildlife and parks.**

Date: March 7, 2022

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing over 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, and members of the Committee for the opportunity to present KLA's views on SB 395. KLA is testifying as a proponent for the bill as it stands today. KLA also supported SB 395 as it was introduced in the Senate Committee on Judiciary.

SB 395 is targeted at limiting the open fields doctrine, a U.S. Supreme Court doctrine that limits application of the Fourth Amendment to the U.S. Constitution. The doctrine limits the prohibition of illegal searches and seizures to a person's home and the area immediately surrounding the home. Conversely, the doctrine has been used to support warrantless surveillance conducted in open fields as lawful under the Fourth Amendment. KLA members believe that their farm and ranch land should be afforded the same protection as a house. Government should have permission, a warrant, or exigent circumstances before entering or surveilling private property.

Additionally, KLA supports the amendments made by the Senate, with one exception. KLA opposes the elimination of "physical presence" to the definition of surveillance. By eliminating this language, the bill no longer prevents circumstances where Government may physically inspect private property without a warrant, permission, or exigent circumstances and only prohibits the use of electronic equipment. While placing limits on other forms of surveillance is important, eliminating "physical presence" from the definition of surveillance significantly diminishes the protections sought by KLA members.

Therefore, as we have stated, KLA is a proponent for the bill. Thank you for the opportunity to submit KLA's views to the Committee.