

March 15th, 2023

Senate Bill 49

Written and In-person Testimony

Proponent

Jonathan Sill a Kansas Citizen and Taxpayer

620-200-1706

To the House Utilities Committee,

I am speaking to you today as a proponent for Senate Bill 49. This legislation would require the owners of all future and currently commercial operating wind farms to install a form of light mitigating technology on all the wind turbine towers. I cannot begin to describe to you how needed this legislation is. The night sky surrounding the town I live in has forever been tarnished due to the construction of the Irish Creek Wind farm owned and operated by NextEra Energy. From dusk until dawn 108 red aviation hazard lights flash every 3 seconds and they are Federally required to do this until the wind farm ceases operations and the lease agreements are for 90 years. The Aircraft Detection Lighting System (ADLS) is a safe, FAA approved upgrade that will drastically reduce the amount of time these lights will flash at night and NextEra had the opportunity to install these on this facility but chose not to. I have received differing stories as to the reasoning why they are not able to install a system on this facility over the years. From it was due to military airspace concerns, to we applied for them and was told no, to it was an internal decision so we didn't even apply for them, and the last version I was told was they chose not to do this because there are no state statutes requiring them to. I got this from a NextEra representative over a year ago.

Now this is my story from my corner of Kansas. Imagine how many other stories there are out there similar to mine? Especially since there are close to 4,000 wind turbines currently in the state with a projected 6,000 more to be built in the coming years. My wife and I intend on staying in the town we live and send our two younger children through the school system here, but it saddens me that they will never know what a night sky will look like without the constant flashing of 108 red lights from the wind farm surrounding us. With the passage of this legislation, they will be able to get a glimpse of what a true Kansas night sky will look like.

While I wholeheartedly agree with the merit of this legislation, I do feel it needs massive improvement to correct its twisting by the wind industry to benefit them over the citizens of Kansas. I am looking to this committee to make those changes to this legislation and in doing so give all Kansans their night sky back. Some improvements to this bill I would suggest include but are not limited to:

- The return of the original language of the Bowers amendment saying that counties may take out revenue bonds or use PILOT payment monies for the purchase of ADLS systems, but the installation and maintenance will be the wind facility owner/operator responsibility.

- A clause stating that if a county determines they want ADLS on an existing project not already outfitted with one and are willing to pay for it, the wind facility owner/operator shall comply with this and work to install a system.
- A hard date as to when the retrofit must be completed by, and that date be no later than 2026.
- A real-world process giving the various wind companies time to develop plans to upgrade their facilities, apply to the FAA, and if approved install the technology on the facilities.
- A waiver process to allow the older facilities where it is not economically viable to upgrade the facilities time to develop a way to upgrade them beyond the hard deadline.
- A requirement that not only install this technology but to maintain it, and if the technology were to not work for a period of 6 months the facility shall cease commercial operation until such time it has been repaired and back to fully operational.
- The authority of this legislation be set to the county commissioners of the county the facility is located in and given the clear authority to require said facility to cease commercial operations should the wind company fail to comply.
- Transparency, include language that ALL correspondence between the wind company/developer, any subcontractors, and the FAA be given to the County commissioners showing the results of the application process be it approved or denied.
- If the application for this technology is denied, then the wind facility has a certain amount of time to run out the clock so to speak on the commercial viability on their current towers and then has to shut down and remove the facility or upgrade or modify it to a manner the FAA approves the use of a light mitigating technology.
- That ALL facilities that went online within the past 4 years have no choice to wait and must apply immediately to the FAA for the installation of a light mitigating technology.
- A clause stating that if ADLS is not permitted by the FAA then the facility shall not be built.

Lets take a step back and discuss what this legislation is intended to do and why I feel these changes are needed.

This legislation is the combination of SB 46 and 49 from the Senate Utilities Committee earlier this session. SB46 was a bill requiring all existing commercially operating wind energy conversion systems to install a form of light mitigating technology system on the individual wind turbines. SB49 was a bill requiring all future projects to install a form of light mitigating technology on them before they begin commercial operation. Through the work of the committee it was decided that these two bills would be merged into one and the bill before you is the final result. In a last minute addition, Senator Bowers added an amendment giving county commissioners the ability to take out revenue bonds or use PILOT payment monies to pay for the purchase of a light mitigating technology system for those counties who will have excessively long wait periods before the terms of SB49 require wind facility companies to upgrade their facilities with a light mitigation technology system. There was an amendment made to the bill on the Senate floor by Senator Francisco that clarified language of the Bowers amendment, but in this language clarification the portion stating that counties shall only pay for the systems themselves, not the installation or ongoing maintenance was stripped. Now it simply states counties can pay for all or part of the costs of the purchase, acquisition and equipping of a light-mitigating technology system.

As I stated earlier, I agree with the merits of this legislation, however I cannot in good conscious let you vote on it without knowing some of events leading up to where we are now. SB 49 is the 4th piece of

legislation that looks to regulate the industrial wind energy in Kansas. The first was HB2273 four years ago. It simply dealt with the setbacks associated with the siting of these massive wind turbines throughout the state. There was 19 citizens and 2 groups for this legislation. In opposition, there was 10 citizens and 31 groups that testified. This bill died in committee. SB279 three years ago, another bill aimed at all of the issues surrounding wind turbines and the siting of them. This bill died in committee after a large turnout of conferees. There were 75 citizens and 1 group in favor of this bill and 24 citizens and 24 groups against. And finally last years SB478, a bill who's sole purpose was requiring light mitigation technology on the wind turbines in Kansas. There were 20 proponents, all private citizens, and 4 opponents. The opponents were mainly law firms, industry power companies, and lobbying groups and the arguments they gave last year were almost comical. I especially like the one saying if we mandate all wind turbines to have the technology then we need to make all radio antennas, grain elevators, and tall buildings have it as well. Another was with this legislation we would be asking the county commissioners to be making decisions they are not qualified for and they would have to take classes to become knowledgeable placing them in an undue financial burden and yet making decisions and entering into agreements with various multibillion dollar industrial wind companies requires no such classes. The county special wind counsel, which is reimbursed by the wind companies, are enough to guide the various commissioners into signing on the dotted line exactly what the wind companies want. Sadly SB478 died in committee as well. While I did agree with SB478 it had massive room for improvement and to that end I submitted multiple amendments to the committee. I again submitted those amendments to the Senate Interim Committee on lighting this past fall.

This is my third year trying to bring this to the attention of legislators in Topeka, and while I am hopeful this time around something will finally happen, I feel the industrial wind lobby has coopted this process and this legislation is the direct result. While it does require the wind industry to install these ADLS systems, it does so on the best possible terms for them. The whole intent is to give the citizens of Kansas their night skies back relatively soon, not in 20 years like what this legislation entails. Why now has the industrial wind lobby come out in favor of this legislation when they were adamantly opposed to it for the previous 4 years?

In closing I go back to my original ask to you all: will you help not only my children, but all the children across Kansas who live near an industrial wind facility? Without your help they will not know what a true dark Kansas sky will look like. Please vote in favor of this legislation, but only after you have amended it with common sense amendments bringing it back to its original intent not how the multibillion dollar Federally subsidized industry wants this to be.

Thank you for your time and consideration in this complex matter.

Regards,

Jonathan Sill

