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To: House Committee on Water and Environment  
Rep. Tom Sloan, Chair

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

Re: **HB 2665 AN ACT concerning water; establishing a water law study commission.**

Date: February 13, 2018

*The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing nearly 5,200 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 Sloan and members of the Committee, my name is Aaron Popelka and I am with the Kansas Livestock Association (KLA). KLA is opposed to the water law study commission created by HB 2665.

While no one believes our current system of laws is perfect, KLA believes authorizing three lawyers to develop an opinion on the condition of Kansas water law is short-sided and unnecessary. KLA is also concerned this study could lead to weakening of the prior appropriation doctrine and the status of water rights as real property.

Unlike in 1957, there is not a ground swell or need to change the basic premise of Kansas water law. One of the shortcomings of the commission that would be created by this bill is it does not include any actual water users or water right owners. Water rights are real property rights, and by failing to include any actual property owners or their representatives, the commission is sure to miss its mark.

Finally, there is concern with the undefined and unlimited study of "takings" and the concept of whether water right adjudications should be conducted. Without further parameters, three independent lawyers may pursue analysis of how the state or local governments could more easily take water rights for public or private use. KLA is opposed to this concept. The initiation of water right adjudications have been researched by some scholars and not initiated for good reason. Any water right owner currently has the right to institute impairment proceedings if the owner believes the owner's more senior water right is being impaired by a junior water right. Proactive adjudications appear to be an attempt to create conflict where none currently exist.

Thank you for the opportunity to submit testimony on HB 2665. KLA is opposed to the legislation and asks the Committee to not advance it for further consideration.