

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairman John Vratil at 9:37 A.M. on February 19, 2008, in Room 123-S of the Capitol.

All members were present except:

David Haley arrived, 9:40 A.M.

Committee staff present:

Bruce Kinzie, Office of Revisor of Statutes

Athena Andaya, Kansas Legislative Research Department

Karen Clowers, Committee Assistant

Conferees appearing before the committee:

Eric Noldling, Southwest Kansas Royalty Owners Association

David E. Pierce, Professor of Law, Washburn University

David Dayvault, Kansas Independent Oil and Gas Association

Brent Sonnier, OXY USA, Inc.

Doug Lewis, Kansas Corporation Commission, Conservation Division

Ed Cross, Kansas Independent Oil & Gas Association

David Bleakley, Eastern Kansas Oil & Gas Association

The Chairman opened the hearing on **SB 547–Oil and gas surface owner notice and compensation act.**

Eric Nordling appeared in support, providing background on the development of the bill and results of work from the Special Committee on Judiciary during the interim (Attachment 1). Mr. Nordling addressed his remarks to both **SB 547** and **SB 589**. **SB 547** embodies much of the basic framework offered by industry with several agreed compromises but is still not a fully negotiated bill. The key difference between the two bills is the approach to enforcement. Mr. Nordling presented a list of key provisions which should be included in any surface owner legislation and encouraged the committee to select provisions from both bills in order to provide the best legislation possible on this issue.

David Pierce testified in opposition addressing his remarks to both **SB 547** and **SB 589** (Attachment 2). Compared to other states with significant oil and gas development, Kansas has a superior legal system governing those developments. It does not appear this legislation was prompted by widespread operator abuse, but rather to raise the payment for surfaces damages.

David Dayvault spoke in opposition, indicating **SB 547** curtails the rights oil and gas companies derive through the oil and gas lease contract (Attachment 3). Passage of **SB 547** would not just affect those few operators who currently fail to notify or compensate for surface damage; this legislation would unfairly burden the majority of operators and would alter contractual relations between the oil and gas operators and their lessors.

Brent Sonnier provided neutral testimony stating the structure of **SB 547** favors large companies and would create a hardship on many of the small operators in day-to-day operations (Attachment 4). Of particular concern is the fundamental lease right of the operator to free access to make reasonable use of the surface. Any form of **SB 547** should be consistent with the contractual setting established by the mineral lease of good faith negotiations between parties and provide a flexible structure to accomplish a fair resolution of surface disputes through that process.

Doug Lewis testified in a neutral capacity providing comments and recommendations the Kansas Corporation Commission could administer to assist operators if **SB 547** or **SB 589** is enacted (Attachment 5 & 6).

Written testimony in support of **SB 547** was submitted by:

John Donley, Asst. General Counsel, Kansas Livestock Association (Attachment 7)

Richard Felts, Kansas Farm Bureau & Eastern Kansas Royalty Owners Association (Attachment 8)

Kenny Carter, Eastern Kansas Royalty Owners Association (Attachment 9)

Curtis Kettler (Attachment 10)

Douglas G. Zillinger, Farm & Ranch Owner, Phillips & Graham Counties, (Attachment 11)

Phil Habiger, Farm & Ranch Owner, Land County (Attachment 12)

CONTINUATION SHEET

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Kirk Heger, President, Southwest Kansas Irrigation Association (Attachment 13)
Dennis Hupe, Kansas Soybean Association (Attachment 14)
Thomas G. Schnittker, Farm Manager, Pratt, Kansas (Attachment 15)
Robert K. Beymer, Lakin Kansas (Attachment 16)

Written testimony in opposition to **SB 547** was submitted by:

Steve M. Dillard, Vice President/Land Manager, Pickrell Drilling Company, Wichita (Attachment 17)

There being no further conferees, the hearing on **SB 547** was closed.

The hearing on **SB 589–Landowner and surface owner protection act** was opened.

Ed Cross testified as a neutral party stating under most circumstances the relationship between oil and gas operators and the surface owners are good (Attachment 18). The oil & gas industry met with surface owners and other stakeholders over the past few months resulting in **SB 589**. While there are several agreeable provisions, there are also several contentious issues especially, property rights, geophysical operations, fair market value, notice waivers, and incidental activities. Mr. Cross feels **SB 589** favors the surface owners and offered language that will make the bill more workable for all involved.

David Bleakley agreed with Professor Pierce stating there is more than one hundred years of contract law and this bill is not needed (Attachment 19). Mr. Bleakley has spent the last several months working on this issue and feels **SB 589** has come about because a few companies are not living up to the standard of most companies.

There being no further conferees, the hearing on **SB 589** was closed.

The meeting adjourned at 10:30 A.M. The next scheduled meeting is February 20, 2008.