

MINUTES OF THE SENATE UTILITIES COMMITTEE

The meeting was called to order by Chairman Jay Emler at 9:30 A.M. on February 13, 2006 in Room 526-S of the Capitol.

Committee members absent:

Committee staff present: Athena Andaya, Kansas Legislative Research Department
Raney Gilliland, Kansas Legislative Research Department
Bruce Kinzie, Revisor of Statutes' Office
Ann McMorris, Committee Secretary

Conferees appearing before the committee:

Dave Corbin, Department of Revenue
Erick Nordling, Southwest Kansas Royalty Owners Assn.
John Crump, President, Southwest Kansas Royalty Owners Assn.
Jon Callen, KIOGA

Others in attendance. See attached list

Chairman opened the hearing on

H.B. 2673 - Information required to be provided to oil and gas royalty interest owners regarding royalty payments.

Proponents:

David Corbin, Assistant to the Secretary of Revenue, reported on the agreement reached by royalty owners and industry members on statutory requirements for information to be provided on royalty check stubs. The solution left unchanged the current requirements in K.S.A. 55-1620 and new provisions were added to the bill to specify information that payors would provide upon written request from a royalty owner. The proposed bill also contains two means of enforcement available to the royalty owners. (Attachment 1)

Erick Nordling, Executive Secretary of the Southwest Kansas Royalty Owners Association, elaborated on the solution gained through the efforts of the check stub task force and detailed the information on request section and the new sections added to the bill. (Attachment 2)

John Crump, President, Southwest Kansas Royalty Owners Association, voiced the Association's support of this bill.

Jon Callen, President, Kansas Independent Oil and Gas Association (KIOGA), stated KIOGA supports the passage of **H.B. 2673**. (Attachment 3)

Written testimony in support of **HB 2673** was provided by Terry D. Holdren, Kansas Farm Bureau Governmental Relations. (Attachment 4)

The Chairman closed the hearing on **H.B. 2673** and opened for committee discussion and possible action.

Moved by Senator Apple, seconded by Senator Petersen, to pass H.B. 2673 out favorably to the Consent Calendar. Motion carried.

Chairman opened for discussion and possible action on

SB 463 - Consumer protection, telemarketing local exchange carriers, requirements.

Bruce Kinzie of the Revisor's Office, provided an amended version of **S.B. 463** with added language or proposal for a Substitute Bill. (Attachment 5) After considerable discussion,

Moved by Senator Reitz, seconded by Senator Petersen, to replace S.B. 463 with Substitute for S.B. 463. Motion carried.

CONTINUATION SHEET

MINUTES OF THE Senate Utilities Committee at 9:30 A.M. on February 13, 2006 in Room 526-S of the Capitol.

The Chairman noted **S.B. 350** would be discussed at the February 14, 2006 committee meeting and amendments that are being drafted would be sent to those who had appeared before the committee on this bill as soon as they became available. Comments on the amendments will be permitted.

Adjournment.

Respectfully submitted,

Ann McMorris, Secretary

Attachments - 5

SENATE UTILITIES COMMITTEE GUEST LIST

DATE: FEBRUARY 13, 2006

Name	Representing
JOHN CRUMP	SWKROA
Anne Piess	KIA
Jon Callen	Ks Ind Oil & Gas Assoc.
Ed Cross	KIOGA
ERICK NORDLING	SWKAOA
Tom Day	KCC
Ken Peterson	KS Petroleum Council
Ron Hein	Pioneer / Oxy / NCRA
Mike Murray	Sprint
Tom Bruno	EKOGA
DINA FISK	VERIZON WIRELESS
Jim Garkner	abs
John D. Pinegar	SWKROA

February 13, 2006

Final Report to the Chairman of the Senate Committee on Utilities
HOUSE RESOLUTION No. 6024

Creating a task force to examine information provided to royalty interest owners by oil and gas producers.

Dave Corbin, Assistant to the Secretary of Revenue

Chairman Emler and Members of the Committee:

Oil and gas royalty owners requested introduction of 2005 House Bill No. 2146 to enact certain requirements of oil and gas producing companies to provide specific information on royalty check stubs. In introducing the bill, royalty owners sought information to make payments more transparent, more consistent from payor to payor and easier to verify production and payment information. Testimony was presented by both royalty interest owners and oil and gas producers to the House Committee on Utilities chaired by Representative Carl Holmes.

Testimony received made it clear that finding a solution to the issues presented by both sides would not be simple because of the variety of accounting and reporting practices used throughout the oil and gas industry. Chairman Holmes appointed a subcommittee to explore possible solutions to problems previously identified. The subcommittee met twice, hearing additional testimony. In addition, royalty owners and industry representatives met separately.

After hearing testimony following the meeting of the royalty owners and industry members, the subcommittee concluded that with additional diligent effort, both parties could reach an agreement on statutory requirements for information to be provided on royalty check stubs.

The House of Representatives of the State of Kansas passed House Resolution No. 6024 to form a task force to identify a solution to the issues presented during hearings on House Bill No. 2146. The task force was comprised of two representatives of the Southwest Kansas Royalty Owners Association, and one representative each of southeast Kansas royalty owners, the Kansas independent Oil and Gas Association, the Kansas Petroleum Council, the Eastern Kansas Oil and Gas Association, the State Corporation Commission, the Kansas Department of Revenue and the Kansas Geological Society. The members of the task force are identified in the table below:

Organization	Representative
Southwest Kansas Royalty Owners Association	John. E. Crump
Southwest Kansas Royalty Owners Association	Erick Nordling
Southeast Kansas Royalty Owners	Sen. Dwayne Umbarger
Kansas Independent Oil and Gas Association	Jon M. Callen
Kansas Petroleum Council	Brent Moore
Eastern Kansas Oil and Gas Association	David Bleakley
State Corporation Commission	M.L. Korphage
Kansas Department of Revenue	David Corbin
Kansas Geological Survey	Tim Carr

The first meeting of the task force was held in Wichita, Kansas on August 10, 2005. In addition to the initial goals of royalty owners, they identified several specific issues to be addressed, including: affiliate transactions, deductions from sales prices, information on by-

-

Senate Utilities Committee
February 13, 2006
Attachment 1-1

products, split stream sales and enforcement provisions. Issues identified by industry were that the information sought was not easily generated on a check stub, that gas accounting was a very complex subject, that many gas producers and payors had differences in accounting methods and procedures, and that much of the information should already be available to royalty owners upon request to their payors. In addition, the industry repeated the argument that gas sales are not conducted in simple, universal contracts. Unlike most oil purchasing agreements, gas contracts are more individual to a well or lease connection based on field conditions. Reporting such individual provisions for thousands of wells to tens of thousands of royalty owners is very complex.

Additional meetings involving royalty owners and industry members were held through December, 2005. In those meetings, royalty owners reluctantly concluded that a simple solution to reporting all of the information they sought on a single check stub to be complex enough that industry acceptance would be impossible. In addition, industry members recognized the difficulty royalty owners have in understanding the information provided to them and expressed a willingness to improve their communication.

A compromise solution was reached in late November and finalized in December. The solution left unchanged the current requirements in K.S.A. 55-1620 that identify information required to be reported on check stubs for proceeds from oil and gas production. Instead, new provisions to the bill to specify information that payors would provide upon written request from a royalty owner. The annual notice provision of in the proposed bill, loosely modeled after current law in Texas, provides for an annual notice to be mailed to royalty owners informing them of their right to request specific information. Royalty owners and industry members recognized that some information which may be requested under the bill may not be in possession of the payor. In those cases, the payor will be directed to inform the royalty owner of the name and address of the operator where additional information may be obtained.

Finally, the proposed bill includes two means of enforcement available to royalty owners. The first is a form of mediation to be agreed upon by both parties. The second is that an action to enforce the information provisions can be filed in a state district court.

It should be noted that the task force did not include a representative from third-party oil purchasers which may be payors of royalty. H.B. 2146 introduced in 2005 was designed to essentially leave unchanged the basic information to be reported on the check stub for oil payments (K.S.A.55-1620). H.B. 2146 did include proposed changes for information reported on check stubs for gas payments. The bill also included proposed changes relating to both gas and oil for additional information, and for enforcement provisions for failure to supply required payment information. Producer representatives advised the task force of possible concerns that third-party oil purchasers did not want an obligation to provide information which they would not have and which should ordinarily be provided by the oil and gas lessee. It is believed by the task force committee that the provisions of the proposed bill address these potential concerns by third-party oil purchasers.

In conclusion, royalty owner representatives and gas industry representatives have agreed to the compromise provisions of a new house bill to require payors of oil and gas royalties to provide certain information to their royalty owners upon request. Task force members acknowledge that the present bill is a positive step in improving communication with royalty owners. They also recognize that industry and royalty owners should continue to work together on production, payment and accounting issues.

The submission of the final report concludes the work of the task force committee. The compromise bill has been introduced in the 2006 legislative session as House Bill 2673.

SWKROA

SOUTHWEST KANSAS ROYALTY OWNERS ASSOCIATION

209 East Sixth Street
Hugoton, Kansas 67951

Telephone: 620-544-4333
Email: erickn@swkroa.com

Testimony before the Senate Utilities Committee House Bill 2673 February 13, 2006

Chairman Emler and Members of the Committee:

My name is Erick Nordling, of Hugoton, Kansas. I am an attorney and have spent my legal career representing landowners. I am also the Executive Secretary of the Southwest Kansas Royalty Owners Association, a voluntary association with over 2,600 members who own mineral and royalty interests in the Hugoton Gas Field area. I am a royalty owner too. I am appearing on behalf of the members of SWKROA and on behalf of other Kansas royalty owners to urge your support for the passage of House Bill 2673.

Intro and Background.

K.S.A. 55-1620 regulates basic information to be reported to a royalty owner on the 'check stub' which accompanies a payment for proceeds attributable to oil or gas production. K.S.A. 55-1622 provides that a royalty owner may write to the payor and request additional information.

The oil and gas industry is an extremely complex and dynamic industry. There are literally hundreds of companies paying royalties on oil and gas production. Often, a lessee of the oil and gas lease may have contracted with a third party to pay the royalty owners. The accounting methodology and format of information reported on a check stub can vary significantly from payor to payor.

Royalty owners have requested revisions to these statutes to address a number of issues relating to these payments for oil and gas production. They desire an easy to understand statement, which provides clear, transparent, and consistent information from one payor to another payor. They also desired expansion of the information required by statute to be available upon request, and for an enforcement provision for payors who failed to provide the required information.

The check stub task force created by House Resolution No. 6024 worked hard to try and address these concerns.

House Bill No. 2673

H.B. 2673 is the result of the efforts of the check stub task force. I would like to provide an overview of the key elements of the bill.

Information Reported on Check Stub. First, it is important to note that as part of the compromise with industry, H.B. 2673 does not change the current provisions of K.S.A. 55-1620. So the basic information reported on a royalty payment check stub remains unchanged.

Royalty owners acknowledge that producers have a strong reluctance to change the basic information to be reported on the check stub. Royalty owners still believe changes are needed to provide more transparent, uniform payment information on the face of a check stub. However, due to the complexities of the industry, continued dialogue with industry is needed to see if we are able to voluntarily reach an accord on how to address these concerns. As a result of the compromise for H.B. 2673, royalty owners have agreed that revisions for the check stub will be an issue reserved for some future legislative sessions.

Information upon request - Section 1 of H.B. 2673.

Section one of H.B. 2673 makes revisions to K.S.A. 55-1622. Section one maintains the provision for a royalty owner to send a written request, by certified mail, for additional information regarding royalty payments. Sub-sections(a)(1, 2, and 3) provide the royalty owner with additional information to identify the land and formation from which the oil and gas was produced, and to be able to use identification numbers used by state agencies and industry groups to relate the payments to specific wells or units. This could help a royalty owner to track production better, and to aid in 'verifying' production information with the information reported to state agencies.

Sub-section (a)(4) can help an owner to verify production volumes vs. sales volumes for a given sales period. The sales period was utilized in this sub-section (rather than a production period) to address concerns of industry that the timing of a sale may not strictly follow the date of production. This is especially true for oil production, since the oil is only picked up for sale when the on-site storage tanks become full.

Sub-section (a)(5) would help to reveal any deductions or adjustments not detailed on the check stub.

Sub-section (a)(6) defines split stream sales. Discussions during task force meetings revealed that some companies which utilize the practice of a split stream sale, account to their royalty owners on different bases. A split stream sale is where there may be two or more companies which share in the production from a given well or unit, but they independently market their share of the production, and independently account to royalty owners. The proposed bill would make it much easier to discover the accounting methods used by each payor to determine if the royalty owner has been paid for their share of all of the production for a given period.

Sub-section (a)(7) helps to reveal if a sale is made to an affiliate of the payor. Then an owner could make further inquiry to determine if the sale to the affiliate is an 'arms length' transaction.

Sub-section (b) maintains a provision for a payor to provide a written response within 60 days from receipt of a request for information. It also contains several exceptions when a payor could decline to respond in certain instances.

Sub-section (c) is a new provision which helps to link the royalty owner with their lessee of the oil and gas lease or operator of the production unit. Many third party payors may not have some information about the leasehold interest. If the payor doesn't have the information, then they would need to provide the royalty owner with contact information for the seller of production. This tie to the seller of production continues in the enforcement provision under new Section 3.

Annual Notice Provision - New Section 2.

The annual notice provision, loosely patterned after the Texas provision, alerts royalty owners that they have the right to request additional information regarding their royalty payments. The section essentially outlines the provisions under Section 1 of the bill. The section also reaffirms the royalty owner's right to contact the payor by other means, such as telephone or email.

Many royalty owners have inherited their interests and they may not be familiar with oil and gas royalties. This provision is a positive step to notify an owner how to obtain more information. Education and communication are essential to foster a spirit of cooperativeness and openness with industry.

Enforcement Provisions - New Section 3.

The enforcement provision helps to level the playing field for payors who refuse to provide the requested information upon a written request, as well as for payors who fail to provide required information on the check stub.

The bill allows either party to request mediation. The process for mediation is a voluntary process.

The royalty owner can also bring an action in a district court of Kansas, where the oil and gas was produced, to enforce the provisions of the bill.

Summary.

Royalty owners are entitled to receive clear, transparent and accurate information for their royalty payments. H.B. 2673 is a step in the right direction, and we urge your adoption of House Bill 2673.

Respectfully submitted,

/s/ Erick E. Nordling

Erick E. Nordling
Executive Secretary, SWKROA

EDMISTON OIL COMPANY, INC.
OIL OPERATORS SINCE 1945

E. K. EDMISTON (1906-1995)

JON M. CALLEN, *President*

**Testimony before the House Committee on Utilities
House Bill 2673
Arising out of HR 6024 on H.B. 2146 introduced in 2005.
February 13, 2006**

Testimony presented by: Jon M Callen
Edmiston Oil Company, Inc.
125 N. Market Suite 1130
Wichita, KS 67202
316-265-5241
316-265-7301 Fax

Chairman Emler and Members of the Committee:

I am Jon Callen, President of Edmiston Oil Company, Inc. in Wichita, Kansas, and the current president of the Kansas Independent Oil and Gas Association (KIOGA). H.B. 2146 was introduced in 2005 to enact certain requirements for oil and gas producers and operators to provide specific information on royalty check stubs. Last year, I testified in opposition to H.B. 2146 as being too onerous for independent operators to comply.

Testimony received last year made it clear that there were no simple solutions to the issues presented by both sides. A Task Force committee was appointed to continue a dialog to see if the parties could reach an agreement on statutory requirements for revenue reporting information. I participated in the Task Force, representing the Kansas Independent Oil and Gas Association. Several meetings were held from August to December. The meetings were helpful and informative for the parties involved in educating the other on their respective problems. From those meetings, a consensus was reached by both sides to compromise and caused a new bill to be drafted which was introduced in the House Committee on Utilities in 2006.

The culmination of our efforts have been drafted in the form of H.B. 2673 which is before you today. Task Force members, including myself, agree it is in keeping with the positions reached by the parties involved. Therefore, I wish to state that on behalf of the Kansas Independent Oil and Gas Association, I stand before you today in support of passage of H.B. 2673.

**Senate Utilities Committee
February 13, 2006
Attachment 3-1**

125 N MARKET SUITE 1130, WICHITA, KS 67202-1117
316.265.5241 fax 316.265.7301
jmcallen@edmistonoil.com

PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON UTILITIES

Re: HB 2673 Oil & Gas Payment Information.

**February 13, 2006
Topeka, Kansas**

**Written Testimony Provided by:
Terry D. Holdren
KFB Governmental Relations**

Chairman Emler and members of the Senate Committee on Utilities, thank you for the opportunity to provide comments on HB 2673 today. As you know, KFB is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations.

For some time our members, many of whom own leases on oil and natural gas reserves beneath their property, have sought clarification about the price and production information received on the check-stub of their royalty payments. While current law requires that production companies provide specific information and a mechanism for royalty owners to request additional information or clarification, there remains great disparity in the information that is provided and the response by production companies to requests for additional information. We are grateful to the task force created by the 2005 Legislature and their efforts to resolve this issue in the months since the conclusion of last year's session.

KFB members have adopted policy that supports additional requirements for production companies which will promote transparency in production and price reporting so that lease owners have accurate and reasonable information. We support the recommendations of the task force contained in HB 2763 and respectfully ask that you take favorable action on the bill before you today.

Thank you.

**Senate Utilities Committee
February 13, 2006
Attachment 4-1**

SENATE BILL No. 463

By Committee on Utilities

1-26

9 AN ACT amending the Kansas consumer protection act; concerning te-
10 lemarketing; amending K.S.A. 50-675a and repealing the existing
11 section.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 50-675a is hereby amended to read as follows: 50-
15 675a. ~~No later than July 1, 2001,~~ The state corporation commission shall
16 adopt rules and regulations that

17 ~~(a) Require all local exchange carriers and telecommunications car-~~
18 ~~riers to collectively develop a method or methods for annually notifying~~
19 ~~residential subscribers of their rights and remedies available to them un-~~
20 ~~der the Kansas consumer protection act, the telephone consumer pro-~~
21 ~~tection act and the tele marketing and consumer fraud and abuse preven-~~
22 ~~tion act and the availability of the direct marketing association's telephone~~
23 ~~preference service.~~

24 ~~(b) Require the information provided to residential subscribers in~~
25 ~~subsection (a) to specify, at a minimum, the following. The method of~~
26 ~~registering with the telephone preference service at no cost to the sub-~~
27 ~~scribers, the frequency with which the data base maintained by the tel-~~
28 ~~ephone preference service is updated, the types of calls registered sub-~~
29 ~~scribers should still expect to receive.~~ *require all local exchange carriers,*
30 *as defined in subsection (h) of K.S.A. 66-1,187, and amendments thereto,*
31 *to annually provide residential subscribers with information on the Kan-*
32 *sas and national do not call registers. At a minimum, the information*
33 *should inform consumers of the method consumers may use to register,*
34 *advise consumers that there is no cost to the subscribers, the frequency*
35 *with which the telephone solicitors are required to down load the registry,*
36 *the types of calls that are still permitted after registering, the measures*
37 *subscribers must take to register if they move or receive a new telephone*
38 *number, the duration for registration and the procedures for registration*
39 *renewals, and the remedies available to registered subscribers if they re-*
40 *ceive unsolicited consumer telephone calls pursuant to K.S.A. 50-670,*
41 *and amendments thereto after registering. For the purposes of this sec-*
42 *tion, the notification requirements shall be satisfied by including the in-*
43 *formation in each issue of the telephone directory covering areas served*

1 ~~(c) Establish guidelines for acceptable methods to inform all tele-~~
 2 ~~phone solicitors in Kansas of. The requirements for membership in the~~
 3 ~~direct marketing association, charges for members and nonmembers of~~
 4 ~~the direct marketing association to access the data base of the telephone~~
 5 ~~preference service, and options available to telephone solicitors for ac-~~
 6 ~~cessing Kansas specific portions of the data base.~~

8 Sec. 2. K.S.A. 50-675a is hereby repealed.
 9 Sec. 3. This act shall take effect and be in force from and after its
 10 publication in the statute book.

All local exchange carriers as defined in subsection (h) of K.S.A. 66-1,187, and amendments thereto, and all telecommunications carriers as defined in subsection (m) of K.S.A. 66-1,187, and amendments thereto, shall provide notification according to 47 U.S.C. 227(c)(3)(B)(C) as implemented by the federal communications commission.

5-2