

SESSION OF 2004

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 331**

As Amended by Senate Committee of the Whole

**Brief\***

SB 331 would permit every instrument that conveys any estate or interest created by any lease or easement involving wind resources and technologies to produce and generate electricity to be filed in the office of register of deeds of the county where the real estate is situated. The bill would outline what information these instruments are to contain:

1. A description of the real property subject to the easement and a description of the real property benefitting from the wind lease or easement;
2. A description of the vertical and horizontal angles, expressed in degrees, and distances from the site of the wind power system in which an obstruction to the wind is prohibited or limited;
3. Any terms or conditions under which the lease or easement is created or may be terminated, excluding any compensation received by the owner of the real property; and
4. Any other provision necessary or desirable to execute the instrument.

The bill also would provide that any party with an interest in real property may make a demand upon the grantee or grantor, as applicable, to rescind or reform any mistake caused by the recording of a deed or conveyance covering mineral or royalty rights purporting to cover mineral or royalty rights not owned by the grantor, and where the deed or conveyance may include a general conveyance provision for other property. Any grantee or grantor who refuses or neglects to correct or reform the legal description within 20 days after the written demand has been made would be liable in damages in the sum of up to \$10,000 per title affected and reasonable attorney's fee.

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

## **Background**

At the hearing on the bill, support was expressed by representatives of the Southwest Kansas Royalty Owners Association, the Kansas Livestock Association, Tallgrass Ranchers, and the Kansas Wildlife Federation. Also providing testimony was a real estate salesperson from a Pratt firm. Written testimony in support of the bill also was provided by two attorneys—one from Liberal and one from Cimarron. A spokesperson from the Kansas Wind Coalition appeared in opposition to the bill.

The Senate Committee on Utilities amended the bill to provide for separate statutory language providing for the filing of a wind easement or lease. In addition, the Committee set out the contents of what information is to be contained in the filing. Further, the Committee addressed an issue which had been brought to its attention where royalty deeds were being filed in some counties where the deeds contained a “Mother Hubbard” clause or a “cover all” clause which resulted in numerous titles being clouded.

The Senate Committee of the Whole amended the bill to clarify that when a recorded deed or conveyance is filed covering certain rights that the requirements of the bill could apply to mineral or royalty rights.

The fiscal note on the bill states that the bill would not impact state revenues or expenditures.