

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson Emert at 10:10 a.m. on March 7, 2000 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Gordon Self, Revisor
Mike Heim, Research
Jerry Donaldson, Research
Mary Blair, Secretary

Conferees appearing before the committee:

Orville Cole, landowner, Anderson County
Greg Dye, Wichita
Dale Anderson, National Association of Reversionary Property Owners, Garnett, KS
Clyde Boots, Welda, KS
Tracy Presnell, McPherson, KS
Cheryl Swisher, McPherson, KS
Delton Gilliland, Osage County Counselor
Leslie Kaufman, Kansas Farm Bureau
Senator Don Biggs
Amelia McIntyre
Mike Taylor, City of Wichita
Bill Maasen, Johnson County Parks and Recreation
Bart Budetti, Attorney, Overland Park, KS
Jim Cox, Overland Park Parks and Recreation

Others attending: see attached list

The minutes of the March 6th meeting were approved on a motion by Senator Bond, seconded by Senator Oleen. Carried.

SB 538—Rails to trails safety and protection act

Conferee Cole testified as a proponent of **SB 538**. He presented a brief overview of the “rail trail” problem and discussed why present Kansas law is inadequate to protect the landowner or hold trail operators responsible. ([attachment 1](#))

Conferee Dye testified as a proponent of **SB 538**. He discussed conflicts between the Rails to Trails bill and The Intergovernmental Cooperation Act of 1968 which establishes a form of Regional Government. He stated that Rails to Trails does not qualify under this law but that even if it did, this law is in violation of the prohibitions of the US Constitution. ([attachment 2](#))

Conferee Anderson testified as a proponent of **SB 538**. He discussed rail trail problems which have occurred in other states and discussed statewide rail trail problems in Kansas. He stated that current Rails to Trails bills are not specific enough when it comes to who is accountable for enforcement of the laws. There are ten attachments to his written testimony provided for informational purposes. ([attachment 3](#))

Conferee Boots testified as a proponent of **SB 538**. He discussed how this bill would, rather than prevent the development of rail trails in Kansas, “actually encourage closer relationships with the trail’s proposed management or development entity and the affected adjacent landowners.” ([attachment 4](#))

Conferee Presnell testified as a proponent of **SB 538**. He stated that most trail groups are ignoring the current law by “failing to perform even the most compulsory of tasks outline in the state law” and are able to do so because the existing law has no significant punishment. He stated that this bill gives county commissioners and the state attorney

general the tools to enforce the law. ([attachment 5](#))

Conferee Swisher testified in support of **SB 538**. She cited examples of trail groups non-compliance with the current State Recreational Trails Act and stated she felt this bill was necessary to assist county commissions in imposing effective enforcement penalties against officers of the non-compliant trail groups. She provided photos of abandoned railroad ties, trash, weeds, erosion, etc. to support her statements. ([attachment 6](#))

Conferee Gilliland testified in support of **SB 538**. He discussed: the status of rail trail “responsible party” compliance; effect of rail trail legislation on local government; suggestions for improvement in enforcement power; and problems with this bill. ([attachment 7](#))

Conferee Kaufman testified in partial support of **SB 538** discussing positive improvements the bill makes to current legislation. She identified questionable provisions in the bill and discussed them in detail. ([attachment 8](#))

Conferee Biggs testified in opposition to **SB 538**. He defined the bill as “drastic control legislation” and expressed fears that it could close down hiking and biking trails throughout Kansas. He stated that Kansas is far behind other states in trail development and is losing federal dollars for trail development as well as economic benefits of eco-tourism. ([attachment 9](#))

Conferee McIntyre, testifying in opposition to **SB 538**, called the bill “overkill” and identified and discussed, in depth, problems inherent in the bill. ([attachment 10](#))

Conferee Taylor, testifying in opposition to **SB 538**, stated the bill was “over reaching in its attempt to regulate recreational trails” and takes away local control from citizens. He requested the City of Wichita be exempted from the restrictions and requirements in this bill. ([attachment 11](#))

Conferee Maasen, testified in opposition to **SB 538**. He presented a brief overview of recreational trails in Johnson County and discussed plans for further trails. He identified and discussed problem areas in the bill. ([attachment 12](#))

Conferee Budetti, testifying in opposition to **SB 538**, made general comments and addressed specific sections of the bill that concern the City of Overland Park. ([attachment 13](#))

Conferee Cox testified in opposition to **SB 538**. He provided general comments about Bike Hike trails in Overland Park and briefly discussed the “Greenway Linkage Plan.” He limited his comments regarding areas of concern with the bill to Section 4 which addresses the issue of fencing and stated that this provision is cost prohibitive to trail managers. ([attachment 14](#))

Written testimony supporting **SB 538** was submitted by: Dudley Feuerborn, Anderson County Commission Chair ([attachment 15](#)); Nels Ackerson, Attorney, Washington DC ([attachment 16](#)); Mike Bean, Kansas Livestock Association ([attachment 17](#)); and Noble Carter, Lane, Kansas ([attachment 18](#)).

The meeting adjourned at 11:00 a.m. The next scheduled meeting is March 8, 2000.