

MINUTES OF THE HOUSE WATER COMMITTEE

The meeting was called to order by Chairperson Ron Highland at 9:00 am on Tuesday, March 16, 2021, in room 152-S of the Capitol.

All members were present

Committee staff present:

Chris Waggoner, Office of Revisor of Statutes
Damien Gilbert, Committee Assistant
Meredith Fry, Legislative Research Department
Victoria Potts, Legislative Research Department
Zach Fridell, Office of Revisor of Statutes

Conferees appearing before the Committee:

Professor Burke Griggs - Washburn University School of Law

Others in attendance:

No list available

Presentation on:

Burke Griggs, Professor at Washburn University School of Law, thanked the committee for the opportunity to return and testify. He then presented about the background and intricacies of water rights administration of various states in comparison to Kansas ([Attachment 1](#)). He discussed which states are most comparable to Kansas, what the state protects when it protects a water right, and agency procedures and judicial review of actions taken to protect water rights. Griggs concludes that western states take the protection of water rights very seriously. State water engineers have administered thousands of water rights across entire river basins to protect senior water rights. State courts have denied efforts to transfer hundreds of thousands of acre-feet of native groundwater to distant places, if such transfers would impair existing rights or threaten the long-term sustainability of local water supplies. Given the magnitude and difficulty of these decisions to protect property rights, western states have provided state water officials the necessary political independence to make them in an impartial and technically sound manner. Some states have even gone as far as to grant the courts the power of de novo review in evaluating agency decisions regarding water rights.

Griggs then stood for questions from the committee, which covered topics including the impact of pollution on water right enforcement, what the steps might be to establish a water court in the state of Kansas, and when public interest review overrides the first in right/first in time precedent.

Seeing no further questions, Chairperson Highland adjourned the committee at 9:54am.