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MEMORANDUM

To: Chairman Holmes and members of the House Energy and Utilities Committee
From: Matt Sterling, Assistant Revisor of Statutes
Date: March 1, 2012
Subject: House Bill 2750

HB 2750 amends K.S.A. 55-179 concerning the legal responsibility for maintenance of an abandoned well. Under current law, a person is considered to be legally responsible for the maintenance of an abandoned well if they are: An operator of a waterflood or other pressure maintenance program deemed to be causing pollution or loss of usable water; the current or last operator of the lease upon which the well is located, irrespective of whether they plugged or abandoned the well; the original operator who plugged or abandoned such well; or a person who without authorization tampers with or removes surface equipment or downhole equipment from an abandoned well.

The current statute has been interpreted by the Kansas Corporation Commission in an order concerning Quest Cherokee. In that order, the commission interpreted the second category of well liability to require the physical operation and control of a well. The physical control of the well means that the person has the legal right to that well, such as a lease granting an exclusive right to produce gas from the well. Physical operation of a well requires the specific well to have been operated by the person. Furthermore, the commission determined that the term located referred to whether a specific well was drilled, operated, plugged or whether any paperwork had been filed with the commission rather than to the place of physical location of an abandoned well. Under this interpretation, a person would only be responsible for an abandoned well located on the property of a lease if that person had operated that specific well, meaning they had both the physical control and operation of the well.

The bill would change that second category of well liability to be the current or last person responsible for the physical control of such well, irrespective of whether such person plugged or abandoned such well. This change would mean that the last person responsible for the physical control of an abandoned well would be responsible for maintenance of that well.