

**FORTY-NINTH LEGISLATURE
SECOND SESSION, 2010**

February 17, 2010

Your **JUDICIARY COMMITTEE**, to whom has been referred
**SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR SENATE BILL
145, as amended**

has had it under consideration and reports same with
recommendation that it **DO PASS**, amended as follows:

**FORTY-NINTH LEGISLATURE
SECOND SESSION**

PROPOSED AMENDMENT DIRECTED TO A COMMITTEE

February 17, 2010

Mr. Chair:

I propose to the HOUSE JUDICIARY COMMITTEE the following
amendment to

**SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 145, as amended**

1. On pages 1 through 8, strike Sections 1 through 3 in
their entirety and insert in lieu thereof:

"Section 1. OWNERSHIP AND CONVEYANCE OF PORE SPACE.--

A. The pore space is an element of the surface estate.
If ownership of the pore space cannot be determined from the
deeds or severance instruments relating to the property by a
review of applicable statutory and common law, it is presumed

that the owner of the surface estate owns the pore space.

B. Title to pore space may be severed from the surface estate by an instrument severing pore space ownership or conveying title to severed pore space that shall describe the pore space by subsurface geologic survey, a metes and bounds description or other means that sufficiently identify the horizontal and vertical boundaries of the pore space conveyed. If the instrument does not define the vertical boundaries, the transfer shall be deemed to include pore space at all depths beneath the surface areas described.

C. The ownership of a severed right or title to pore space shall not confer any right to enter upon or otherwise use the surface of the land unless the instrument of severance expressly so provides.

D. No severance of the pore space shall diminish or interfere with the rights of a severed mineral estate.

E. No grant of easement or access by the owner or lessee of the severed pore space shall be required for:

(1) an exercise of the rights acquired pursuant to the mineral lease or deed; or

(2) the installation, use, repair or removal of buried pipelines, flowlines, gathering lines, powerlines or similar utility lines.

F. No provision of statute, rule or ordinance requiring notice to be given to an owner of land, to a surface owner or to an owner of the mineral estate shall be construed to require notice to a person holding ownership interest only in underlying pore space.

G. The provisions of this section shall not be construed to affect:

(1) the law with respect to underground waters;

(2) the dominance of the mineral estate, including use of the pore space that is reasonably necessary for the exercise of the rights belonging to the mineral estate;

(3) the right to inject any substance into the pore space as approved by the oil conservation division of the

energy, minerals and natural resources department or pursuant to rules adopted pursuant to this section by or governing the oil conservation commission;

(4) the right to drill through the pore space or reservoir, subject to applicable law, for the protection of the reservoir or fluids contained therein;

(5) all other rights or interests belonging to the mineral estate; or

(6) any enhanced oil recovery project or enhanced gas recovery project pursuant to the Oil and Gas Act.

H. As used in this section:

(1) "pore space" means all subsurface space, whether in caverns, fissures or pores, on the surface of formation rocks or otherwise; and

(2) "reservoir" means any depleted oil or gas reservoir, saline aquifer, coal seam or any natural or artificial subsurface stratum, formation, aquifer, cavity or void that may be used for injection and storage of carbon dioxide, but "reservoir" does not include any aquifer or part of any aquifer that is an underground source of drinking water.

Section 2. SEVERABILITY.--If any part or application of this act is held invalid, the remainder or its application to other situations, persons or government entities shall not be affected.

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is December 31, 2010."

Respectfully submitted,

Al Park, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 14 For 0 Against

Yes: 14

No: 0

Excused: None

Absent: None