

MINUTES OF THE HOUSE COMMITTEE ON Federal & State Affairs

The meeting was called to order by Chairman Miller at _____
Chairperson

1:30 a.m./p.m. on March 16, 1987, in room 526S of the Capitol.

All members were present except:

Rep. Barr & Roper - E

Rep. Sifers

Committee staff present:

Lynda Hutfles, Secretary

Mary Galligan, Research

Mary Torrance, Revisor

Raney Gilliland, Research

Conferees appearing before the committee:

Dr. Jack Walker, Health & Environment

Colonel Maylon G. Weed, Adjutant General's Office

Rob Hodges, Kansas Chamber of Commerce & Industry

Shaun McGrath, Kansas Chapter Sierra Club

Representative Nancy Brown

The meeting was called to order by Chairman Miller.

Representative Roenbaugh made a motion, seconded by Representative Eckert, to approve the minutes of March 5 & 10. The motion carried.

Representative Walker made a motion, seconded by Representative Ramirez, to introduce as committee bills three bills - one requested by Secretary Harley Duncan dealing with driver's licenses; two bills dealing with water - diversion and domestic water rights. The motion carried.

HB2547 - Community Right-to-Know

Representative Walker gave the committee some background information on this issue and the sub-committee meetings which were held. He also explained the deadlines that have been mandated by the federal government.

Representative Miller distributed some amendments to the language in the bill which were needed. See attachment A.

Dr. Jack Walker, Secretary of Health & Environment, gave testimony in support of the bill which authorizes executive agencies in the State of Kansas to implement the provisions of the Federal Emergency Planning and Community Right-to-Know Act of 1985. In addition it creates a State Emergency Response Commission. Dr. Walker explained the program start up and on going activities and a detailed computation of expenditures to implement the bill. This is an ongoing program which will be updated annually. See attachments B, C, D, & E.

Colonel Maylon G. Weed, Deputy Director, Division of Emergency Preparedness, gave testimony in support of the bill. The bill provides for the establishment of a State Emergency Response Commission which the federal act requires be in place by April 17, 1987. It also provides for establishment of local planning districts which the federal act requires by July 17, 1986, and local planning committees required by August 17, 1986. In addition, all local planning districts must have approved emergency plans by October 17, 1988. The federal government has not provided funding for the implementation of this act. See attachment F.

Rob Hodges, Kansas Chamber of Commerce & Industry, gave testimony in support of the bill. He said he had circulated copies of the bill to Chamber members and, except for a few suggestions for change, they indicated support for the bill. See attachment G for these changes.

Shaun McGrath, Kansas Chapter Sierra Club, gave testimony in support of the bill. He explained the results of a public opinion survey the Sierra

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Federal & State Affairs,
room 526S, Statehouse, at 1:30 a.m./p.m. on March 16, 1987

Sierra Club had conducted at the beginning of the year. Over 84% of the respondents felt that information about the dangers of hazardous substances is "very important". See attachment H for statement and survey results.

Representative Nancy Brown supports the bill, although she was not supportive of the fact that the federal government did not come down with money to help with the implementation. She expressed her support of the chamber changes.

Hearings were concluded on HB2547.

The Chairman announced that the amendments and this bill would be discussed on Wednesday. Mary Torrance told committee members that she had mistakenly stricken the provision where moneys go and that should be in the bill.

The meeting was adjourned.

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE March 16, 1987

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
Rob Hodges	Topoka	KCCI
James Power	Topoka	KDHE
Dennis Murphy	Topoka	KDHE
Kathy Marney	" "	MCAK
Kirk Birds	Topoka	KDHE
Dr. Dale Huffman	Topoka	DHR
Ed P. ...	"	KSFA
Mr. Ralph ...	Topoka	TAG
Jay D. Cole	Topoka	TAG Dept
Dale J. Hamilton	Lawrence	KS N.O.W.
Mrs. Beth Byer	Topoka	KNRC
Shaun McGrath	Sierra Topoka	Sierra Club
Kevin Davis	Topoka	League of Ks Munic
John Blythe	Manhattan	Ks Farm Bureau
Tom Becker	Topoka	TAG
M. G. WEED	TOPEKA	TAG-DEF
Al Rusk	Top	Gen Office
Jerry Conrad	Top	KGIS

0083 tion of such policies, procedures and rules and regulations nec-
0084 essary to implement the provisions of the federal act relating to
0085 emergency planning.

0086 Sec. 6. The secretary of health and environment and the
0087 adjutant general shall enter into an interagency agreement pro-
0088 viding for exchange of information and coordination of their
0089 respective duties and responsibilities under this act.

0090 Sec. 7. The provisions of the federal act, as effective on the
0091 effective date of this act, pertaining to ~~submission of hazardous~~
0092 ~~chemical~~ information and giving of notifications shall be consid-
0093 ered the law of this state and shall apply equally to all federal
0094 agencies, departments, installations and facilities located in this
0095 state, as well as to any other facilities subject to the federal act.

0096 Sec. 8. The secretary of health and environment, the adju-
0097 tant general and the attorney general each shall have the au-
0098 thority to enforce state laws and applicable rules and regulations
0099 consistent with the federal act. Authority shall include the crim-
0100 inal, administrative and civil enforcement authority delegated to
0101 EPA under sections 325 and 326 of the federal act but, for state
0102 actions, venue shall be governed by the act for judicial review
0103 and civil enforcement of agency actions. Any moneys recovered
0104 under the above enforcement authorities shall be deposited in
0105 the state general fund. If a county prosecutor acts at the request
0106 and on behalf of the state to enforce this act, 1/2 of the moneys
0107 recovered in that action shall be deposited in the general fund of
0108 the county.

of sections 302(c), 303(d), 304, 311, 312, 313 and 323

providing of

Insert sections 8 and 9, attached

0109 Sec. 9. The provisions of this act are severable and, if any
0110 provision or part thereof is held invalid, unconstitutional or 10
0111 inapplicable to any person or circumstances, such invalidity,
0112 unconstitutionality or inapplicability shall not affect or impair
0113 the remaining provisions of the act. 11

0114 Sec. 10. This act shall take effect and be in force from and
0115 after its publication in the statute book.

Attachment A

Sec. 8. (a) The secretary of health and environment, the adjutant general or the attorney general may order a facility owner or operator to comply with the requirements of section 302(c) or 303(d) of the federal act, as adopted by section 7. The secretary of health and environment, the adjutant general or attorney general may bring an action to enforce the order in the district court of the judicial district where the facility is located by a civil penalty of not more than \$25,000 for each day the violation or failure to comply continues.

(b) For a violation of the requirements of section 304 of the federal act, as adopted by section 7:

(1) The secretary of health and environment, the adjutant general or the attorney general, upon notice and opportunity for hearing, may assess a civil penalty of not more than \$25,000 per violation.

(2) The secretary of health and environment, the adjutant general or the attorney general may bring an action against a facility owner or operator in the district court of the judicial district where the facility is located for a civil penalty of: (A) Not more than \$25,000 per day for each day the violation continues, for the first violation; and (B) not more than \$75,000 per day for each day the violation continues, for the second or a subsequent violation.

(c) For a violation of the requirements of section 312 or 313 of the federal act, as adopted by section 7:

(1) The secretary of health and environment, the adjutant general or the attorney general, upon notice and opportunity for hearing, may assess a civil penalty of not more than \$25,000 per violation.

(2) The secretary of health and environment, the adjutant general or the attorney general may bring an action against a facility owner or operator in the district court of the judicial district where the facility is located for a civil penalty of not more than \$25,000 per day for each day the violation continues.

(d) For a violation of section 311 or 323(b) of the federal act, as adopted by section 7:

(1) The secretary of health and environment, the adjutant general or the attorney general, upon notice and opportunity for hearing, may assess a civil penalty of not more than \$10,000 per violation.

(2) The secretary of health and environment, the adjutant general or the attorney general may bring an action against a facility owner or operator in the district court of the judicial district where the facility is located for a civil penalty of not more than \$10,000 per day for each day the violation continues.

(e) Any health care professional entitled to information pursuant to section 323 of the federal act, as adopted by section 7, may bring an action in the district court to require a facility owner or operator to provide such information.

Sec. 9. Violation of section 304 of the federal act, as adopted by section 7, is a felony punishable by a fine of not more than \$25,000 or imprisonment for not more than two years, or both, for the first conviction and a fine of not more than \$50,000 or imprisonment for not more than five years, or both, for the second or a subsequent conviction.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON HB 2547

PRESENTED TO COMMITTEE ON FEDERAL AND STATE AFFAIRS, March
16, 1986

This is the official position taken by the Kansas Department of Health and Environment on HB 2457.

This bill authorizes executive agencies in the State of Kansas to implement the provisions of the Federal Emergency Planning and Community Right to Know Act of 1986 (Title III, PL 99-499). In addition, consistent with the Federal Act, it creates a State Emergency Response Commission as the mechanism for providing oversight of the state activities under this federal law.

The Adjutant General and the Kansas Department of Health and Environment have been following this federal legislation since last year. House Bill 2805 of the 1986 State Legislature initially proposed establishing a Kansas Emergency Planning and Community Right-to-Know Act. Hearings held at that time resulted in support for Right to Know; however, since at that time the prospect of federal legislation was imminent, the committee decided to defer state action until such time as we knew what the final federal legislation would look like. This federal law is a free standing, separate part of the Superfund Amendments and Reauthorization Act (SARA) which was signed by President Reagan on October 17, 1986. The federal law imposes a number of mandates upon the Governor (without federal funding) to implement its various provisions. These include, as part of an Emergency Response Planning Program:

- the establishment of a State
Emergency Response Commission (SERC),
- Local Emergency Planning
Committees (LEPC),
- local Emergency Response Planning
Districts, and
- drafting local Emergency
Response Plans.

Further, under the Community Right-to-Know provisions, it requires:

- designation of a state information officer,

- establishment of a mechanism for receiving various types of reports on location and quantity of hazardous chemicals at facilities,
- reporting of spills and other environmental emissions of toxic substances, and
- development of a system for making this information (subject to certain Trade Secrets) available to the medical community, emergency responders, government agencies and the public.

The critical dates for implementation of these mandated duties begin on April 17, 1987 with appointment of the SERC (see Implementation Schedule, attached).

Under SARA, if the Governor fails to establish a State Emergency Response Commission "the Governor shall operate as the State emergency response commission until the Governor makes such designation." In addition, the federal law provides for any person to commence a civil action on his own behalf against a State Governor for failure to provide a mechanism for public availability of information under the act or for failure to provide a timely response to a request for information under the act. Since the federal law defines the universe of facilities which must report information to the SERC and specifies administrative, civil and criminal penalties for failure to do so, a mechanism to receive, store, process and retrieve this information must be established or all of the compliance efforts by business and industry will be a useless exercise.

Recognizing the fiscal constraints under which our state is presently operating, the Kansas Department of Health and Environment and the Adjutant General have developed proposed program plans and conservative budgets for implementation of these responsibilities. If designated by the Legislature and the Governor, we propose a joint program to administer the federal program requirements (see attached diagram). The emergency planning responsibilities would be placed in the Division of Emergency Preparedness and the information management and dissemination program would be placed within the Kansas Department of Health and Environment. The Kansas Department of Health and Environment will also provide support services to the State Emergency Response Commission. We believe that this bill will allow our agencies the necessary authority to adequately implement our responsibilities designated under the federal act. We support the concepts embodied in Emergency Planning and Community Right to Know. Within our state we have concentrations of hazardous chemicals in industry and transportation. We should be prepared to deal with the

threats these represent if discharged into the environment. Through knowledge of the locations and health effects of these materials, state and local officials can take adequate steps to plan for potential problems and provide information to the citizens whereby they can make informed decisions regarding the risks posed by hazardous chemicals in their communities.

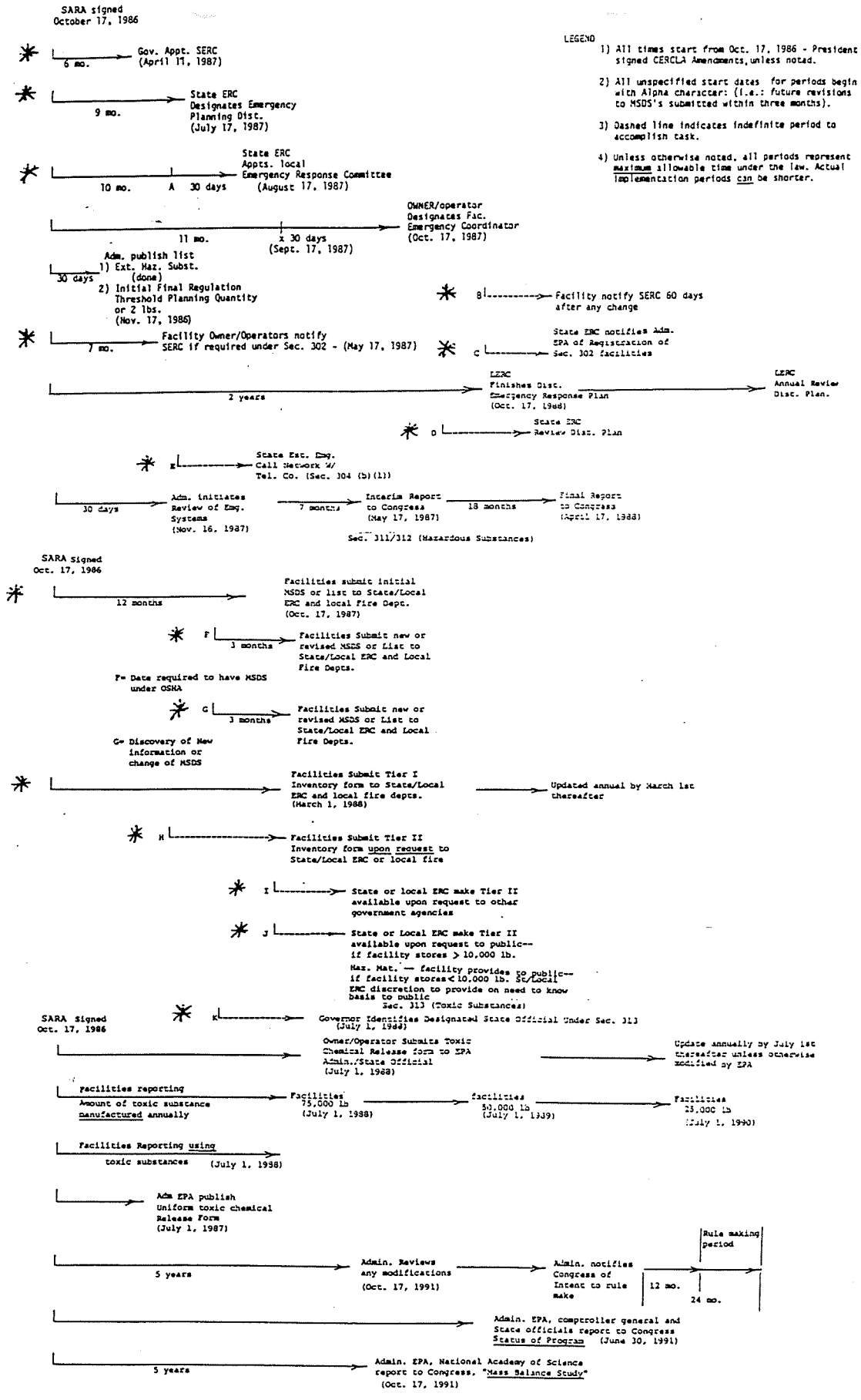
The bill before you does not provide for authorities or reporting requirements that do not currently exist under federal law. It imposes no new substantial obligations or responsibilities and costs upon the industries in this state. The cost to the private sector of submitting these reports is relatively small when compared to the costs of other regulatory programs. The benefit to the state is having this information. The costs to administer such a program are substantial. By utilizing a phased approach of hiring staff to operate the information management portion of the program, KDHE's costs for FY 88 would be approximately \$380,000.

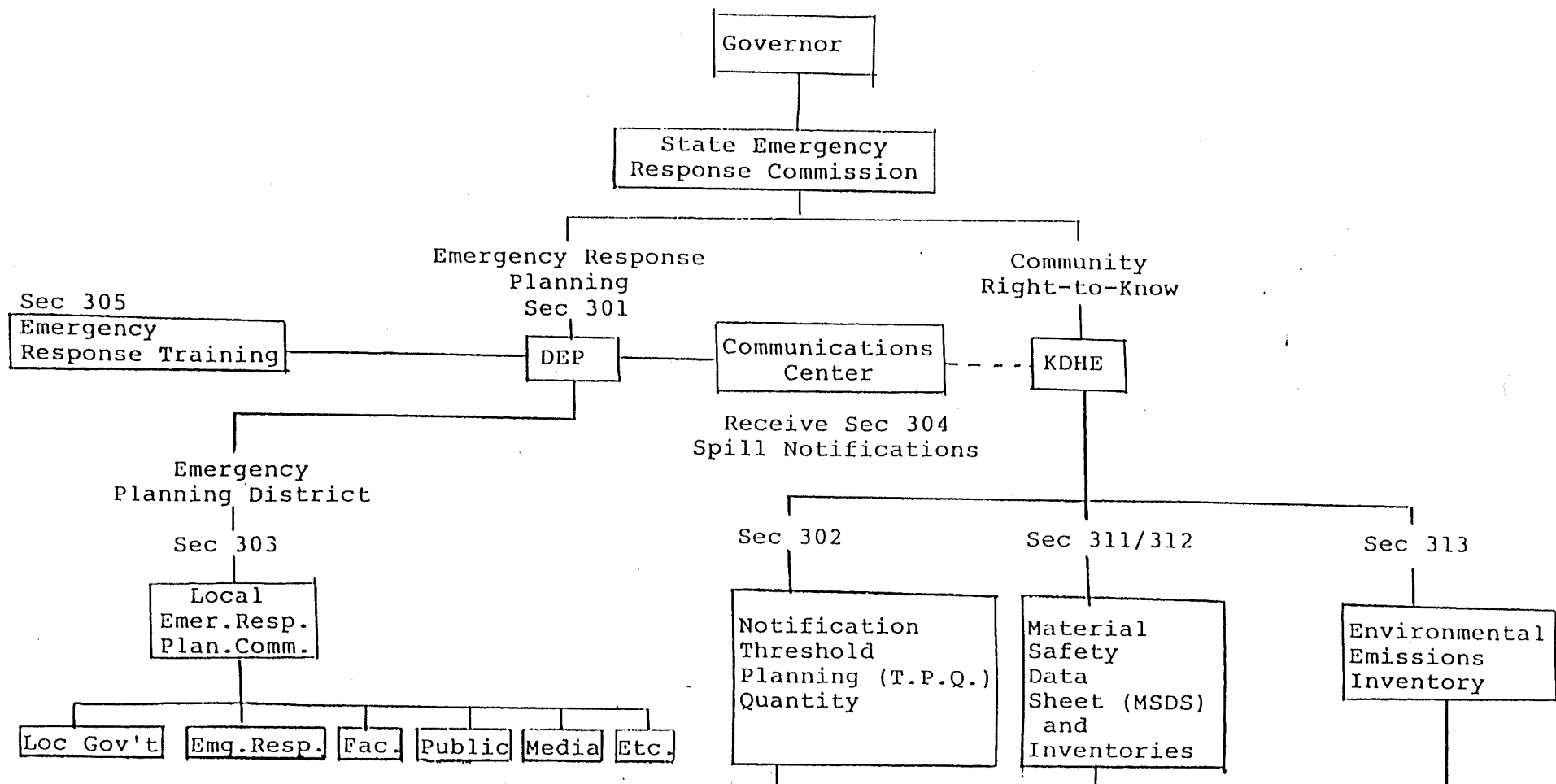
The Congress has not provided a mechanism for funding state and local implementation of the program. This issue is actively being pursued by interstate associations and EPA. In our efforts to assure up to date information on federal activities, our staff has worked closely with National Governors' Association and USEPA task groups on implementation of this program at the federal level. Among the recommendations staff has made is that the states act together through their congressional delegations to seek some sort of federal assistance with the expenses imposed on the states and localities. I will direct my staff to continue our efforts in this area. Congress may reassess this situation in the future.

It is our recommendation at this time in light of the current federal mandate and the previously expressed support for such legislation in Kansas, that the state should implement the federal program. We recommend that HB 2547 in conjunction with the fiscal note be taken into consideration and favorably acted upon by you. We have prepared additional fiscal information, background notes and a supplemental budget for consideration by the Appropriations Committee. These will also be available to you for your consideration during your deliberations of this bill. Thank you very much for the opportunity to discuss this with you. Members of my staff will be available at your convenience to provide any necessary detailed background information or updates on the status of federal program implementation efforts.

Presented by: Jack D. Walker, Secretary
Kansas Department of
Health and Environment

SUPERFUND REAUTHORIZATION (SARA):
 IMPLEMENTATION SCHEDULE
 TITLE III, EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW
 Sec. 302 (Extremely Hazardous Substances)





KANSAS IMPLEMENTATION OF THE EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT OF 1986

KDHE - Kansas Department of Health and Environment

DEP - Division of Emergency Preparedness Adjutant General's Department

-Facilities:
All in excess of T.P.Q.
-Chemicals:
List of 407 extremely hazardous chemicals
-Information:
Name and Location

-Facilities:
SIC Code 20-39 w/OSHA, Pt 1900 Regulated Hazardous Chemicals
-Chemicals:
Chemicals defined as having hazardous properties under OSHA Hazard Communication Program (29 CFR, Pt 1900.1200)
-Information:
311-Either MSDS's or list of chemicals
312-Annual inventory in two parts: TIER I and TIER II

-Facilities:
SIC Code 20-39 w/>10 employees and: 1) use 10,000 lbs, or 2) manufacture >75,000 lbs.
-Chemicals:
List of 328 Toxic chemicals
-Information:
Environmental Emissions Inventory by Chemical

IMPLEMENTATION
Right-To-Know

Attachment D

Sec	Chemicals	Reporting Facilities	Information
302	List of 407 Extremely hazardous (Based on toxicity)	All with storage in excess of Threshold Planning Quantities (FR Vol. 51, No 221 Pg 41570)	Letter with name of facility and location (notification)
304	As above in 302	Discharges from any facility in excess of Threshold Reporting Quantities	Discharge report: name, location, material, etc. (To DEP Comm. Center)
311	Any chemical or mixture that exhibits hazardous properties defined under OSHA-23 hazard categories	Manufacturing facilities SIC Code 20-39 OSHA Pt 1900.1200	Copies of all MSDSs, or list of chemicals
312	As above in 311	As above in 311	a) Annual Tier I report by hazard category b) Annual Tier II report by chemical (on request)
313	List of 328 Toxic chemicals	Manufacturing facilities SIC Code 20-39 with 1) 10 or more employees and 2) use greater than 10,000lbs or 3) manufacture greater than 75,000 lbs.	Annual Environmental Toxic Substances Emissions Inventory by Chemical

Attachment D

3+H

0

DEPARTMENT OF HEALTH AND ENVIRONMENT

FISCAL NOTE WORKSHEET

Bill No: 2547 Abbreviated Bill Title: Kansas Emergency Planning and Community Right-to-Know Act

Sponsor: Committee on Federal and State Affairs

Detailed Computation of Expenditures to Implement Bill:

Table with columns: Personnel (Object Code 100), FY 1987, FY 1988. Rows include: 1. Program Manager (EE IV); 1 FTE @ R-31 Overall program supervision; staff to SERC; designated state information officer. 2. Toxicologist (Unc); 1 FTE @ R-28 Expert advice to reporting community; SERC, LERPC, and public on health and environmental effects of hazardous materials. 3. Secretary II; 1 FTE @ R-15 Provide secretarial support to SERC: program management and staff. 4. Attorney II; 1 FTE for 6 months @ R-28 Draft rules and regulations; oversight of Trade Secret (claims, agreements, and challenges); general legal advice and enforcement. 5. Environmental Engineer III; 1 FTE @ R-29 1/2 FTE oversight of Sec. 302/304; 1/4 FTE oversight of Sec. 311/312; 1/4 FTE oversight of Sec. 313; Manager of technical information handling; response to public information/other information requests. 6. Environmental Engineer I; 1 FTE for 9 months @ R-24; Implement Sec. 311/312/313; Review MSDS; quality assurance; maintain Tier I/II data base and files; review routine Trade Secret claims; assist reporting community; provide information to public, etc. under Right-to-Know.

Detailed Computation of Expenditures to Implement Bill:

	<u>FY 1987</u>	<u>FY 1988</u>
Personnel (Object Code 100) (Cont'd)		
7. Office Assistant II; 1 FTE @ R-11; Clerical support for Sec. 302/304	-	15558.74
8. Office Assistant II; 1 FTE for 3 months @ R-11; Clerical support for Sec. 313	-	3889.69
9. Office Assistant II; 1 FTE @ R-11; Clerical support: ½ FTE Sec. 302/304; ½ FTE Sec. 313	-	15558.74
10. Office Assistant II; 1 FTE for 9 months @ R-11; Clerical support for Sec. 311/312	-	11669.05
11. Keyboard Operator II; 1 FTE for 9 months @ R-11; Data entry for Sec. 311/312/313	-	11669.05
Personnel (Object Code 140 - per diem to SERC [\$35 x 10 meetings x 5 members])	-	1750.00
		<hr/>
TOTALS FY '88 Salary and Wages		\$226778.65
*FY '87 Supplemental Request	\$3281.61	

Contractual Services		<u>FY 1987</u>	<u>FY 1988</u>
Object Code	Item		
200	Communications	-	9516.40
210	Freight	-	1012.00
220	Printing	-	1000.00
230	Rent (Photocopy)	-	1663.00
	Office Space (4320 sq.ft.)	-	30880.00
240	Repair	-	566.00
250	Travel - includes SERC	-	19020.00
270	Fees and Services	-	50000.00
	(contract: 1) 25K outreach pgm; 15K computer programming; 3) 2 temporary keyboard operators @ 10K)		
290	Other contract - books	-	500.00
			<hr/>
TOTAL	FY '88 Contractual Services		\$114157.40

Commodities

		<u>FY 1987</u>	<u>FY 1988</u>
Object Code	Item		
340	Computer parts	-	440.00
360	Professional supplies	-	220.00
370	Stationary/Office supplies (for new staff and SERC)	-	3070.00
			<hr/>
TOTAL	FY '88 Commodities		\$3730.00

Capital Outlay

		<u>FY 1987</u>	<u>FY 1988</u>
Object Code	Item		
403	Office Equipment (for 11 new positions) and support of data processing equipment	-	13971.25
411	Books (reference)	-	400.00
413	Computer and peripheral equipment: 3 micros as data entry terminal/ word processing w/Sys. 38 board; disk storage for KDHE Sys. 38; 1 free standing micro for word processing	-	25270.00
			<hr/>
TOTAL	FY '88 Capital Outlay		\$39641.25
	Aid to Local Units of Government	-	-0-
	<u>Total Expenditures</u>	<u>\$3288.61</u>	<u>\$384307.30</u>

Revenue Impact

- -0-

KDHE unit affected: This budget is free standing; organizational impact cannot be determined until unit is placed within KDHE structure. In any case, we see no additional fiscal or revenue impacts.

FISCAL NOTE

Narrative

This brief narrative summarizes the basis for the attached fiscal note with projected costs by object code. A detailed workload analysis which is the background document for this note is available.

House Bill 2547 separates implementation of the Federal Emergency Planning and Community Right-to-Know Act of 1986 between KDHE and DEP. KDHE is responsible for staffing the administrative support to the State Emergency Response Commission and for information collection, processing, and dissemination under the Right-to-Know provisions of the Federal Act. These following first-year work functions are necessary for successful implementation of the Act. The outreach program, however, is only proposed as an initial first-year start up activity. Also, this budget takes into account delays in phasing in hiring in order to meet critical reporting dates and workload scheduling.

Work Functions:

- A. Community and Industry Outreach-- General Information and Organization
1. Six meetings around the state for general education and information -- open to all.
 2. Thirty-five meetings with local emergency response organizations -- some on a regional basis -- to discuss planning and organizing Local Emergency Response Planning Committees (LERPC).
 3. Fifty meetings -- around the state to make presentations to interested groups (e.g. trade associations, community leaders, labor groups, schools, etc.).
 4. Prepare/print/mail various literature:
 - a. Fed/State regulations for Sections 311, 312 and 313;
 - b. Inventory forms with instructions; and
 - c. General program information.
 5. Provide staff to the State Emergency Response Commission (SERC):
 - a. General correspondence;
 - b. Attend meetings of SERC/keep minutes;
 - c. Provide information to SERC and Legislature;

Work Functions: (Cont'd)

- d. Coordinate state program with EPA;
 - e. Draft proposed regulation;
 - f. Provide general program administration (budget, personnel, etc.); and
 - g. Prepare list of potential reporting industries (Sections 302, 311, 312 and 313).
- B. Sections 301-305 Emergency Planning and Notification
1. Meet with state and local advisory groups;
 2. Maintain records and files on reporting industries and release reports, and
 3. Provide information to the public.
- C. Sections 311 and 312 OSHA Hazardous Substances
1. Identify reporting community;
 2. Inform them of reporting requirements/inventory forms;
 3. Receive lists/MSDSs/Inventories;
 4. Establish Trade Secret file;
 5. Provide access to information to other agencies/emergency response and medical personnel;
 6. Oversight and administration of Trade Secret information and claims;
 7. Provide access to information to public; and
 8. Provide interpretation and additional references.
- D. Section 313 Toxic Emissions Inventory
1. Receive Toxic Substances Emission Inventory;
 2. Provide access to information to other agencies/emergency response and medical personnel;
 3. Provide access to information to the public; and
 4. Provide interpretation of data and additional references.

The KDHE has based the workload upon other states' experiences with similar programs and unique situations in Kansas. To summarize, we expect:

Reports received

- 1) Sec 302 - 10,000 reporting facilities
- 2) Sec 304 - 3,000 discharge reports per year
- 3) Sec 311 - a) 3,235 reporting facilities (SIC 20-39)
b) 16,175 MSDS from 1,618 facilities
c) 1,618 lists of hazardous chemicals
- 4) Sec 312 - a) 3,235 Tier I reports per year
b) 1,618 Tier II reports per year
- 5) Sec 313 - 262 to 566 Toxic Emissions Inventories

Information requests

- 1) Sec 302 - 1,000 requests by government agencies
- 2) Sec 304 - 300 requests by the public
3,000 information notifications
- 3) Sec 311 - 3,235 hours @ 1 hr/fac.
- 4) Sec 312 - a) 1,618 public requests
b) 1,618 Trade Secret reviews
- 5) Sec 313 - 556 hours @ 1 hr/document

Testimony Before the House Committee on Federal
and State Affairs

House Bill No. 2547

I am Mahlon G. Weed of the Adjutant General's Department. I wish to thank the committee for allowing us to testify on House Bill 2547, an act pertaining to emergency planning and community right-to-know.

This Bill is the legislation needed to implement the Federal emergency planning and community right-to-know act of 1986 (Title III of P.L. 99-499). House Bill 2547 provides for the establishment of a State Emergency Response Commission which the Federal act requires be established by April 17, 1987. It also provides for establishment of local planning districts which the Federal act requires be established by July 17, 1986, and local planning committees which the Federal act requires be established by August 17, 1986. In addition, all local planning districts must have approved emergency plans by October 17, 1988.

The Federal Government has not provided funding for the implementation of this act, therefore, funding must come from State sources. The only exception to this is that Congress has authorized \$5 million for training response personnel under this act. It has been authorized for 80% Federal/20% State match; however, to this date funds have not been appropriated. When appropriated these funds will be distributed through the Comprehensive Cooperative Agreement that the Division of Emergency Preparedness signs with the Federal Emergency Management Agency.

We support House Bill 2547, but would request one addition to Section 5. We request that Section 5 reads as follows: The Adjutant General shall be responsible for:

- a. Emergency planning activities under the Federal act, including adoption of such policies, procedures and rules and regulations necessary to implement the provisions of the Federal act relating to emergency planning, and
- b. Coordination of response to accidental spills or releases from the toxic chemicals included in the Federal act as they pertain to KSA 48-928.

The duties acquired under this act can not be accomplished within present manning levels or operating funds allocated to the Adjutant General's Department. We have provided a fiscal note to the Division of the Budget. This calls for an increase of 5 positions and an increase of \$174,750 in General Fund appropriations.

Thank you for allowing us to testify. Are there any questions?

Attachment F

STATE OF KANSAS
THE ADJUTANT GENERAL
MILITARY DIVISION
TOPEKA, KANSAS 66601

TAG

March 9, 1987

Mr. Gary L. Stotts
Acting Director of the Budget
Department of Administration
Statehouse
Topeka, Kansas 66612

Dear Mr. Stotts:

The following is submitted as the fiscal impact on the Adjutant General's Department of House Bill No. 2547 - Emergency Planning and Community Right-To-Know:

- a. House Bill No. 2547 implements the necessary State activities required by the Federal Act pertaining to Emergency Planning and Community Right-To-Know. This requires the establishment of a State Emergency Response Commission, local Planning Districts, local Planning Commissions, writing of local Emergency Plans, submission of information by chemical producing and manufacturing plants, information and notification systems, and training of emergency response organizations for chemical releases. It will require joint action by the Adjutant General's Department and the Department of Health and Environment regarding safety of workers and the general public.
- b. The bill will require that the Adjutant General's Department and in particular the Division of Emergency Preparedness, issue planning guidance to local government for production of local emergency plans pertaining to chemical preparedness. It will require assistance by the Division of Emergency Preparedness in preparing local plans, it will also require review and approval of all local plans. It will also require interface between the Division of Emergency Preparedness and the U. S. Environmental Protection Agency and the Federal Emergency Management Agency. This bill will require a communications system or notification system through which local government and their emergency response organizations can obtain critical data when there is a spill or release at a chemical manufacturing plant. This will require prompt information exchange between the Department of Health and Environment and the Division of Emergency Preparedness. This bill requires some

enforcement activity as it pertains to the Federal Act. The Division of Emergency Preparedness of the Adjutant General's Department will be a member of the State Emergency Response Commission.

- c. This bill and its implied work will require additional funds be allocated to the Division of Emergency Preparedness. Due to the contact work, planning, review of plans, record keeping, and specific Federal law requirements this workload can not be absorbed within current assets. Also the Federal Emergency Management Agency has prohibited the use of their present funding on this project. Funds necessary for this operation in FY-88 by object code are:

<u>Object Code</u>	<u>Base Amount</u>	<u>Benefits</u>	<u>Total Amount By Source</u>	
			<u>State</u>	<u>Federal</u>
100	\$100,140	\$17,010	\$117,150	
200	4,000		4,000	
220	1,200		1,200	
230	3,500		3,500	
240	400		400	
250	8,000		8,000	
260	*20,000		*20,000	\$ 80,000*
370	3,500		3,500	
400	17,000		17,000	
Total	\$157,740	\$17,010	\$174,750	\$ 80,000

*These are training funds which are to be 80% Federal and 20% State at the outset. At the present time the Federal funds have been "authorized" but they have not been appropriated by Congress.

- d. The cost estimates are based on expected workload and duties required by the Federal Act. The actual dollar values are submitted in comparison with present planning missions and past missions in which the Division of Emergency Preparedness has participated. Each county and a number of separate cities must participate. In addition each chemical manufacturer must participate in planning.
- e. The provisions of the bill can not be carried out within present staffing and expenditure levels for two reasons. First, the Division of Emergency Preparedness has had its planning staff severely reduced within the past 18 months and therefore does not have the planners necessary for this increased mission. Second, the Division of Emergency Preparedness is funded completely by 50% Federal funds from the Federal Emergency Management Agency. The Federal Emergency Management Agency has served notice that personnel funded in part or fully by their agency

Mr. Gary L. Stotts

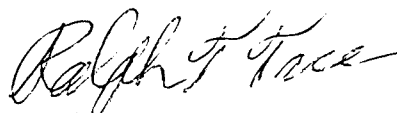
March 9, 1987

Page Three

can not participate in fulfilling the Federal Act requirements. The one exception is overall supervision which will be done by the Deputy Director of the Division of Emergency Preparedness.

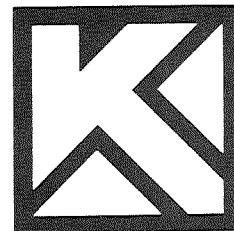
- f. The long range fiscal impact will be one of continuous operation. It is believed that due to the continual discovery on new chemicals the plans will continually be revised. It is believed the training requirements will increase over the next few years. The response to spills and releases of toxic chemicals will probably increase.

Sincerely,



Ralph T. Tice
Major General, Kansas
Army National Guard
The Adjutant General

LEGISLATIVE TESTIMONY



Kansas Chamber of Commerce and Industry

500 First National Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321

A consolidation of the
Kansas State Chamber
of Commerce,
Associated Industries
of Kansas,
Kansas Retail Council

HB 2547

March 16, 1987

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the

House Tax Committee

by

Rob Hodges

Executive Director

Kansas Industrial Council

Mr. Chairman, members of the Committee, I appreciate the opportunity to appear today to present the Chamber's views regarding the Kansas Emergency Planning and Community Right-to-Know Act, contained in HB 2547. We have circulated copies of the bill to Chamber members who have expressed an interest in the right-to-know issue. I am pleased to report to you that, except for a few suggestions for change, our members indicate support for the bill. My testimony today will focus on those suggested changes.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

On page one of the bill, beginning on line 0043, the Chamber suggests that the words "three members" be replaced with the following language: "two representatives

Attachment G

of the business community regulated by this act and one member.." This change would assure that the people most directly affected by the act, who are also among the best informed on the intricacies of the law and compliance with it, would be involved in the decision making process at the top level. Unless the regulated community fills positions on the commission, there could exist a situation where none of the public members represent those who must comply with the act. We feel this is a basic, common sense change which will result in a better commission overall.

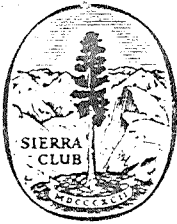
On page 2, in Section 4 on line 0076, we suggest replacing the word "necessary" with the phrase "directed by the commission.." The commission, in its statement of purpose at the beginning of Section 3, is to carry out all requirements of the federal act. We believe that the commission in that role should approve all policies, procedures, and rules and regulations which will implement the Kansas program.

We make a similar suggestion on page 3 in line 0083. If the word "such" was deleted, and the word "necessary" as well, and the phrase "as directed by the commission.." was substituted, the same oversight and continuity would be assured.

Finally, regarding to the use of any money recovered through legal action, the bill specifies that such money is to be deposited in the general fund. We recommend that the sentence on line 0105 be extended with the addition of the following: "to be used to offset the costs of administration of this act." By specifying how penalty money is to be spent, you would assure that those that violate the act would directly contribute to its enforcement. We believe that is an appropriate change.

Mr. Chairman, members of the committee, we respectfully request that you include our suggestions for change in the bill you refer to the full House of Representatives, should that action be taken.

I will be pleased to respond to your questions.



SIERRA CLUB

Kansas Chapter

March 16, 1987

To: House Federal and State Affairs Committee
From: Shaun McGrath

Re: HB2547 enacting the Kansas Emergency Planning and Community Right-to-Know Act

The Sierra Club is a non-profit organization concerned with the preservation and protection of the environment. Our Kansas Chapter membership is nearly 1800.

The Superfund Amendments and Reauthorization Act of 1986 (SARA) was signed into law October 17, 1986. Under Title III of SARA, the Emergency Planning and Community Right-to-Know Act is established, and requires implementation by each state. The Sierra Club endorses HB2547 as an effective implementation of the federal act.

One part of this act is community right-to-know. The fundamental principle behind right-to-know legislation is that people should be able to make informed decisions about the level of risk they are willing to bear. These decisions include individual choices about where to live and what to eat, as well as shared decisions about where to site treatment facilities for hazardous waste and how to react to emergencies. A right-to-know bill should allow citizens to attain information important to making these decisions, by providing public access to information concerning hazardous chemicals manufactured, transported, used, stored or disposed within this state: what volume is stored in what locations, what type of processes they are involved in, and what safety procedures are appropriate. HB2547 allows for such public access.

The degree to which Kansans feel access is important is portrayed in the results of a public opinion survey the Sierra Club had conducted at the beginning of the year. Over 84% of the respondents felt that information about the dangers of hazardous substances is "very important" to have available. 95% felt it is either "very important" or "somewhat important." (A copy of the survey question is attached.)

The results of this survey indicate overwhelming support for right-to-know legislation, and the Sierra Club supports HB2547 as the means by which it is provided.

Attachment H

Sierra Club Questions

How important is it to you that the State of Kansas require businesses and industries that use hazardous substances to inform citizens of the dangers that these substances present to their community? Very important? Somewhat important? Not very important? Or not at all important?

- Very important
- Somewhat important
- Not very important
- Not at all important
- Not sure

Inform citizens of hazardous wastes			
Bar:	Element:	Count:	Percent:
1	Very important	433	84.241
2	Somewhat important	59	11.479
3	Not very important	10	1.946
4	Not at all important	3	.584
5	Not sure	9	1.751

3