

Approved _____

Date

2/24/87

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES

The meeting was called to order by Senator Merrill Werts at _____
Chairperson

8:00 a.m. ~~XXX~~ on February 17, 1987 in room 123-S of the Capitol.

All members were present except:
Senator Eric Yost

Committee staff present:
Ramon Powers - Research
Don Hayward - Revisor
Nancy Jones - Secretary

Conferees appearing before the committee:
Jerry Coonrod, Kansas Gas & Electric
Harlan Priddle, Secretary of Commerce
Sharad Bahtia, Kansas Department of Health & Environment
Representative Lawrence Wilbert

A motion was made to approve corrected minutes of the February 10 and 11, 1987 meetings by Senator Langworthy, seconded by Senator Hayden. Motion carried.

Sharad Bahtia reviewed proposed legislation the KDHE is requesting be introduced by this committee.

Mr. Bahtia stated two bills being proposed are revised versions of bills killed during the 1986 legislative session. Acting upon the recommendations of an interim committee, compromises were made by proponents and opponents. The first bill established guidelines, standards and procedures for provisions of water supply and sewage facilities in subdivisions. The second bill concerns regulation of a public water supply system and grants authority to the Secretary of KDHE to issue permits and monitor the water supply of subdivisions. (Attachment A & B)

The third proposal concerns restriction of solder, flux and lead pipe in the installation or repair of any public water supply to eliminate a potential health hazard. (Attachment C)

A motion was made to introduce the three proposed bills by Senator Hayden, seconded by Senator Martin. Motion carried.

Chairman Werts asked members to note the copy of the statute establishing Kansas membership in the Central Interstate Low-Level Radioactive Waste Compact given each of them, as a briefing will be held this week in a Joint meeting with the House Energy & Natural Resources and House Federal & State Affairs Committees. (Attachment D)

HB 2004 - Establishing a Kansas Coal Commission

Harlan Priddle stated the purpose for creating the Kansas Coal Commission under HB 2004 is to seek additional markets for the products of Kansas coal. Mr. Priddle feels there perhaps should be a Kansas common market whereby Kansas products are purchased by Kansas. This might double the coal consumption in Kansas.

Representative Wilbert testified he is in agreement with proposed amendments to HB 2004.

Ramon Powers briefly outlined the background of HB 2004 and recommendations of the interim committee. A 13 member Coal Commission will be created with the Secretary of Commerce designated as the Chairman. Funding for the Commission will be under the Department of Commerce. The Commission will be

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES,
room 123-S, Statehouse, at 8:00 a.m./~~p.m.~~ on February 17, 1987

responsible for development of new markets for Kansas coal and alternative uses of coal.

Jerry Coonrod testified in support of HB 2004 and proposed ballooned copy amendments to the bill (Attachment E). Mr. Coonrod voiced a concern that the electric utilities would be expected to help fund this program as stated in HB 2004, and opposes this as the Electric Power Research Industry (EPRI) now supports many research projects concerning sources of energy.

Discussion was held on membership of the Commission and possible concerns regarding acid rain from burning coal.

The Committee concurred in adding to the Coonrod proposed amendments the words "voluntary" before contribution in line 76 and in line 53 by adding "private" before business.

A motion was made to adopt the amendments (Attachment E) to HB 2004 by Senator Martin, seconded by Senator Langworthy. Motion carried.

A substitute motion to strike lines 62 - 66 of HB 2004 was made by Senator Hayden. Motion died for lack of a second.

A motion to favorably recommend HB 2004 as amended was made by Senator Martin seconded by Senator Vidricksen. Motion carried.

Meeting adjourned. The next meeting will be February 18, 1987.

Senate
Energy

Guest List
2-17-87

SHARAD BHATIA	KDHE , Topeka	862-9360
Gyula F. Kovach	KDHE , Topeka	862-9360
Jerry E. Denker	K Dept. Comm. Topeka	296-3483
TREVA DOTTED	Peoples Nat. Gas TOPEKA	235-5976
LON STANTON	Northern Nat. Gas Topeka	357-8121
Rick Kready	KPL Gas Service	296-6474
Randy Bultman	Empire District	316-429-2375
Jerry Coonrod	KGE	354-1741

_____ BILL NO. _____

By _____

AN ACT relating to water; concerning public water supply systems; amending K.S.A. 1986 Supp. 65-163 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1986 Supp. 65-163 is hereby amended to read as follows: K.S.A. 65-163. (a) (1) No person shall operate a public water supply system within the state without a public water supply system permit from the secretary. An application for a public water supply system permit shall be submitted for review and approval prior to construction and shall include: (A) A copy of the plans and specifications for the construction of the public water supply system or the extension thereof; (B) a description of the source from which the water supply is to be derived; (C) the proposed manner of storage, purification, or treatment or distribution for the supply; and (D) such other data and information as required by the secretary of health and environment. No source of water supply in substitution for or in addition to the source described in the application or in any subsequent application for which a public water supply system permit is issued shall be used by a public water supply system, nor shall any change be made in the manner of storage, purification, or treatment or distribution of the water supply without ~~an additional public water supply system permit obtained in a manner similar to that prescribed by this section~~ prior approval of From the secretary.

(2) Whenever application is made to the secretary for a public water supply system permit under the provisions of this

section, it shall be the duty of the secretary to examine the application without delay and, as soon as possible thereafter, to grant or deny the public water supply system permit subject to any conditions which may be imposed by the secretary to protect the public health and welfare. A permit to operate a public water supply system shall be issued for a term not to exceed five years and may be modified, suspended or revoked upon a finding by the secretary that (1) permit conditions have been violated or (2) any applicable laws, rules and regulations or design standards adopted in accordance with the provisions of this act, and amendments thereto, have been violated.

(b) (1) Whenever a complaint is made to the secretary by any city of the state, by a local health officer, or by a county or joint board of health concerning the sanitary quality of any water supplied to the public within the county in which the city, local health officer or county or joint board of health is located, the secretary shall investigate the public water supply system about which the complaint is made. Whenever the secretary has reason to believe that a public water supply system within the state is being operated in violation of an applicable state law or an applicable rule and regulation of the secretary, the secretary may investigate the public water supply system.

(2) Whenever an investigation of any public water supply system is undertaken by the secretary, it shall be the duty of the supplier of water under investigation to furnish to the secretary information to determine the sanitary quality of the water supplied to the public and to determine compliance with applicable state laws and rules and regulations. The secretary may issue an order requiring changes in the source or sources of the public water supply system or in the manner of storage, purification, ~~or~~ treatment or distribution utilized by the public water supply system before delivery to consumers, or distribution facilities, collectively or individually, as may in the secretary's judgment be necessary to safeguard the sanitary quality of

the water and bring about compliance with applicable state law and rules and regulations. The supplier of water shall comply with the order of the secretary.

(c) Any action of the secretary pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions. The court on review shall hear the case without delay.

(d) The secretary shall adopt rules and regulations for the issuance of a renewable public water supply system permit not to exceed a five-year term, and for the development and implementation of a public water supply protection plan to be submitted as part of a public water supply permit application. The rules and regulations will be applicable to new and existing public water supply systems. The secretary shall appoint an advisory task force consisting of not more than 15 members with balanced representation from cities, rural water districts, civil engineers in sanitary practice, health officers, other organizations, and the general public to assist the secretary in developing rules and regulations under this section for the following:

(1) procedures for issuance and reissuance of public water supply permits not to exceed a five-year term;

(2) specify the duties of state agencies, local governmental entities, and public water supply systems with respect to the development and implementation of this section;

(3) for each public water supply system, determine the protection areas based on all reasonably available hydrologic and hydrogeologic information such as groundwater flow, recharge and discharge and other information the secretary deems necessary to adequately determine the protection area;

(4) identify within each protection area all potential anthropogenic sources of contaminants which may have an adverse effect on the health of persons;

(5) describe a program that may contain, as appropriate, technical assistance, financial assistance, implementation of control measures, education, training, and demonstration projects to protect the water supply within the protection areas from such contaminants;

(6) include contingency plans for the location and provision of alternate drinking water supplies for each public water supply system in the event of contamination by such contaminants;
and

(7) include a requirement that consideration be given to all potential sources of such contaminants within the protection area of a public water supply system.

Sec. 2. K.S.A. 1986 Supp. 65-163 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Rev. 2-16-87

_____BILL NO. _____
BY _____

AN ACT requiring sanitary codes prescribing duties and authorities for the secretary of health and environment relating thereto.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. As used in this act: "Subdivision" means the division or redivision of a lot, tract, or other parcel of land into two (2) or more lots, tracts, parcels, or other divisions of land including changes in existing lot lines, excluding land used solely for agricultural purposes as defined in K.S.A. 65-185.

New Sec. 2. (a) For the purpose of protecting the health, welfare and safety of the residents of subdivisions that will not initially be connected to public water supply systems or sewerage systems, or both at the time of the approval of the subdivision plat, both within and without the corporate limits of cities and, in order to establish guidelines for local governing bodies in adopting their respective sanitary codes prepared under this act, the secretary of health and environment shall adopt rules and regulations to set forth procedures for approval of the minimum sanitary requirements for subdivision plats in counties without countywide wastewater management plans approved under K.S.A. 65-3308, et seq. or approved county sanitary codes under K.S.A. 19-3704, and amendments thereto, or in cities without an approved sanitary code under K.S.A. 12-3301, and amendments thereto and shall adopt regulations to establish guidelines, standards and procedures for the provision of water supply and sewerage facilities, and for the preparation and approval of sanitary codes. The secretary shall appoint an advisory task force consisting of not more than 15 members, with

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balanced representation from counties, cities, civil engineers in sanitary practice, planners, other organizations, and the general public to advise KDHE in developing minimum requirements and approval procedures for sanitary codes and for approval of minimum sanitary requirements for subdivision plats in counties without countywide wastewater management plans or approved sanitary codes, and in cities without approved sanitary codes.

(b) By July 1, 1990, each appropriate local governing body shall adopt an approved county sanitary code under K.S.A. 19-3704, and amendments thereto, or an approved city sanitary code under K.S.A. 12-3301, and amendments thereto, which shall conform to the rules and regulations of the secretary of health and environment. The secretary shall complete the review and either approve or provide written comments on any proposed sanitary code within 60 days after the receipt of the proposed code. If the secretary disapproves the proposed code, the secretary must state the reasons for the disapproval. Any action of the secretary pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions. The court on review shall hear the case without delay.

Sec. 3. (a) After the adoption of the sanitary code as required in section 2, or from and after July 1, 1990, whichever is sooner, no local governing body or its authorized representative having such powers under state law shall approve a subdivision plat or proposal which is not in compliance with its countywide wastewater management plan approved under K.S.A. 65-3308, et seq. or the approved county sanitary code under K.S.A. 19-3704, and amendments thereto, or a city sanitary code under K.S.A. 12-3301, and amendments thereto. The local governing body or authorized representative of such local governing body shall certify to the secretary of health and environment that the water supply or sewerage facility, or both, is in compliance.

(b) the sanitary code of each respective local governing body shall be updated, resubmitted, and approved under the provisions of section 2 of this act at least once every five years after initial approval of the secretary. This does not preclude a local governing body from making more frequent updates of the sanitary code provided the secretary's prior approval of the changes is obtained.

New Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

_____BILL NO. _____

By _____

AN ACT relating to the secretary of health and environment; pertaining to the use of lead in water supply systems, amending K.S.A. 65-171c and 65-171r and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 65-171c is hereby amended to read as follows: 65-171c. The secretary of health and environment may require a supplier of water to give notice to the persons served by the public water supply system and to the secretary of health and environment whenever the public water supply system:

(a) Is not in compliance with an applicable maximum contaminant level or treatment technique requirement of, or a testing procedure prescribed by, a primary drinking water standard adopted under K.S.A. 65-171m; or

(b) fails to perform monitoring, testing, analyzing or sampling as required; or

(c) is subject to a variance or exception; or

(d) is not in compliance with the requirements prescribed by a variance or exemption; or

(e) is subject to potential lead contamination from either or both of the following:

(1) the lead content in the construction materials of the public water distribution system;

(2) corrosivity of the water supply sufficient to cause leaching of lead.

The secretary of health and environment shall by rule and regulations prescribe the form and manner for giving such notice.

Sec. 2. K.S.A. 65-171r is hereby amended to read as follows: 65-171r. The following acts are prohibited:

(a) The operation of a public water supply system without first obtaining a valid public water supply system permit under K.S.A. 65-163;

(b) the operation of a public water supply system in violation of the conditions of the public water supply system permit under K.S.A. 65-163;

(c) the failure of a supplier of water under investigation to furnish information to the secretary under K.S.A. 65-163;

(d) the failure of a supplier of water to comply with any final order of the secretary issued under the provisions of K.S.A. 65-163 or 65-163a;

(e) the failure of a supplier of water to comply with a primary drinking water standard established under K.S.A. 65-171m and rules and regulations adopted pursuant thereto unless a variance or exception has been granted;

(f) the failure of a supplier of water to comply with the rules and regulations of the secretary for monitoring, maintenance of records and submission of reports, sampling and analysis of water and inspections adopted under K.S.A. 65-171m; and

(g) the failure of a supplier of water to give notice as required under K.S.A. 65-171o and rules and regulations adopted pursuant thereto;

(h) Using any pipe, solder, or flux in the installation or repair of any public water supply system or any plumbing in a residential or nonresidential facility providing water for human consumption which is not lead free except that this provision shall not apply to leaded joints necessary for the repair of cast iron pipes. For the purposes of this section the term "lead free" is defined as follows:

(1) when used with respect to solders and flux refers to solders and flux containing not more than 0.2 percent lead, and

(2) when used with respect to pipes and pipe fittings

refers to pipes and pipe fittings containing not more than 8.0 percent lead; and

(i) the sale of unmarked lead solders and fluxes after June 19, 1988. After June 19, 1988, a seller of lead solders and fluxes in Kansas shall not sell any solder or flux containing more than 0.2 percent lead unless the seller displays a sign and a label is affixed to the product which states:

"Contains Lead

Kansas law and Federal law prohibits the use of this product in any plumbing installation providing water for human consumption."

Sec. 3. K.S.A. 65-1710 and 65-171r are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

Article 34a.—CENTRAL INTERSTATE
LOW-LEVEL RADIOACTIVE WASTE
COMPACT

65-34a01. Central interstate low-level radioactive waste compact. The central interstate low-level radioactive waste compact is hereby entered into and enacted into law in the form substantially as follows:

ARTICLE I. POLICY AND PURPOSE

The party states recognize that each state is responsible for the management of its non-federal low-level radioactive wastes. They also recognize that the Congress, by enacting the Low-Level Radioactive Waste Policy Act (Public Law 96-573) has authorized and encouraged states to enter into compacts for the efficient management of wastes. It is the policy of the party states to cooperate in the protection of the health, safety and welfare of their citizens and the environment and to provide for and encourage the economical management of low-level radioactive wastes. It is the purpose of this compact to provide the framework for such a cooperative effort; to promote the health, safety and welfare of the citizens and the environment of the region; to limit the number of facilities needed to effectively and efficiently manage low-level radioactive wastes and to encourage the reduction of the generation thereof; and to distribute the costs, benefits and obligations among the party states.

ARTICLE II. DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

a. "Commission" means the Central Interstate Low-Level Radioactive Waste Commission;

b. "disposal" means the isolation and final disposition of waste;

c. "extended care" means the care of a regional facility including necessary corrective measures subsequent to its active use for waste management until such time as the regional facility no longer poses a threat to the environment or public health;

d. "facility" means any site, location, structure or property used or to be used for the management of waste;

e. "generator" means any person who, in the course of or as an incident to manufacturing, power generation, processing,

medical diagnosis and treatment, biomedical research, other industrial or commercial activity, other research or mining in a party state, produces or processes waste. "Generator" does not include any person who receives waste generated outside the region for subsequent shipment to a regional facility;

f. "host state" means any party state in which a regional facility is situated or is being developed;

g. "low-level radioactive waste" or "waste" means, as defined in the *Low-Level Radioactive Waste Policy Act* (Public Law 96-573), radioactive waste not classified as: High-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11 e.(2) of the Atomic Energy Act of 1954, as amended through 1978.

h. "management of waste" means the storage, treatment or disposal of waste;

i. "notification of each party state" means transmittal of written notice to the governor, presiding officer of each legislative body and any other persons designated by the party state's Commission member to receive such notice;

j. "party state" means any state which is a signatory party to this compact;

k. "person" means any individual, corporation, business enterprise or other legal entity, either public or private;

l. "region" means the area of the party states;

m. "regional facility" means a facility which is located within the region and which has been approved by the Commission for the benefit of the party states;

n. "site" means any property which is owned or leased by a generator and is contiguous to or divided only by a public or private way from the source of generation;

o. "state" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands or any other territorial possession of the United States;

p. "storage" means the holding of waste for treatment or disposal; and

q. "treatment" means any method, technique or process, including storage for radioactive decay, designed to change the physical, chemical or biological characteristics or composition of any waste in order to render such waste safer for trans-

port or management, amenable for recovery, convertible to another usable material or reduced in volume.

ARTICLE III. RIGHTS AND OBLIGATIONS

a. There shall be provided within the region one or more regional facilities which together provide sufficient capacity to manage all wastes generated within the region. It shall be the duty of regional facilities to accept compatible wastes generated in and from party states, and meeting the requirements of this act, and each party state shall have the right to have the wastes generated within its borders managed at such facility.

b. To the extent authorized by federal law and host state law, a host state shall regulate and license any regional facility within its borders and ensure the extended care of such facility.

c. Rates shall be charged to any user of the regional facility, set by the operator of a regional facility and shall be fair and reasonable and be subject to the approval of the host state. Such approval shall be based upon criteria established by the Commission.

d. A host state may establish fees which shall be charged to any user of a regional facility and which shall be in addition to the rates approved pursuant to section c. of this Article, for any regional facility within its borders. Such fees shall be reasonable and shall provide the host state with sufficient revenue to cover any costs associated with such facilities. If such fees have been reviewed and approved by the Commission and to the extent that such revenue is insufficient, all party states shall share the costs in a manner to be determined by the Commission.

e. To the extent authorized by federal law, each party state is responsible for enforcing any applicable federal and state laws and regulations pertaining to the packaging and transportation of waste generated within or passing through its borders and shall adopt practices that will ensure that waste shipments originating within its borders and destined for a regional facility will conform to applicable packaging and transportation laws and regulations.

f. Each party state has the right to rely on the good faith performance of each other party state.

g. Unless authorized by the Commission,

it shall be unlawful after January 1, 1986 for any person:

1. To deposit at a regional facility, waste not generated within the region;

2. to accept, at a regional facility, waste not generated within the region;

3. to export from the region, waste which is generated within the region; and

4. to transport waste from the site at which it is generated except to a regional facility.

ARTICLE IV. THE COMMISSION

a. There is hereby established the Central Interstate Low-Level Radioactive Waste Commission. The Commission shall consist of one voting member from each party state to be appointed according to the laws of each state. The appointing authority of each party state shall notify the Commission in writing of the identity of its member and any alternates. An alternate may act on behalf of the member only in the absence of such member. Each state is responsible for the expenses of its member of the Commission.

b. Each Commission member shall be entitled to one vote. Unless otherwise provided herein, no action of the Commission shall be binding unless a majority of the total membership casts its vote in the affirmative.

c. The Commission shall elect from among its membership a chairman. The Commission shall adopt and publish, in convenient form, by-laws and policies which are not inconsistent with this compact.

d. The Commission shall meet at least once a year and shall also meet upon the call of the chairman, by petition of a majority of the membership or upon the call of a host state member.

e. The Commission may initiate any proceedings or appear as an intervenor or party in interest before any court of law, or any federal, state or local agency, board or commission that has jurisdiction over any matter arising under or relating to the terms of the provisions of this compact. The Commission shall determine in which proceedings it shall intervene or otherwise appear and may arrange for such expert testimony, reports, evidence or other participation in such proceedings as may be necessary to represent its views.

f. The Commission may establish such

committees as it deems necessary for the purpose of advising the Commission on any and all matters pertaining to the management of waste.

g. The Commission may employ and compensate a staff limited only to those persons necessary to carry out its duties and functions. The Commission may also contract with and designate any person to perform necessary functions to assist the Commission. Unless otherwise required by acceptance of a federal grant the staff shall serve at the Commission's pleasure irrespective of the civil service, personnel or other merit laws of any of the party states or the federal government and shall be compensated from funds of the Commission.

h. Funding for the Commission shall be as follows:

1. The Commission shall set and approve its first annual budget as soon as practicable after its initial meeting. Party states shall equally contribute to the Commission budget on an annual basis, an amount not to exceed \$25,000 until surcharges are available for that purpose. Host states shall begin imposition of the surcharges provided for in this section as soon as practicable and shall remit to the Commission funds resulting from collection of such surcharges within 60 days of their receipt; and

2. each state hosting a regional facility shall annually levy surcharges on all users of such facilities, based on the volume and characteristics of wastes received at such facilities, the total of which:

(a) Shall be sufficient to cover the annual budget of the Commission; and

(b) shall be paid to the Commission, provided, however, that each host state collecting such surcharges may retain a portion of the collection sufficient to cover the administrative costs of collection, and that the remainder be sufficient only to cover the approved annual budget of the Commission.

i. The Commission shall keep accurate accounts of all receipts and disbursements. An independent certified public accountant shall annually audit all receipts and disbursements of Commission funds and submit an audit report to the Commission. Such audit report shall be made a part of the

annual report of the Commission required by this Article.

j. The Commission may accept for any of its purposes and functions any and all donations, grants of money, equipment, supplies, materials and services, conditional or otherwise from any person and may receive, utilize and dispose of same. The nature, amount and conditions, if any, attendant upon any donation or grant accepted pursuant to this section, together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the Commission.

k. (1) Except as otherwise provided herein, nothing in this compact shall be construed to alter the incidence of liability of any kind for any act, omission, course of conduct, or on account of any causal or other relationships. Generators, transporters of waste, owners and operators of facilities shall be liable for their acts, omissions, conduct or relationships in accordance with all laws relating thereto.

(2) The Commission herein established is a legal entity separate and distinct from the party states and shall be so liable for its actions. Liabilities of the Commission shall not be deemed liabilities of the party states. Members of the Commission shall not be personally liable for actions taken by them in their official capacity.

l. Any person or party state aggrieved by a final decision of the Commission may obtain judicial review of such decisions in the United States District Court in the District wherein the Commission maintains its headquarters by filing in such court a petition for review within 60 days after the Commission's final decision. Proceedings thereafter shall be in accordance with the rules of procedure applicable in such court.

m. The Commission shall:

1. Receive and approve the application of a non-party state to become a party state in accordance with Article VII;

2. submit an annual report to, and otherwise communicate with, the governors and the presiding officers of the legislative bodies of the party states regarding the activities of the Commission;

3. hear and negotiate disputes which may arise between the party states regarding this compact;

4. require of and obtain from the party states, and non-party states seeking to become party states, data and information necessary to the implementation of Commission and party states' responsibilities;

5. approve the development and operation of regional facilities in accordance with Article V;

6. notwithstanding any other provision of this compact, have the authority to enter into agreements with any person for the importation of waste into the region and for the right of access to facilities outside the region for waste generated within the region. Such authorization to import or export waste requires the approval of the Commission, including the affirmative vote of any host state which may be affected;

7. revoke the membership of a party state in accordance with Articles V and VII;

8. require all party states and other persons to perform their duties and obligations arising under this compact by an appropriate action in any forum designated in section e. of Article IV; and

9. take such action as may be necessary to perform its duties and functions as provided in this compact.

ARTICLE V. DEVELOPMENT AND OPERATION OF REGIONAL FACILITIES

a. Following the collection of sufficient data and information from the states, the Commission shall allow each party state the opportunity to volunteer as a host for a regional facility.

b. If no state volunteers or if no proposal identified by a volunteer state is deemed acceptable by the Commission, based on the criteria in section c. of this Article, then the Commission shall publicly seek applicants for the development and operation of regional facilities.

c. The Commission shall review and consider each applicant's proposal based upon the following criteria:

1. The capability of the applicant to obtain a license from the applicable authority;
2. the economic efficiency of each proposed regional facility, including the total estimated disposal and treatment costs per cubic foot of waste;
3. financial assurances;
4. accessibility to all party states; and
5. such other criteria as shall be deter-

mined by the Commission to be necessary for the selection of the best proposal, based on the health, safety and welfare of the citizens in the region and the party states.

d. The Commission shall make a preliminary selection of the proposal or proposals considered most likely to meet the criteria enumerated in section c. and the needs of the region.

e. Following notification of each party state of the results of the preliminary selection process, the Commission shall:

1. Authorize any person whose proposal has been selected to pursue licensure of the regional facility or facilities in accordance with the proposal originally submitted to the Commission or as modified with the approval of the Commission; and

2. require the appropriate state or states or the U.S. Nuclear Regulatory Commission to process all applications for permits and licenses required for the development and operation of any regional facility or facilities within a reasonable period from the time that a completed application is submitted.

f. The preliminary selection or selections made by the Commission pursuant to this Article shall become final and receive the Commission's approval as a regional facility upon the issuance of a license by the licensing authority. If a proposed regional facility fails to become licensed, the Commission shall make another selection pursuant to the procedures identified in this Article.

g. The Commission may by two-thirds affirmative vote of its membership, revoke the membership of any party state which, after notice and hearing shall be found to have arbitrarily or capriciously denied or delayed the issuance of a license or permit to any person authorized by the Commission to apply for such license or permit. Revocation shall be in the same manner as provided for in section e. of Article VII.

ARTICLE VI. OTHER LAWS AND REGULATIONS

a. Nothing in this compact shall be construed to:

1. Abrogate or limit the applicability of any act of Congress or diminish or otherwise impair the jurisdiction of any federal agency expressly conferred thereon by the Congress;

2. prevent the application of any law

which is not otherwise inconsistent with this compact;

3. prohibit or otherwise restrict the management of waste on the site where it is generated if such is otherwise lawful;

4. affect any judicial or administrative proceeding pending on the effective date of this compact;

5. alter the relations between, and the respective internal responsibilities of, the government of a party state and its subdivisions; and

6. affect the generation or management of waste generated by the federal government or federal research and development activities.

b. No party state shall pass or enforce any law or regulation which is inconsistent with this compact.

c. All laws and regulations or parts thereof of any party state which are inconsistent with this compact are hereby declared null and void for purposes of this compact. Any legal right, obligation, violation or penalty arising under such laws or regulations prior to enactment of this compact shall not be affected.

d. No law or regulation of a party state or of any subdivision or instrumentality thereof may be applied so as to restrict or make more costly or inconvenient access to any regional facility by the generators of another party state than for the generators of the state where the facility is situated.

ARTICLE VII. ELIGIBLE PARTIES,
WITHDRAWAL, REVOCATION,
ENTRY INTO FORCE,
TERMINATION

a. This compact shall have as initially eligible parties the states of Arkansas, Iowa, Kansas, Louisiana, Minnesota, Missouri, Nebraska, North Dakota and Oklahoma. Such initial eligibility shall terminate on January 1, 1984.

b. Any state may petition the Commission for eligibility. A petitioning state shall become eligible for membership in the compact upon the unanimous approval of the Commission.

c. An eligible state shall become a member of the compact and shall be bound by it after such state has enacted the compact into law. In no event shall the compact take effect in any state until it has been entered into force as provided for in section f. of this Article.

d. Any party state may withdraw from this compact by enacting a statute repealing the same. Unless permitted earlier by unanimous approval of the Commission, such withdrawal shall take effect five years after the governor of the withdrawing state has given notice in writing of such withdrawal to each governor of the party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

e. Any party state which fails to comply with the terms of this compact or fulfill its obligations hereunder may, after notice and hearing, have its privileges suspended or its membership in the compact revoked by the Commission. Revocation shall take effect one year from the date such party state receives written notice from the Commission of its action. The Commission may require such party state to pay to the Commission, for a period not to exceed five years from the date of notice of revocation, an amount determined by the Commission based on the anticipated fees which the generators of such party state would have paid to each regional facility and an amount equal to that which such party state would have contributed in accordance with section d. of Article III, in the event of insufficient revenues. The Commission shall use such funds to ensure the continued availability of safe and economical waste management facilities for all remaining party states. Such state shall also pay an amount equal to that which such party state would have contributed to the annual budget of the Commission if such party state would have remained a member of the compact. All legal rights established under this compact of any party state which has its membership revoked shall cease upon the effective date of revocation; however, any legal obligations of such party state arising prior to the effective date of revocation shall not cease until they have been fulfilled. Written notice of revocation of any state's membership in the compact shall be transmitted immediately following the vote of the Commission, by the chairman, to the governor of the affected party state, all other governors of the party states and the Congress of the United States.

f. This compact shall become effective after enactment by at least three eligible states and after consent has been given to it by the Congress. The Congress shall have the opportunity to withdraw such consent

every five years. Failure of the Congress to withdraw its consent affirmatively shall have the effect of renewing consent for an additional five year period. The consent given to this compact by the Congress shall extend to any future admittance of new party states under sections b. and c. of this Article and to the power to ban the exportation of waste pursuant to Article III.

g. The withdrawal of a party state from this compact under section d. of this Article or the revocation of a state's membership in this compact under section e. of this Article shall not affect the applicability of this compact to the remaining party states.

h. This compact shall be terminated when all party states have withdrawn pursuant to section d. of this Article.

ARTICLE VIII. PENALTIES

a. Each party state, consistent with its own law, shall prescribe and enforce penalties against any person for violation of any provision of this compact.

b. Each party state acknowledges that the receipt by a regional facility of waste packaged or transported in violation of applicable laws and regulations can result in sanctions which may include suspension or revocation of the violator's right of access to the regional facility.

ARTICLE IX. SEVERABILITY AND CONSTRUCTION

The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared by a court of competent jurisdiction to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters. The provisions of this compact shall be liberally construed to give effect to the purpose thereof.

History: L. 1982, ch. 254, § 1; July 1.

65-34a02. Same; representative on commission. The member of the central in-

terstate low-level radioactive waste commission representing the state of Kansas shall be the secretary of the department of health and environment. The director of the division of environment of the department of health and environment shall act as alternate to the secretary.

History: L. 1982, ch. 267, § 1; July 1.

65-34a03. Same; advisory board, membership and duties. (a) The advisory board on low-level radioactive waste is hereby established. Such board shall consult with and advise the state's representative to the compact commission concerning technical and policy matters.

(b) Such advisory board shall consist of:

(1) The secretary of the department of health and environment, who shall serve as chairperson;

(2) the director of the division of environment of the department of health and environment;

(3) the director of the bureau of radiation control of the department of health and environment;

(4) a representative of the governor's office, designated by the governor;

(5) the chairperson of the senate committee on energy and natural resources;

(6) a member of the senate committee on energy and natural resources, designated by the senate minority leader;

(7) the chairperson of the house committee on energy and natural resources;

(8) a member of the house committee on energy and natural resources, designated by the house minority leader; and

(9) two members appointed by the governor who shall serve at the pleasure of the governor.

The director of the legislative research department or a designee of such director, and the revisor of statutes or a designee of such revisor shall assist the advisory board.

History: L. 1982, ch. 267, § 2; July 1.

65-34a04. Same; corporation commission designated agency for rate review. For purposes of article III of the central interstate low-level radioactive waste compact, the state corporation commission is hereby designated as the rate-review agency for the state of Kansas.

History: L. 1982, ch. 267, § 3; July 1.

HOUSE BILL No. 2004

By Special Committee on Energy and Natural Resources

Re Proposal No. 7

12-15

0018 AN ACT establishing the Kansas coal commission.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. The Kansas coal commission is hereby estab-
0021 lished to study ways to expand existing markets and create new
0022 markets for Kansas coal.

0023 Sec. 2. (a) The commission shall be composed of 13 mem-
0024 bers as follows:

0025 (1) The secretary of commerce or the secretary's designee.

0026 (2) The governor shall appoint: Two representatives of the

0027 electric utility industry; two representatives of the coal industry;

0028 one representative of organized labor; one representative of the

0029 public with energy, environmental and consumer expertise; and

0030 one representative of local government.

0031 (3) The president of the senate, the minority leader of the

0032 senate, the speaker of the house of representatives and the

0033 minority leader of the house of representatives shall each ap-

0034 point one member to the commission.

0035 (4) The chairperson of the mined-land reclamation board or

0036 such person's designee, who shall be a nonvoting member ex

0037 officio.

0038 (b) The secretary of commerce or the secretary's designee

0039 shall be the chairperson. The commission may provide for the

0040 selection of other officers as it determines.

0041 Sec. 3. The commission shall conduct a survey of the fol-

0042 lowing:

0043 (a) Existing Kansas and federal statutes and regulations that

0044 either encourage or discourage the consumption of Kansas coal.

One representative

one representative

one representative of industry that uses coal
in manufacturing or processing;

or

; and one representative of a research
organization

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0045 (b) Kansas' coal transportation network and the challenges
 0046 confronting this important component of the overall coal deliv-
 0047 ery system.

0048 (c) Sulfur-removal and alternative combustion technologies
 0049 and their potential impact on the Kansas coal market.

0050 (d) Existing coal-related activities currently being under-
 0051 taken in Kansas by agencies of the federal or state governments,
 0052 as well as Kansas' private and public colleges, universities and,
 0053 research institutions.

and business

0054 Sec. 4. The commission shall conduct an appropriate study
 0055 and present an annual report to the legislature, through the
 0056 legislative coordinating council, no later than December 15 of
 0057 each year that addresses the following issues:

0058 (a) Ways in which the utilization of Kansas coal by Kansas
 0059 electric utilities and industry can be expanded.

0060 (b) Ways in which the export market for Kansas coal can be
 0061 expanded.

0062 ~~(c) Ways in which industrial and residential energy con-~~
 0063 ~~sumers can be encouraged to convert from oil and natural gas to~~
 0064 ~~Kansas coal.~~

(c) Ways in which industrial and resi-
 dential consumers can be encouraged to use
 Kansas coal.

0065 ~~(d) ~~(e)~~~~The potential market for Kansas coal as a feedstock for
 0066 alternative fuels.

0067 ~~(e) ~~(d)~~~~Recommended modifications, if any, of existing state
 0068 statutes or rules and regulations.

0069 ~~(f) ~~(e)~~~~Any other subject of study concerning coal-related
 0070 activities deemed appropriate by the commission.

0071 Sec. 5. (a) Funding for the commission's operating expenses
 0072 and activities shall be derived from funds appropriated to the
 0073 department of commerce. The department of commerce shall
 0074 provide staff assistance deemed necessary by the commission.
 0075 Funds required for any third-party studies called for by a major-
 0076 ity vote of the commission's members shall come from contribu-
 0077 tions by the utility and coal industries electric utilities and the
 0078 coal industry, as well as those funds made available to the
 0079 department of commerce.

0080 (b) The members of the commission attending meetings of
 0081 such commission, or attending a subcommittee meeting thereof

0082 authorized by such commission, shall be paid subsistence al-
0083 lowances, mileage and other expenses as provided in K.S.A.
0084 75-3223, and amendments thereto, upon vouchers approved by
0085 the chairperson of the commission or a person designated by the
0086 chairperson.

0087 Sec. 6. Except as provided in K.S.A. 74-7246, and amend-
0088 ments thereto, the Kansas coal commission shall be and is hereby
0089 abolished on July 1, 1989.

0090 Sec. 7. This act shall take effect and be in force from and
0091 after its publication in the statute book.