

Appr. 4/10/87  
Date

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 April 2, 19 87 in room 123-S of the Capitol.

All members were present except:

Committee staff present:

Ramon Powers - Research  
Don Hayward - Revisor  
Nancy Jones - Secretary

Conferees appearing before the committee:

Discussion by the Committee on:

SB 114 - Providing for the withdrawal of Kansas from the Central Interstate Compact  
SB 406 - Relating to the creation of a low level radioactive waste disposal authority  
HB 2108- Concerning radioactive waste disposal

Chairman Werts proposed a Senate Substitute for HB 2108 which would move it from hazardous waste chapter of KSA to the radioactive waste chapter and provide for no below grade disposal without approval of the legislature. Section Sub (a) would be stricken. (Attachment A)

Jim Power, Director of Environment, in response to a question, stated in his opinion this proposed legislation, Senate Substitute for HB 2108, could place a barrier to developers and complicate Compact action if Kansas remains a member. Senator Kerr expressed a concern that policies set and actions taken do not foreclose the use of the best technology to dispose of LLRW. It was noted that the Dames & Moore study is flawed which should offer some protection from penalties of the Compact and U.S. Department of Energy. Senator Hayden requested a poll of Committee members as to their views whether the Phase I and II studies are flawed. A show of hands was requested by Chairman Werts.

The Committee was unanimous in its judgement that the Phase I and II studies by Dames & Moore are flawed.

A motion to recommend introduction of Senate Substitute HB 2108 was made by Senator Kerr, seconded by Senator Langworthy.

A Substitute motion to recommend favorably SB 114 was made by Senator Martin, seconded by Senator Feleciano. The motion was declared out of order.

A motion was made by Senator Martin to amend SB 114 into HB 2108, seconded by Senator Feleciano.

Chairman Werts stated that under federal law Compact states are exempt from the supremacy clause of the U.S. Constitution and would thus be protected from in-shipments of waste from other states. A state "going it alone" may be subject to interstate traffic in LLRW. Senator Feleciano discussed in detail the possibility of severe penalties that could be assessed against Kansas by withdrawing. Senator Feleciano favors withdrawal from the Compact and consideration should be given to joining with other states to form a new LLRW compact. Dialogues have been undertaken by Senator Feleciano with personnel from Texas, North Dakota and South Dakota. He suggests that options are available and should be pursued. It was noted by Senator Feleciano that the estimated cost of the Dames & Moore studies was \$500,000 and the money was ill spent.

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Senator Kerr stated it would be safer environmentally for states to work together and we should not withdraw from the Compact, but keep options open in the best environmental and economic interest of Kansas. Senator Kerr stated his opposition to amending SB 114 into HB 2108 and feels KDHE and the legislature have not played an active enough part as a member of the Compact.

Senator Hayden recommended very strongly the creation of an interim joint committee to make on-site visits and hold conferences with other states to gain more information along with indepth research of all options. He feels this committee should be fully funded to work during the interim solely on the LLRW issue and a formal request should be made to the legislative leadership from this committee. There is a possibility a special session will be called and the interim committee's recommendations could be considered then. Senator Gordon concurred with Senator Hayden.

Senator Feleciano feels the DOE deadline of 1-1-88 cannot be ignored and a decision must be made now to pull out of the Compact and take care of our own waste since it is indicated that Kansas likely will be selected as the host state.

On the motion to amend SB 114 into HB 2108, a recorded vote was requested.  
Voting for the motion: Senators Martin, Feleciano, Vidricksen, Yost.  
Voting against the motion: Senators Thiessen, Daniels, Kerr, Werts, Langworthy, Hayden, Gordon.      The motion failed 7 to 4.

Senator Hayden requested the record show a public disclaimer from him regarding any possible personal interest in land offered as a potential disposal facility site in his area as he has no personal or financial interest in possible transactions of land for a facility. The tactics and methods being used to influence the Committee are unacceptable and very disturbing to Senator Hayden.

On the motion to recommend introduction of Senate Substitute HB 2108, the motion carried with a unanimous vote.

Discussion on SB 406 by the Committee.

Chairman Werts feels the proposed legislation needs further study and there are four options to be considered:

1. Even though the bill has some shortcomings, send the bill to the Governor now in order that a clear message be sent to the Compact and request an interim study to consider proposals for cleanup as needed in the 1988 session.
2. Request leadership to provide time during the recess for study to consider proposals for consideration and possible final action during the veto session.
3. Request interim study and, if a special session is called, submit a committee report with recommendations for final action at that time.
4. Continuation of interim study if there is no special session, with recommendations for final action early in the 1988 session.

Chairman Werts suggested that ongoing interim study of SB 406 and related issues should indicate clearly to the Compact Commission and Department of Energy the intentions of Kansas; thus we should be in compliance with the spirit of the Federal laws and any Compact policies. Adequate funding for a

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Joint Committee to make out-of-state trips and/or provide travel expenses for conferees should be requested. The Joint Committee should have a high priority with no other study proposals being charged to this select committee. Any Compact contract with a developer should indicate clearly that Kansas will be the developer if SB 406 is enacted and if Kansas is chosen as the host state.

A motion was made by Senator Kerr to recommend SB 406 for interim study, seconded by Senator Thiessen. Motion carried by unanimous vote.

The interest and input of citizens on these issues were commended by members of the Committee.

Chairman Werts thanked the Committee members for their work during this session.

Meeting adjourned.

# Senate Energy - Guest List

4-2-87

Ree Robinson	B. Y. Bobb	Sabetha, Ka
Alice McClain	RR #2	Doff, Ks.
Tanice Kramer	RR #2	Goff, Ks
Jane Richman	RR #2	Doff, Ks
<del>Arnold B. Harty</del>	Box 97	Corning Ks
Sharil Wilson		Topeka
Candy Guerin	RR 2	Frankfort, Ks
David Hude	RR 2	"
John K. Blythe	Manhattan	KFB
Rep. Keith Roe		
<del>John K. Blythe</del>		Jewell, Ks
<del>Cale K. Kark</del>		Manhattan Ks
Justin Menhusen		Jewell Ks.
<del>John W. Wain</del>		Jewell Ks
<del>Patrick Fegan</del>		Frankfort Ks.
Lybelle Peper		Frankfort Ks.
Joe Perue		" "
Arnie Lamier		" "
Heather Hedrick		" "
Danny Deten		Corning, Kansas
Mary Fund	Ko. Rural Center	Whiting
Dick Schmidt		Manpools Ks
Gotta Rusel		Frankfort, Ks.
Gabriel Peper		Frankfort, Kan.
TAMERIKNE Wilson		" "
Aaron Kweskin		" "
Euca Glynn		" "
Henry Hansen		" "

Mark M. McDaniel	Beloit KS	No Dump Please
Lucia Meakerson	Jewell Kansas	NCK Cityes
Adrian Arnoldy	Traylor	" "
Triscilla Arnoldy	Osborne	" "
Virgil R. Jenks	Cawker City	" "
Mary Beth Steulage	Corning, KS	
Gale Lyman	Manhattan, KS.	
Franklin Russell	Blue Rapids, KS.	
Faith Gude	Frankfort, KS	no Dump
Tucia Lyman	Blue Rapids, KS.	no dump!
Dorothy New	Smith Center, KS.	
Robert A. G. Wie	Smith Center, KS.	
Marion Gernuttler	Smith Center KS	
Jim + Rosalie Clusted	Beattie KS	
TRAVIS Clusted	Beattie	
Dennis G'Neil	Beattie KS.	
Ed Reinert	Topeka	KS L W Vs
Jeff Brockhoff	Hiawatha, KS	
Sean Boyer	Mayville KS	
Alan Kestice	Frankfort KS	
Tim Clusted	Beattie, KS.	
Mary Thompson	KDHE	
Tom Kirtott	Manhattan, KS	
John Rempel	Corning, KS	
Gladys Rempel	Corning, KS.	
Woody Woodman	KCFE 2	
<del>Ross</del> Manbr	KPC	
Jerry Reschke	Hiawatha, KS.	

Phil McClain	Doff, Kans	
Walter Davis	Wetmore, KS	
Patsy Rush	Topeka, KS	
Christina Colbert	Lawrence	
Shaun McGrath	Topeka	Sierra Club
Lisbeth Byer	Topeka	KNRC
Jimmy Gentry	Manhattan	
Joe Fischer	Manhattan	
Jerry Leonard	Topeka	KBE
George Dietrich	Topeka	
Warren Lee Poyner	Marion, KS	
Lawrence J. Boeckman	Doff, KS	
Constantine Hermesch	Doff, KS	
Leo J. Hermesch	Doff, KS	
Dolores Boeckman	Doff, KS	
Clara Niehues	Wetmore, KS	
Harold Spiker	Topeka	KDHSE
James Power	"	"

accordance with K.S.A. 48-1608 and amendments thereto.

(c) On the request of the secretary, the attorney general is authorized to institute a civil action to collect any penalty imposed pursuant to this section. The attorney general shall have the exclusive power to compromise, mitigate or remit such civil penalties as are referred for collection.

(d) All moneys collected from civil penalties shall be paid to the state treasurer for deposit in the general fund. Moneys collected from civil penalties shall not be used for normal operating expenses of the department except as appropriations are made from the general fund in the normal budgetary process.

History: L. 1963, ch. 290, § 13; L. 1984, 198, § 11; L. 1986, ch. 318, § 73; July 1.

**8-1615.** Inspection agreements. The secretary is authorized to enter into, subject to the approval of the governor, an agreement or agreements with the federal government, other states or interstate agencies, whereby this state will perform on a cooperative basis with the federal government, other states or interstate agencies, inspections or other functions relating to control of sources of radiation.

History: L. 1963, ch. 290, § 15; L. 1972, ch. 207, § 9; L. 1984, ch. 198, § 12; July 1.

**48-1620.** License approval by hazardous waste disposal facility approval board required. The hazardous waste disposal facility approval board shall review and grant final approval for each commercial low-level radioactive waste disposal facility license in the same manner as provided in K.S.A. 65-3433 *et seq.*, and amendments thereto.

History: L. 1984, ch. 198, § 13; July 1.

**48-1621.** Terms and conditions of licenses; transfer of title to state, when. (a) Any radioactive materials license issued or renewed after the effective date of this act for any activity which results in the production of by-product material or source material mill tailings shall contain such terms and conditions as the secretary determines to be necessary to assure that, prior to termination of such license:

(1) The licensee will comply with de-

Senate Substitute for House Bill 2108

An act concerning low-level radioactive waste; relating to the disposal thereof; amending K.S.A. 1986 Supp. 48-1620 and repealing the existing section.

The board shall not approve any such license which would permit the disposal of low-level radioactive waste below the natural level of the disposal site unless: (a) State or federal regulatory programs for low-level radioactive waste preclude above grade disposal; or (b) the board, subject to legislative approval, has determined that below grade disposal provides greater protection than above grade disposal for the environment and public health for the period of time for which such low-level radioactive waste may continue to pose a hazard to the environment and public health.

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