

Approved 2-18-88  
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./~~p.m.~~ on February 16, 1988 in room 123-S of the Capitol.

All members were present except:

Committee staff present:

Don Hayward - Revisor  
Nancy Jones - Secretary

Laura Howard - Research  
Raney Gilliland - Research

Conferees appearing before the committee:

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

Discussion continued on:

SB 455 - Enacting the environmental response act

Chairman Werts asked committee members to give their attention to the motion by Senator Hayden that is before the committee regarding the definition of responsible persons. (Attachment I)

The motion had been made by Senator Hayden at the February 11, 1988 meeting to add language "significantly" to (1) before public health or the environment and add "significantly" in (5) before contamination at the contaminated site, seconded by Senator Langworthy.

Upon reflection, Senator Hayden reworded his motion to adopt the definition of responsible persons as proposed by KDHE with the addition of the word "significantly" in (1) before threaten public health and the word "significant" before contamination in (5); seconded by Senator Langworthy.

A substitute motion was made by Senator Kerr to adopt the definition of responsible persons as presented by KDHE; seconded by Senator Vidricksen. Motion carried.

A motion was made by Senator Yost to amend into the definition of responsible persons "knowingly" before contributed in (2) and before accepts or accepted in (5); seconded by Senator Martin.

Discussion was held by the committee regarding the full meaning and legal interpretation of the language "knowingly", "significantly" and "knows or should have known".

The possible litigation problems and responsibility of owners of landfill sites as they relate to proposed language changes were discussed.

A substitute motion was made by Senator Daniels conceptually to amend the definition of responsible persons by adding "knew or should have known" before contributed in (2) and also before accept or accepted in (5):seconded by Senator Langworthy. Motion failed on a hand count 5 to 6 .

Chairman Werts asked permission of the committee to change his vote to yes. There was no challenge to the request.

The substitute motion by Senator Daniels carried on a 6 to 5 vote.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES,  
room 123-S Statehouse, at 8:00 a.m./~~p.m.~~ on February 16, 1988

The staff of KDHE stated the phrase "knew or should have known" is a standard employed in legal language regularly as in Section 7 and is patterned after laws in Wisconsin and Massachusetts. If the term "knowingly" is used, it implies a higher standard of proof.

Senator Yost feels use of the language "owner" in (3) of the definition of responsible persons is unclear as to whether it relates to a current owner or future owner. By consensus, the word "such" was used for clarification to replace "the" before the clause "owner knew or should have known".

Inclusion of language clarifying the responsibility of any previous owner is needed as this is a concern of the committee.

A motion was made by Senator Feleciano to strike lines 312 through 328  
Section 7 (a) of SB 455, seconded by Senator Yost. Motion carried.

Meeting adjourned. The next meeting will be February 17, 1988.

2-16-88

# Guest List

Stan Grant	KDHE
Jamcy Power	"
Ron Hammarschmidt	KDHE
Dennis Murphy	KDHE
Pat Casey	KDHE
Brian LaRue	KCC/mixed-Land Board
Dave Cortiss	Lg of Municipalities
Margaret Baggs	Ks Water Office
Kathy Duncan	
Mary Ann Bradford	League of Women Voters
Margaret Ahrens	Ks Chapter - Service Club
Charlene Stinard	Ks Natural Resource Council
Levy Conrad	KG & E
Don Schmucke	KIOGA
John Blythe	K.F.B.
John Strickler	Gov's Office
Bill Bryson	KCC
Alan Steppat	Pete McGill & Associates
Rob Hodges	KCCI

Defintion of Responsible Person(s) for Senate Bill 455 .

"Responsible Person" means (1) any owner or operator who knew or should have known at the time a release occurred that the release was likely to threaten public health or the environment; (2) any person whose act or omission whether occurring before or after the effective date of this act, contributed to a contaminated site or threat of contamination requiring remedial action to protect public health or the environment; (3) owner who purchases the land where a contaminated site is located only if the owner knew or should have known of the existence of the contaminated site at the time of purchase; (4) any person who by contract, agreement or otherwise arranged for disposal or treatment, or arranged for transportation of the contaminants to the contaminated site; (5) any person who accepts or accepted materials which led to contamination at the contaminated site; (6) any person violating any applicable statutes, rule and regulation, plan approval, or order in effect at the time the contamination occurred, and the violation caused or contributed to the contamination at the site; (7) any subsidiary or parent corporation of an owner or operator meeting the criteria in the other sections of this definition.

ATTACH I  
2-16-88