

Approved: \_\_\_\_\_  
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Senator David Corbin at 8:13 a.m. on March 10, 1999 in Room 254-E of the Capitol.

All members were present except: Senator Pugh who was excused.

Committee staff present:

Raney Gilliland, Legislative Research Department  
Mary Ann Torrence, Revisor of Statutes Office  
Lila McClafin, Committee Secretary

Conferees appearing before the committee:

Bill Bider, Kansas Department Health & Environment (KDHE)  
Steve Kearney, Waste Management of Kansas  
Pat Lehman, Heartland Chapter of Certified Hazardous Material  
David Cosloy, President, Mid-Continent of the Certified Hazardous Materials Manager  
Craig Templeton, Vice President, Environmental Management Resources, Inc.  
Gary Mason, Integrated Solutions  
Ron Gaches, Kansas Society of Professional Engineers, (KSPE)

Others attending:

See attached list.

The hearing on **HB 2145: Solid waste; relating to certain permits.**

Bill Bider, KDHE, was called on to testify. Mr. Bider said the bill was introduced by their agency. As currently written, the bill would make two changes to the solid waste statutes to improve the permitting provisions. The first change involves the transfer of certain landfill permits. The second change addresses land ownership for certain types of landfills. Mr. Bider distributed a balloon that incorporates **HB 2147** into **HB 2145**. He said **HB 2147** had no opposition in the House Committee. They just didn't have time to work the bill before the deadline (Attachment 1).

Steve Kearney, Waste Management of Kansas, requested an amendment that would attempt to clarify "new facility" without definition. This is an attempt to clarify at least in this narrow application what is not included (Attachment 2).

The hearing was closed on **HB 2145**.

Chairperson Corbin opened the hearing on **SB 332: Concerning hazardous materials; relating to the certification of certain consultants and contractors.**

Pat Lehman, representing Heartland Chapter of Certified Hazardous Materials Managers (CHMM) said the purpose of the bill is to give state certification to professional hazardous materials managers who have become trained and qualified through education and years of experience on the job. The proposed legislation was model after State of Nevada statute. A balloon draft of a Substitute for SB 332 was distributed. The Substitute bill takes out the section dealing with certification of underground storage tanks. His testimony gives a brief overview of the substitute bill (Attachment 3).

David Cosloy, president of the Mid-Continent Chapter of the Certified Hazardous Materials Managers CHMM, supported the legislation. His chapter of CHMM think that this legislation is beneficial to Kansas (Attachment 4). He responded to several questions.

Craig Templeton, Vice President, Environmental Management Resources, Inc., Lawrence, Kansas, supported the bill. His firm is heavily involved in the railroad industry where hazardous materials are a part of everyday life. The CHMM is presently the only standard he was aware of that would immediately

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 254-E Statehouse, at 8:00 a.m. on March 10, 1999.

tell you what you need to understand about an incident to handle a serious hazmat incident (Attachment 5)

Gary Mason , operations manager, Integrated Solutions, a consulting firm located in Wichita, supported the bill. However, he had some concerns with Paragraphs 4 and 5 of Section 12 that require the consultant to report the finding of releases to its client and to the State (Attachment 6). Responding to a question Mr. Mason said he thought the legislation would heighten the quality of services and would require some firms to provide better services.

Written testimony was provided by:

Joseph Chandler, FEMA, Technological Hazards Program Specialist for Region 7 (Attachment 7), and Paul Studebaker, Certified Hazardous Materials Manager (CHMM), (Attachment 8).

Bill Bider, Director, Bureau of Waste Management, KDHE, spoke in opposition to **SB 332**. He said KDHE is unaware of a clear environmental need to implement the proposed certification process. The only state to implement a similar certification is Nevada. Further he did not think the \$100 application fee would completely cover the department's cost of administering this program, which will likely exceed \$175,000. per year. The bill does not specify where the application fees should be deposited (Attachment 9). Mr. Bider said some of their comments maybe somewhat out of date with the proposed substitute bill draft, however they stick to their position to oppose the bill. Responding to a question Mr. Bider said he did not think the proposed legislation would cover the staff of a physicians office. He further stated the funds received would probably not cover more than one-half of the cost to the department for administrating the program.

Ron Gaches spoke against the bill. He urged the committee to carefully consider whether the bill was needed. And if they determined that action was needed to address any shortfalls in current law, he urged them to eliminate any unnecessary and redundant certification requirements of BTP licensed Professional Engineers and Geologists (Attachment 10).

Chairperson referred back to **HB 2145**. A motion was made by Senator Morris to adopted the purpose amendment that would incorporate HB 2147 into HB 2145. Senator Vratil seconded the motion. The motion carried.

Senator Biggs moved to adopt the minutes of March 9, 1999. Senator Huelskamp seconded the motion. The motion carried.

The meeting adjourned at 8:56 a.m. The next meeting will be on March 11, 1999.







**KANSAS**  
**DEPARTMENT OF HEALTH & ENVIRONMENT**  
BILL GRAVES, GOVERNOR  
Clyde D. Graeber, Acting Secretary

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Testimony presented to

**Senate Energy and Natural Resources Committee**

March 10, 1999

by

William L. Bider, Director, Bureau of Waste Management  
Kansas Department of Health and Environment

**House Bill 2145**

Thank you for this opportunity to provide testimony in support of House Bill 2145 which was introduced by KDHE. As currently written, HB 2145 makes two changes to the solid waste statutes to improve the permitting provisions set forth in K.S.A. 65-3407. The first change involves the transfer of certain landfill permits. The second change addresses land ownership for certain types of landfills.

KDHE recommends incorporating the provisions of HB 2147, another KDHE solid waste bill, into HB 2145 because time did not allow that bill to be worked in the House Environment Committee. A hearing was held on HB 2147 and there was no opposition to the bill which adds to KDHE's authority to approve of certain unpermitted solid waste disposal activities. HB 2147 is exactly the same as a bill which was passed by the Senate last year 40 to 0. Despite there being no opposition last year, the bill died in the House for lack of time.

**Transfer of Certain Landfill Permits**

Current state law prohibits the transfer of all solid waste permits. This provision was added to the solid waste statutes to minimize the possibility that a company could buy a Kansas landfill and convert it to a major regional or national landfill without ensuring that such a change was consistent with the county solid waste management plan. This bill would allow landfill permits to be transferred in very limited cases. The allowable scenarios could not result in the conversion of the transferred permit into a large landfill which serves areas outside of the affected county.

The only types of landfill permits which would be transferrable are for facilities which receive only waste which is generated on-site. This could be construction and demolition waste or industrial process waste. The only allowable change in the permit would be a name change



caused by a company merger, acquisition, sale, or corporate restructuring. The types and amounts of waste which enter the landfill would not change.

This new provision would allow for smoother business transactions because on-site landfills could be transferred with other business assets. There would be no need to carry out the time-consuming landfill permitting process with the possibility that a period of time would occur when no active permit existed for the on-site landfill. The elimination of this requirement also saves both the new and old companies money and staff time by not having to complete the permitting process.

### **Land Ownership for Certain New Landfills**

Current state law does not require landfill permit holders to own the land on which they operate their landfill. KDHE has discovered that several old, and mostly small, municipal solid waste landfills are operated by permit holders on leased land. Despite not needing to own the land, state law does require the permit holder to be responsible for the long-term care of the site for at least 30 years after closing the landfill. A permittee who does not own the land could abandon the site and leave post-closure responsibilities to the landowner, who is usually a farmer or rancher, without the resources or expertise to properly care for the site.

To avoid innocent landowner and state liability, KDHE recommends adding a requirement to the law for permit applicants to own the land where they intend to operate landfills which have long-term post-closure liabilities. This requirement would be applied to all applications received after July 1, 1999 for new municipal solid waste landfills and new industrial landfills which have leachate collection systems, gas collection systems, or groundwater monitoring networks. The requirement would not be retroactively applied to existing landfills or horizontal expansions of old landfills onto leased property, if the existing landfills are on leased property.

Another factor related to land ownership is that federal and state groundwater monitoring regulations require that the permit holder "own" the property where their required monitoring wells are located. Wells must also be located on the permitted site, so the landfill property must be owned to comply with this regulation. This change in the statute will make the law and regulation consistent. KDHE proposes to maintain a variance to the groundwater regulation for the old landfills which were started on leased property long before the regulation was adopted.

If landfill permit holders are required to own the land where they operate their landfill, they will have greater incentives to care for the property to minimize their long-term liabilities and to maximize the value of the property after closure.

**Addition of HB 2147 Provisions**

KDHE has attached a balloon which incorporates HB 2147 into HB 2145. This addition to the bill would authorize KDHE to approve of the following four types of disposal activities without requiring the responsible party to obtain a permit:

- The disposal of construction and demolition waste from a building demolition project on the site where the building had existed.
- The disposal of waste generated as the result of a transportation accident on property adjacent to or near the site of the accident, if the property owner and local officials agree with the action.
- The disposal of whole unprocessed livestock carcasses if the animals died as the result of a natural disaster or whether their presence has created emergency conditions which could impact human health or safety.
- The waste resulting from natural disasters such as floods, tornados, and fires.

Criteria already exists in the law which direct KDHE to carry out an approval process which ensures that unpermitted disposal practices do not impact human health or the environment. In addition, KDHE seeks counsel from local officials prior to approving of any unpermitted disposal practices. These safeguards and the benefits related to reduced disposal costs and cleanup efficiency make this change to the statutes desirable from everyone's perspective.

KDHE appreciates this opportunity to provide testimony in support of an amended version of HB 2145.

**Kearney Law Office**

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# Memo

**To:** Chairman Corbin and members of the Senate Energy and Natural Resource Committee

**From:** Steve Kearney

**Date:** 03/10/99

**Re:** HB 2145

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I am requesting on behalf of Waste Management of Kansas your favorable consideration of the attached balloon. It is clarifying in nature concerning an amendment by KDHE in the House.

The KDHE amendment in the House created what appears to be a new term of art "new facility" without definition. This is an attempt to clarify at least in this narrow application what is not included.

Thank you for your consideration.



1 cility or solid waste disposal area, the secretary shall require the following  
2 information as part of the application:

3 (1) Certification by the board of county commissioners or the mayor  
4 of a designated city responsible for the development and adoption of the  
5 solid waste management plan for the location where the processing facility  
6 or disposal area is or will be located that the processing facility or disposal  
7 area is consistent with the plan. This certification shall not apply to a solid  
8 waste disposal area for disposal of only solid waste produced on site from  
9 manufacturing and industrial processes or from on-site construction or  
10 demolition activities.

11 (2) If the location is zoned, certification by the local planning and  
12 zoning authority that the processing facility or disposal area is consistent  
13 with local land use restrictions or, if the location is not zoned, certification  
14 from the board of county commissioners that the processing facility or  
15 disposal area is compatible with surrounding land use.

16 (3) *For any solid waste disposal area permit issued for a new facility*  
17 *on or after July 1, 1999, proof that the permittee owns the land where the*  
18 *disposal area will be located, if the disposal area is:*

- 19 ~~A~~ <sup>1</sup> A municipal solid waste landfill; or
- 20 ~~B~~ <sup>2</sup> a solid waste disposal area that has: ~~(A)~~ <sup>1</sup> A leachate or gas collec-  
21 tion or treatment system; ~~(B)~~ <sup>2</sup> waste containment systems or appurte-  
22 nances with planned maintenance schedules; or ~~(C)~~ <sup>3</sup> an environmental  
23 monitoring system with planned maintenance schedules or periodic sam-  
24 pling and analysis requirements.

25 Sec. 2. K.S.A. 1998 Supp. 65-3407 is hereby repealed.

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



(C) For this subsection, “new facility” shall not apply to a lateral or vertical expansion on to land contiguous to a permitted solid waste disposal area in operation on the effective date of this act.

TESTIMONY BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

March 10, 1999

by Patrick Lehman, representing Heartland Chapter of CHMM

I represent the Heartland Chapter of Certified Hazardous Materials Managers. On behalf of that group, we have requested SB 332. The purpose of this bill is give state certification to professional hazardous materials managers who have become trained and qualified through education and years of experience on the job. Other conferees will explain more about the role of CHMMs in the business of hazardous materials management.

A significant number of CHMMs are employed by large corporations currently residing and doing business in Kansas. Big companies have to implement the laws dealing with hazardous materials, so they have hired these professionals to oversee and ensure that the companies are in compliance with the laws. Having CHMMs certified through a state agency would build a close working relationship between those that are doing the day-to-day work of dealing with hazardous materials and those of the regulatory agency.

In addition, CHMMs are well-represented on Local Emergency Planning Committees.

Nevada is currently the only state to require certification of CHMMs. The reason for the Substitute for Senate Bill 332 is because the Nevada law was used as the model, and it included the underground storage tank certification that is already covered by Kansas law. The substitute bill removes any reference to that.

I will give you a brief overview of the bill:

- It contains a list the definitions pertaining to the bill.
- The certification process will be within the Kansas Department of Health and Environment. The bill also lists who is exempt from this requirement.

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- It requires that someone providing services for a fee, if not a CHMM, must be under the direction and control of a person who is a certified environmental manager or a certified specialist.
- It lists the requirements that an applicant must fulfill.
- It allows for two classifications, one as an environmental manager and one as specialist in the management of hazardous substances. The requirements for each are slightly different.
- The bill allows that certification by another state having requirements that are the same as or exceed the requirements for certification in Kansas will be valid.
- It has a renewal requirement.
- It has a section to allow certification to be suspended, revoked or denied for renewal in the case of failure to meet the requirements of this law.
- The secretary shall recognize any professional registration or certification if the standards are the same as or exceed the requirements for accreditation by the Council on Engineering and Scientific Specialty Boards.
- A fee fund is established to be expended for purposes of administration and enforcement of this act.
- The bill allows the secretary to adopt any rules and regulations necessary for the implementation of this act.

Thank you for allowing me to provide testimony on Substitute for Senate Bill 332.

I would be glad to answer any questions you may have.

Mr. Chairman and members of the committee, my name is David Cosloy and I want to thank you for allowing me the opportunity to testify before you today. I am the chapter president of the Mid-Continent Chapter of the Certified Hazardous Materials Managers based in Wichita. I am a Certified Hazardous Materials Manager, a Certified Environmental Trainer, an Occupational Health and Safety Technologist and hold a Master of Science Degree in Environmental Studies. Our membership has asked me to comment on this legislation (SB332).

It is the belief of the membership of the Mid-Continent CHMM Chapter that this legislation is beneficial to Kansas. It would ensure the people hired to work with hazardous waste have a good knowledge of regulations, understand the proper handling of materials, and have a background necessary to deal with emergencies. Currently, the regulations do not require individuals to be certified to do the work in this field. This legislation would better ensure the level of competence to address what has been and will continue to be a problem.

Many fields similar to hazardous waste have certification programs. We require specific education and experience for nurses. We feel this bill would add a level of protection for our environment. I think everyone would agree that the decisions we make every day in handling waste require more than a cursory knowledge of the field.

While the Kansas Department of Health & Environment is concerned about cost, I would suggest they would support the idea that professionals in compliance should be able to demonstrate knowledge of detailed issues that come before them. While there is concern it would cost more to handle the certification process, the money would be well spent due to the reduction in time spent in explaining what and why they are auditing, what is and is not compliant and the auditors could get on to more important issues.

No one can argue that the field of hazardous materials and waste is critical to the future of Kansas and that a healthy environment would make a better life for all citizens. This legislation will make a good start at ensuring those people who are doing the work in industry are qualified to make the day to day decisions to improve the environment and keep the state in compliance with the laws.

Again, thank you for allowing me to appear today. I would be happy to try to answer any questions the committee may have.

David Cosloy  
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**Testimony before the  
Kansas Senate Energy and Natural Resources Committee**

**Regarding Senate Bill No. 332,  
An act related to the certification of certain  
Hazardous Materials Consultants and Contractors**

**By Craig Templeton, Vice President  
Environmental Management Resources, Inc.  
Lawrence, Kansas**

**March 10, 1999**

My firm is heavily involved in the railroad industry where hazardous materials are a part of everyday life — and almost every train. In the rail industry, the classification of Certified Hazardous Materials Manager is highly revered. When there is a train wreck, the incident response commander will typically be making fast decisions that may have serious impact on not only the environment, but likely also the life or health of nearby residents or inhabitants. It is critical that the incident commander have a wide range of knowledge regarding chemical fate, reactivity of various mixes, effects of wind and weather, the list goes on. One day your life may depend on it.

The CHMM is presently the only standard I am aware of that would immediately tell you what you need to understand about an incident commander's ability to handle a serious hazmat incident.

Whether handling hazardous materials in a catastrophic release incident, or devising a plan to dispose of chemicals from the local high school chem class exercises, the liabilities associated with mistakes are not that different. Case law records bear out that much of the environmental risk and liability is borne by the "owner" or generator of the hazardous material. Whatever standards we can lay forth to help these owners or generators to better understand the credentials of the consultants they hire will benefit us all.

As hazardous materials become more of a fact of life, it will be increasingly important for us all to have the confidence in the professionals handling the hazardous materials — similar to the confidence we place in our doctors, engineers, geologists and so forth. If the public is to have any input as to the standards and expectations for such professionals, Senate Bill 332 will provide the vehicle. It will give Kansas a mechanism to begin the process of establishing professional standards for environmentally sound hazardous materials management.

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**SENATE BILL 332**

**Testimony provided by Gary Mason**

**March 10, 1999**

My name is Gary Mason. I am the operations manager and a principal of Integrated Solutions. Integrated Solutions is an environmental, health, and safety consulting firm located in Wichita, Kansas. We have been in existence since 1990 and have 20 employees. Our client base ranges from very small businesses to several fortune 100 companies. I am a Certified Hazardous Materials Manager and a member of the local Wichita chapter.

This bill should help raise the professional level of consulting being provided to the business community. I know firms which, if tested today, would not pass certifications and in my opinion provide poor consulting to the regulated community. This is not a large group, but they are out there.

I am supportive of the bill, however I do have a couple of concerns that I wish to identify.

Paragraphs (4) and (5) of Section 12 require the consultant to report the finding of releases to its client and to the State.

Typically, a client will hire us. If we find an imminent health concern we will immediately advise the client of the concerns and tell them to notify the State. Recently, this occurred with a client on the sampling of a private water well. The client immediately provided bottled water. Reporting to your client is the appropriate thing to do and telling them what to do to comply is also very important.

However, I believe notifying the State of releases could be counter productive. Let me explain. If a client wants to hire me to investigate a potential problem, I tell them up front that I am obligated by law to report my findings to the State. I know of several occasions where the client would not hire my firm to investigate. In these cases the problems you want to find would not be identified.

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*Futter*

**Prepared Testimony by Joseph C. Chandler, CHMM #1842  
for the  
Senate Energy Committee  
March 10, 1999**

**Background**

The Certified Hazardous Materials Managers (CHMM) credential was created in 1984 by the Institute of Hazardous Materials Management. Because the function of the Institute is to certify, test, and recertify CHMMs, they could not have members, and therefore could not provide membership benefits. The Academy of Certified Hazardous Materials Managers was then created to operate as the membership organization for CHMMs. The CHMM program has four basis objectives:

- Provide credential recognition to environmental professionals engaged in the management and control of hazardous materials who have demonstrated a degree of skill and competence.
- Foster continued professional development of the CHMM through continuing education, peer interaction, and technical stimulation.
- Facilitate the transfer of knowledge and experience among professionals and organizations concerned with hazardous materials management.
- Provide government, industry, and academia with an avenue for identifying professionals who have met the standards for certification.

Today more than 8,000 environmental professionals are members of the CHMM.

The origin of Heartland Chapter of the ACHMM can be traced to 12 environmental professionals attending a meeting on December 5, 1990 to discuss options for forming a local chapter. In 1992 a national charter was obtained for the chapter and in 1993 the chapter adopted bylaws and became incorporated as the Heartland Chapter of the ACHMM. Also in 1992 the Chapter developed a CHMM Review Course and Examination Program in conjunction with the University of Kansas Department of Continuing Education. Today the Heartland Chapter represents the concerns of over 150 environmental professionals.

**What Does Certification Mean**

Candidates for the CHMM must pass a professional examination developed and administered by the Institute. Eligibility to take the exam, and the level of certification are determined by the candidate's education and experience. The Institute requires the CHMM provide documentation of continuous proficiency by applying for recertification every five years. The CHMM also must pledge to maintain a standard of integrity through the CHMM Code of Ethics. This program ensures that the CHMM must meet a high professional standard, and participate in professional development activities to maintain their CHMM certification.

**What Does Certification Mean to me**

From a personnel standpoint the CHMM has been instrumental in assisting me with implementation of FEMA's Hazardous Materials Strategy. Although I have been FEMA's Technological Hazards Program Specialist for Region 7 for only a short time, I have utilized the support structure of the CHMM to assist with implementing this strategy. My duties as the Tech Hazards Specialist include assisting state and local government in their preparedness for

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hazardous materials emergencies, provide technical assistance to those communities, and support the National and Regional Response System. With very limited resources to accomplish my mission (basically I'm the only person in the region with this function), I have used the CHMM as a support mechanism. A couple of examples include development of a Risk Management Program (RMP) to convey the chemical risk under 112 (r) of the Clean Air Act Amendments and development of a hazardous materials exercise.

The RMP program was compiled in conjunction with EPA and the CHMM Training and Education Committee. It was designed to provide LEPCs with an overview and how the LEPC fits into the RMP process. For the ACHMM National Conference we developed a hazardous materials exercise to allow attendees to observe the design and implementation process involved with conducting a hazardous materials exercise.

Because I operate a one-person program, organizations such as the CHMM are also instrumental in keeping myself knowledgeable and up-to-date in changes in regulations and technology. This process would become very burdensome if required to do exclusively on my own.

Prior to going to work at FEMA I was the Technical Assistance Team (TAT) program manager under contract for EPA Region 7. As the TAT manager I was responsible for the oversight of a multidisciplinary team working with EPA's response and removal program. The continuing education process required of the CHMM helped to ensure that the environmental regulations and technology applied were appropriate and relevant to meet the goals and objectives of the program.

When dealing with a fellow CHMM, I know that I am dealing with an environmental professional who has at least a base knowledge of environmental regulations, understands the principles involved in technology (chemistry, toxicology, biology, etc.), and is actively working in the field of hazardous materials management. The CHMM code of ethics is also an important aspect because as a public employee the programs I develop become public domain. By having a code of ethics I have additional assurances that the training programs developed will be used for their intended purpose, and not used for the financial gain of unscrupulous individuals or organizations. It is for the above-mentioned reasons that I favor credentialing individuals involved with the management of hazardous materials.

*written*

**To: Senate Energy and Natural Resource Committee**

Mr. Chairman and members of the committee, thank you for the opportunity to comment on proposed Senate Bill 332 an act concerning the certification of environmental professionals. My name is Paul Studebaker. I am co-founder and past president of the Heartland Chapter of the Academy of Certified Hazardous Materials Managers, currently serving as a national director of the Academy of Certified Hazardous Materials Managers. Although educated as a chemical engineer I have been involved in the management of environmental issues and concerns for the past 25+ years.

The rather broadly defined field of environmental management has emerged in response to the need for a source of specialized professionals to implement the multitude of Federal and state environmental regulation propagated since the environmental awareness movement began circa 1970. These professionals are drawn from varied academic disciplines and have taken additional measures to obtain the expertise necessary to become proficient in environmental management and the administration of environmental, health and safety regulations. The need for certification of these professionals has been recognized by the "industry" for the past fifteen years when the Institute of Hazardous Materials Management first began the CHMM program. I believe the environmental management profession has now matured to the extent that a state licensing and or certification program could benefit the citizens of Kansas by assuring that those individuals maintaining and improving the Kansas environment are duly qualified.

Thanks again for considering these comments

Paul W. Studebaker, CHMM  
817 N 1750 Road  
Lawrence, KS 66049



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**KANSAS**  
**DEPARTMENT OF HEALTH & ENVIRONMENT**  
BILL GRAVES, GOVERNOR  
Clyde D. Graeber, Acting Secretary

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Testimony presented to

**Senate Energy and Natural Resources Committee**

March 10, 1999

by

William L. Bider  
Director, Bureau of Waste Management  
Kansas Department of Health and Environment

**Senate Bill 332**

The Department of Health and Environment appreciates this opportunity to provide testimony in opposition to Senate Bill 332. This bill directs the department to develop and administer a new certification program for individuals who provide paid services related to: (1) hazardous waste management; (2) the installation, repair, upgrade, closure, or testing of underground storage tanks; and (3) the broad category of environmental management.

KDHE recognizes the importance of using only qualified individuals to perform environmental services; however, we question the need for another technical certification program. Most of the technical professionals covered by this new certification process are already covered by one or more other existing registration or licensing requirements, or they are working under the direction of such a person. The major existing licensing requirements for individuals covered by this bill include: Professional Engineers and Geologists (K.S.A. 74-7001 et. seq.); water well drillers (K.S.A. 82a-1206); underground storage tank installers and repair/upgrade contractors (K.S.A. 65-34,110); and asbestos removal contractors (K.S.A. 65-5301).

KDHE is unaware of a clear environmental need to implement the proposed certification process. While some anecdotal stories may exist about poor advice given by an unqualified service-provider, one could also identify similar problems resulting from a person who holds a professional license. Only one other state, Nevada, has implemented a similar certification process to cover environmental professionals in the general manner proposed by this bill.

The development and administration of this new certification program would require considerable staff resources which are not currently available within the department. As drafted, hundreds, or perhaps over 1000, individuals would need to be certified to provide their services

in Kansas. Experience administering similar programs, leads KDHE to conclude that a minimum of three new staff members would be needed. This includes two technical professionals to: (1) develop and grade tests; (2) provide training and guidelines to applicants; and (3) review application materials for adequacy. A third person to perform the administration aspects of the certification program would also be needed. KDHE does not believe that the \$100 application fee will completely cover the department's cost of administering this program, which will likely exceed \$175,000 per year. Thus, state general funds will be needed to either fully support the program or supplement fees, if the department has access to those fees. The bill does not specify where the application fees should be deposited.

The department recognizes that some changes to this bill are being considered by the proponents of the bill which would eliminate some of our concerns, especially those related to duplication of license requirements for certain service-providers. However, we would like to point out that the very broad category of "environmental manager" defined in the bill covers virtually everyone who does environmental work. If this bill does move forward with amendments, this definition should be changed to clearly state that certain types of workers, or persons holding existing licenses, are not considered "environmental managers" for the purposes of this law.

Overall, KDHE believes there are adequate safeguards in-place in Kansas to ensure that most environmental services are provided by qualified persons. Several licensing requirements exist which cover most workers and facilities are routinely monitored under various inspection programs to ensure compliance with applicable regulations. In addition, most remediation work occurs under the conditions of consent agreements with the department or under direct contract with the department. In these cases, the department carefully examines qualifications and capabilities of service-providers.

Thank you for this opportunity to provide testimony on SB 332.





# Kansas Society of Professional Engineers

*A state society of the National Society of Professional Engineers*

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**Testimony before the  
Senate Energy and Natural Resources Committee  
On behalf of  
Kansas Society of Professional Engineers  
Presented by  
Ron Gaches  
Regarding**

**SB 332 – Relating to the certification of certain consultants and contractors  
Wednesday, March 10, 1999**

I am Ron Gaches, Executive Vice President of the Kansas Society of Professional Engineers. KSPE is a statewide association of nearly 1000 licensed Professional Engineers. KSPE members serve Kansas in a wide variety of public and private sectors positions including: city, county and state government; consulting firms, public utilities, large and small industrial and manufacturing firms, and at our Regents institutions. Despite the wide variety of positions they hold KSPE members all share a common mission: To enhance the public health, safety and welfare by supporting state licensure of Professional Engineers.

I was present when SB 332 was discussed at a recent informal meeting involving several members of the Board of Technical Professions (BTP). Among the participants at that meeting were licensed representatives of the Professional Engineers and Professional Geologists. One of those participating BTP members was Charles Stryker, P.E., President of CAS Construction here in Topeka. Mr. Stryker is also a member of the KSPE Executive Committee and Board of Directors. Another BTP member present was Dr. Don Rathbone, P.E., former Dean of Engineering at Kansas State University.

It was the consensus of opinion of the BTP members present that the licensure requirements of SB 332 were redundant and unnecessary as they apply to engineers and geologist who are already licensed by the Board of Technical Professions. State licensed Professional Engineers and Geologists must be graduates of a four-year accredited professional degree program, serve as a professional in training for a specified number of years within their chosen field, and pass a 16 hour licensure exam administered by the BTP. These standards are as rigorous or more rigorous than those contained in SB 332.

Although our KSPE Board of Directors has not yet had time to meet and formulate an official policy position regarding SB 332, it is my opinion, based on discussions with a few of our board members, that they will probably oppose the proposed certification requirements as unnecessary and redundant as it relates to licensed Professional Engineers.

Professionals licensed by the Board of Technical Professions are already performing much of the environmental remediation work being conducted in Kansas. I urge you to carefully consider whether this bill is needed. If action is needed to address any shortfalls in current law, I urge you to eliminate any unnecessary and redundant certification requirements of BTP licensed Professional Engineers and Geologists.

Senate Energy & Natural Resources

Attachment: 10

Date: 3-10-99

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