

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT.

The meeting was called to order by Chairperson Joann Freeborn at 3:30 p.m. on February 21, 2002 in Room 231-N of the Capitol.

All members were present except: Representative Jeff Peterson - excused
Representative Ted Powers - excused

Committee staff present: Emalene Correll, Kansas Legislative Research Department
Raney Gilliland, Kansas Legislative Research Department
Mary Torrence, Revisor of Statute's Office
Mary Ann Graham, Committee Secretary

Conferees appearing before the committee: Bill Bider, Director, Bureau of Waste Management, KS
Department of Health & Environment, 1000 SW Jackson, Ste.
320, Topeka, KS 66612
Chiquita Cornelius, Kansas Business & Industry Recycling
Program, 2933 SW Woodside Drive, Topeka, KS 66614

Others attending: See Attached Sheet

Chairperson Joann Freeborn called the meeting to order at 3:30 p.m. She announced that the Sub-Committee Chairperson Becky Hutchins does not have a report on **SB264**, but hopes to have it completed by next Tuesday, February 26.

Chairperson Freeborn announced that, she as Chairperson of the Sub-Committee for **HB2703**, held a meeting on Wednesday, February 20 and recommended to the Sub-Committee that they could independently work on amendments to present to the committee today.

The Chairperson opened **HB2703** for discussion and possible action.

HB2703: Classes of construction and demolition landfills

Bill Bider, Director, Bureau of Waste Management, KDHE, was welcomed to the committee. He presented a balloon to the bill and explained the changes that had been made. (See attachment 1)

Rep. Don Myers made a motion the amendments submitted by KDHE be adopted. Rep. Dennis McKinney seconded the motion. Motion carried.

The Chairperson recognized Rep. Laura McClure. She explained language of an amendment submitted by the industry. (See attachment 2)

Scott Young, representing Construction and Demolition Landfills Association, addressed the committee and answered questions concerning the industry amendment.

Bill Bider, Director, Bureau of Waste Management, KDHE, responded to questions concerning the amendment submitted by the industry.

Rep. Bill Light made a motion to adopt the amendment submitted by the industry. Rep. Sharon Schwartz seconded the motion. Motion failed.

Rep. Laura McClure made a motion to pass the bill as amended. Rep. Don Myers seconded the motion. Motion carried. Rep. Dan Thimesch will carry the bill on the House Floor.

Chairperson Freeborn opened **HB2830** for discussion and possible action.

HB2830: Environmental use controls; prohibition or restriction of activities on or use of property where contamination has occurred.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT, Room 231-N of the Capitol
at 3:30 p.m. on February 21, 2002.

The Chairperson called the committee's attention to page 3 of the bill. She suggested that in section 3, (d), line 27, "county clerk" be changed to "Register of Deeds".

Rep. Becky Hutchins made a motion to change "county clerk" to "Register of Deeds". Rep. Tom Sloan seconded the motion. Motion carried.

Rep. Bruce Larkin made a motion to remove "directed to" on page 6, line 2 and insert "may". Rep. Becky Hutchins seconded the motion. Motion carried.

Rep. Tom Sloan made a motion to delete lines 31 thru 33 and lines 38 thru 40 on page 5 of the bill. Rep. Dennis McKinney seconded the motion. Motion carried.

Rep. Dennis McKinney made a motion to amend (b), section 7, page 6, "that requires the system for tracking environmental use controls to be maintained in a manner that allows the system to be searched by city and/or county". Rep. Bill Light seconded the motion. Motion carried.

Rep. Tom Sloan made a motion to amend (b), section 7, page 6, "that requires the tracking system to include information on the cause and type of the environment contamination involved". Rep. Bruce Larkin seconded the motion. Motion carried.

Rep. Tom Sloan made a motion the bill be passed favorably as amended. Rep. Ray Merrick seconded the motion. Motion carried. Rep. Tom Sloan will carry the bill on the House Floor.

The Chairperson opened the hearing on **HB2915**.

HB2915: Department of Health and Environment directed to become involved in certain product stewardship programs.

The Chairperson recognized Rep. Laura McClure. She presented testimony on behalf Rep. Annie Kuether in support of the bill. This bill allows the Secretary of the Kansas Department of Health and Environment (KDHE) to establish rules and regulations regarding the solid waste management program and directs KDHE to become more involved in national and regional product stewardship initiatives. The costs are estimated to be \$77,000. Bill Bider of KDHE will address these issues in his testimony. All uses benefit waste reduction and are a benefit to all of Kansas. (See attachment 3)

Bill Bider, Director, Bureau of Waste Management, KDHE, was welcomed. He presented testimony in support of the bill. The department worked with Representative Kuether and other members of the legislature to develop this bill as an alternative to an initial proposal to ban the landfill disposal of cathode ray tubes (CRTs). Over the past two years, the disposal of CRTs and other consumer electronics has received a great deal of attention, both because of the increasing volume of this waste stream and because there are some toxic components in these wastes. The primary environmental concern in CRTs is the lead in the monitor screen. KDHE has no environmental concerns associated with the disposal of this leaded glass in their well controlled and monitored municipal solid waste landfills, but do have concerns about filling these landfills up with these high volume wastes. The bill authorizes KDHE to enter into a contract with a statewide recycling organization to help implement product stewardship in Kansas. Department staff effort would be limited and absorbed by existing staff with responsibilities related to solid waste planning, public education, and technical training. Most work would be implemented under a contract with a private organization such as the Kansas Business and Industry Recycling Program (BIRP). KDHE has estimated that the annual cost of such a contract would be approximately \$75,000. This would cover the costs of one full time staff person and travel and operating expenses. KDHE would also experience expenses related to membership fees for product stewardship organizations (about \$2,000 per year). These expenses would be funded from the dedicated solid waste management fund. (See attachment 4)

The Chairperson welcomed Chiquita Cornelius, Executive Director, Kansas Business and Industry Recycling Program, Inc.(BIRP) Kansas BIRP testified in a neutral position to the bill and has concerns with the current language on page 3, lines 6 and 7 "to implement such principles within this state." They support and feel it

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT, Room 231-N of the Capitol
at 3:30 p.m. on February 21, 2002.

is very important for Kansas to be represented and included in the dialogue at the national and regional levels as new programs and initiatives are explored and programs adopted as a result of these principals. They feel certain, however, that it may not be feasible or practical to implement all the programs developed around the stated principles. (See attachment 5) A recommended change in the language, page 3, lines 5 through 7, was distributed to the committee. (See attachment 6) Discussion followed.

The Chairperson closed the hearing on **HB2915** and announced that final action may be taken on this bill in the next committee meeting on Tuesday, February 26. Final action may be taken on **SB264** at that time.

Gary Blackburn, Director, Bureau of Environmental Remediation, KDHE, distributed information in regard to a question posed by Rep. Dennis McKinney in committee on February 19 in regard to **HB2830**. (See attachment 7)

The meeting adjourned at 5:05 p.m. The next meeting is scheduled for Tuesday, February 26, 2002.

HOUSE ENVIRONMENT COMMITTEE GUEST LIST

DATE: February 21, 2002

NAME	REPRESENTING
Michael Whit	Kearney Law Office
Bill Sneed	C&D Landfill
Scott Young	C&D Landfill
Wendy Marks	KAPA
Wendy Moses	ICAPA
Todd Johnson	KLA
Judy Melin	Ks. Assn of Counties
Bill Bider	KDHE
Joe Fund	KDHE
Janet Stubbbs	KBIA
DENNY KOCH	POLINEW SRAALON WELFE
Chiquita Cornelius	Kansas B.I.R.P.
Rick Bean	KDHE
Gary Blackburn	KDHE
Charles Benjamin	Sierra Club - KS Chapter
Leslie Kaufman	Ks Farm Bureau

HOUSE BILL No. 2703

By Committee on Environment

1-25

AN ACT concerning solid waste; relating to construction and demolition landfills; amending K.S.A. 2001 Supp. 65-3402 and repealing the existing section.

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

Section 1. K.S.A. 2001 Supp. 65-3402 is hereby amended to read as follows: 65-3402. As used in this act, unless the context otherwise requires:

(a) "Solid waste" means garbage, refuse, waste tires as defined by K.S.A. 65-3424, and amendments thereto, and other discarded materials, including, but not limited to, solid, semisolid, sludges, liquid and contained gaseous waste materials resulting from industrial, commercial, agricultural and domestic activities. Solid waste does not include hazardous wastes as defined by subsection (f) of K.S.A. 65-3430, and amendments thereto, recyclables or the waste of domestic animals as described by subsection (a)(1) of K.S.A. 65-3409, and amendments thereto.

(b) "Solid waste management system" means the entire process of storage, collection, transportation, processing, and disposal of solid wastes by any person engaging in such process as a business, or by any state agency, city, authority, county or any combination thereof.

(c) "Solid waste processing facility" means incinerator, composting facility, household hazardous waste facility, waste-to-energy facility, transfer station, reclamation facility or any other location where solid wastes are consolidated, temporarily stored, salvaged or otherwise processed prior to being transported to a final disposal site. This term does not include a scrap material recycling and processing facility.

(d) "Solid waste disposal area" means any area used for the disposal of solid waste from more than one residential premises, or one or more commercial, industrial, manufacturing or municipal operations. "Solid waste disposal area" includes all property described or included within any permit issued pursuant to K.S.A. 65-3407, and amendments thereto.

(e) "Person" means individual, partnership, firm, trust, company, association, corporation, individual or individuals having controlling or majority interest in a corporation, institution, political subdivision, state agency or federal department or agency.

House Environment
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Attachment 1

- 1 (f) "Waters of the state" means all streams and springs, and all bodies
2 of surface or groundwater, whether natural or artificial, within the bound-
3 aries of the state.
- 4 (g) "Secretary" means the secretary of health and environment.
- 5 (h) "Department" means the Kansas department of health and
6 environment.
- 7 (i) "Disposal" means the discharge, deposit, injection, dumping, spill-
8 ing, leaking or placing of any solid waste into or on any land or water so
9 that such solid waste or any constituent thereof may enter the environ-
10 ment or be emitted into the air or discharged into any water.
- 11 (j) "Open dumping" means the disposal of solid waste at any solid
12 waste disposal area or facility which is not permitted by the secretary
13 under the authority of K.S.A. 65-3407, and amendments thereto, or the
14 disposal of solid waste contrary to rules and regulations adopted pursuant
15 to K.S.A. 65-3406, and amendments thereto.
- 16 (k) "Generator" means any person who produces or brings into ex-
17 istence solid waste.
- 18 (l) "Monitoring" means all procedures used to (1) systematically in-
19 spect and collect data on the operational parameters of a facility, an area
20 or a transporter, or (2) to systematically collect and analyze data on the
21 quality of the air, groundwater, surface water or soils on or in the vicinity
22 of a solid waste processing facility or solid waste disposal area.
- 23 (m) "Closure" means the permanent cessation of active disposal op-
24 erations, abandonment of the disposal area, revocation of the permit or
25 filling with waste of all areas and volume specified in the permit and
26 preparing the area for the long-term care.
- 27 (n) "Postclosure" means that period of time subsequent to closure of
28 a solid waste disposal area when actions at the site must be performed.
- 29 (o) "Reclamation facility" means any location at which material con-
30 taining a component defined as a hazardous substance pursuant to K.S.A.
31 65-3452a and amendments thereto or as an industrial waste pursuant to
32 this section is processed.
- 33 (p) "Designated city" means a city or group of cities which, through
34 interlocal agreement with the county in which they are located, is dele-
35 gated the responsibility for preparation, adoption or implementation of
36 the county solid waste plan.
- 37 (q) "Nonhazardous special waste" means any solid waste designated
38 by the secretary as requiring extraordinary handling in a solid waste dis-
39 posal area.
- 40 (r) "Recyclables" means any materials that will be used or reused, or
41 prepared for use or reuse, as an ingredient in an industrial process to
42 make a product, or as an effective substitute for a commercial product.
43 "Recyclables" includes, but is not limited to, paper, glass, plastic, munic-

1 ipal water treatment residues, as defined by K.S.A. 65-163 and amend-
2 ments thereto, and metal, but does not include yard waste.

3 (s) "Scrap material processing industry" means any person who ac-
4 cepts, processes and markets recyclables.

5 (t) "Scrap material recycling and processing facility" means a fixed
6 location that utilizes machinery and equipment for processing only
7 recyclables.

8 (u) "Construction and demolition waste" means solid waste resulting
9 from the construction, remodeling, repair and demolition of structures,
10 roads, sidewalks and utilities; untreated wood and untreated sawdust from
11 any source; solid waste consisting of motor vehicle window glass; and solid
12 waste consisting of vegetation from land clearing and grubbing, utility
13 maintenance, and seasonal or storm-related cleanup. Such wastes include,
14 but are not limited to, bricks, concrete and other masonry materials, roof-
15 ing materials, soil, rock, wood, wood products, wall or floor coverings,
16 plaster, drywall, plumbing fixtures, electrical wiring, electrical compo-
17 nents containing no hazardous materials, nonasbestos insulation and con-
18 struction related packaging. "Construction and demolition waste" shall
19 not include waste material containing friable asbestos, garbage, furniture,
20 appliances, electrical equipment containing hazardous materials, tires,
21 drums and containers even though such wastes resulted from construction
22 and demolition activities. Clean rubble that is mixed with other construc-
23 tion and demolition waste during demolition or transportation shall be
24 considered to be construction and demolition waste.

treated wood from construction or demolition projects; small amounts of municipal solid waste generated by the consumption of food and drinks at construction or demolition sites including, but not limited to, cups, bags, and bottles;

25 (v) "Construction and demolition landfill" means a class I or class II
26 construction landfill as follows:

27 (1) "Class I construction and demolition landfill" means a permitted
28 solid waste disposal area used for the disposal of construction and dem-
29 olition waste and other waste materials commonly generated at construc-
30 tion or demolition sites, including but not limited to: (A) ~~Small amounts~~
31 ~~of municipal solid waste such as lunch bags, cups, boxes, bottles and news~~
32 ~~papers;~~ (B) chemical containers which have been emptied to the extent
33 practicable; (C) furniture and appliances from which ozone depleting
34 chlorofluorocarbons have been removed in accordance with the provisions
35 of the federal clean air act; and (D) friable asbestos which is disposed of
36 in a designated area approved by the department.

caulking tubes

37 (2) "Class II construction and demolition landfill" means a permitted
38 solid waste disposal area used exclusively for the disposal ~~on land~~ of con-
39 struction and demolition wastes. ~~This term~~ "Class II construction and
40 demolition landfill" shall not include a site that is used exclusively for the
41 disposal of clean rubble.

42 (w) "Clean rubble" means inert uncontaminated construction and
43 demolition waste which includes concrete and concrete products, rein-

1 forcing steel, asphalt pavement, brick, soil or rock.

2 (x) "Industrial waste" means all solid waste resulting from manufac-
3 turing, commercial and industrial processes which is not suitable for dis-
4 charge to a sanitary sewer or treatment in a community sewage treatment
5 plant or is not beneficially used in a manner that meets the definition of
6 recyclables. Industrial waste includes, but is not limited to: Mining wastes
7 from extraction, beneficiation and processing of ores and minerals unless
8 those minerals are returned to the mine site; fly ash, bottom ash, slag and
9 flue gas emission wastes generated primarily from the combustion of coal
10 or other fossil fuels; cement kiln dust; waste oil and sludges; waste oil
11 filters; and fluorescent lamps.

12 (y) "Composting facility" means any facility that composts wastes and
13 has a composting area larger than one-half acre.

14 (z) "Household hazardous waste facility" means a facility established
15 for the purpose of collecting, accumulating and managing household haz-
16 ardous waste and may also include small quantity generator waste or ag-
17 ricultural pesticide waste, or both. Household hazardous wastes are con-
18 sumer products that when discarded exhibit hazardous characteristics.

19 (aa) "Waste-to-energy facility" means a facility that processes solid
20 waste to produce energy or fuel.

21 (bb) "Transfer station" means any facility where solid wastes are
22 transferred from one vehicle to another or where solid wastes are stored
23 and consolidated before being transported elsewhere, but shall not in-
24 clude a collection box provided for public use as a part of a county-op-
25 erated solid waste management system if the box is not equipped with
26 compaction mechanisms or has a volume smaller than 20 cubic yards.

27 (cc) "Municipal solid waste landfill" means a solid waste disposal area
28 where residential waste is placed for disposal. A municipal solid waste
29 landfill also may receive other nonhazardous wastes, including commer-
30 cial solid waste, sludge and industrial solid waste.

31 (dd) "Construction related packaging" means small quantities of
32 packaging wastes that are generated in the construction, remodeling or
33 repair of structures and related appurtenances. "Construction related
34 packaging" does not include packaging wastes that are generated at retail
35 establishments selling construction materials, chemical containers gen-
36 erated from any source or packaging wastes generated during mainte-
37 nance of existing structures.

38 Sec. 2. K.S.A. 2001 Supp. 65-3402 is hereby repealed.

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

41

42

43

House Environment
2-21-02
Attachment 2

1 water treatment residues, as defined by K.S.A. 65-163 and amend-
2 nts thereto, and metal, but does not include yard waste.

3 (s) "Scrap material processing industry" means any person who ac-
4 cepts, processes and markets recyclables.

5 (t) "Scrap material recycling and processing facility" means a fixed
6 location that utilizes machinery and equipment for processing only
7 recyclables.

8 (u) "Construction and demolition waste" means solid waste resulting
9 from the construction, remodeling, repair and demolition of structures,
10 roads, sidewalks and utilities; untreated wood and untreated sawdust from
11 any source; solid waste consisting of motor vehicle window glass; and solid
12 waste consisting of vegetation from land clearing and grubbing, utility
13 maintenance, and seasonal or storm-related cleanup. Such wastes include,
14 but are not limited to, bricks, concrete and other masonry materials, roof-
15 ing materials, soil, rock, wood, wood products, wall or floor coverings,
16 plaster, drywall, plumbing fixtures, electrical wiring, electrical compo-
17 nents containing no hazardous materials, nonasbestos insulation and con-
18 struction related packaging. "Construction and demolition waste" shall
19 not include waste material containing friable asbestos, garbage, furniture,
20 appliances, electrical equipment containing hazardous materials, tires,
21 drums and containers even though such wastes resulted from construction
22 and demolition activities. Clean rubble that is mixed with other construction
23 and demolition waste during demolition or transportation shall be
24 considered to be construction and demolition waste.

treated wood from construction or demolition projects; small amounts of municipal solid waste generated by the consumption of food and drinks at construction or demolition sites, including, but not limited to, cups, bags and bottles; chemical containers which have been emptied to the extent practicable; furniture and appliances from which ozone depleting chlorofluorocarbons have been removed in accordance with the provisions of the federal clean air act;

25 (v) "Construction and demolition landfill" means a class I or class II
26 construction landfill as follows:

27 (1) "Class I construction and demolition landfill" means a permitted
28 solid waste disposal area used for the disposal of construction and dem-
29 olition waste and ~~other~~ waste materials commonly generated at construc-
30 tion or demolition sites, including but not limited to: (A) Small amounts
31 of municipal solid waste such as lunch bags, cups, boxes, bottles and news-
32 papers; (B) chemical containers which have been emptied to the extent
33 practicable; (C) furniture and appliances from which ozone depleting
34 chlorofluorocarbons have been removed in accordance with the provisions
35 of the federal clean air act; and (D) friable asbestos which is disposed of
36 in a designated area approved by the department.

the following

(A) Hazardous waste generated by a conditionally exempt small quantity generator; and (B)

37 (2) "Class II construction and demolition landfill" means a permitted
38 solid waste disposal area used exclusively for the disposal ~~on land~~ of con-
39 struction and demolition wastes. This term "Class II construction and
40 demolition landfill" shall not include a site that is used exclusively for the
41 disposal of clean rubble.

42 (v) "Clean rubble" means inert uncontaminated construction and
43 olution waste which includes concrete and concrete products, rein-

ANNIE KUETHER

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HOUSE OF
REPRESENTATIVES

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MEMBER: HIGHER EDUCATION
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ON FEDERAL AFFAIRS
JOINT COMMITTEE ON NEW ECONOMY
CHAIR: SHAWNEE COUNTY LEGISLATIVE
DELEGATION, 1999, 2000, 2001

February 21, 2000

HB 2915

Waste Reduction, Recycling, Reuse

Madam Chair and Committee Members:

Thank you for hearing HB 2915.

This bill allows the Secretary of the Kansas Department of Health and Environment (KDHE) to establish rules and regulations regarding the solid waste management program and directs KDHE to become more involved in national and regional product stewardship initiatives.

These national initiatives seek to:

- 1) Reduce the landfilling of waste (especially common wastes such as consumer electronics).
- 2) Reduce consumption products which exhibit toxic or hazardous characteristics in various consumer products.
- 3) Increase recyclability of post consumer products.

KDHE has closely followed these national guidelines, and if the legislature directs them to become actively involved. KDHE would be directed to contract with private statewide recycling organizations and associations.

The primary national organizations KDHE would become more active with include:

1. The Product Stewardship Institute
University of Massachusetts
2. National Electronics Product Stewardship
Initiative Center for Clear Products and Clean Technology
University of Tennessee
3. Jim Hull, Director
Solid Waste Management Program
Missouri Department of Natural Resources

The costs are estimated to be \$77,000. Bill Bider of KDHE will address these issues in his testimony.

All uses benefit waste reduction and are a benefit to all of Kansas.

Thank you for your consideration of HB 2915.



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

Testimony on House Bill 2915
to
House Environment Committee
presented by
Bill Bider, Director, Bureau of Waste Management
February 21, 2002

KDHE appreciates this opportunity to present testimony in support of House Bill 2915. The department worked with Representative Kuether and other members of the legislature to develop this bill as an alternative to an initial proposal to ban the landfill disposal of cathode ray tubes (CRTs). Over the past two years, the disposal of CRTs and other consumer electronics has received a great deal of attention, both because of the increasing volume of this waste stream and because there are some toxic components in these wastes. The primary environmental concern in CRTs is the lead in the monitor screen. KDHE has no environmental concerns associated with the disposal of this leaded glass in our well controlled and monitored municipal solid waste landfills, but we do have concerns about filling these landfills up with these high volume wastes.

At the present time, a landfill ban on CRTs and other consumer electronics would cause significant problems in Kansas. The infrastructure to collect, store, transport and recycle these units does not exist. Cities and or counties would find themselves needing to establish collection centers and storage locations. Upon collecting a large volume of units, they would need to arrange for transportation and recycling. The typical cost to "recycle" a computer could range from \$10 to \$25 plus transportation, so the total cost to a local government could be quite high. Some states which have implemented landfill bans are finding that local governments are experiencing significant costs to handle, store, and dispose of CRTs.

This bill takes a different approach to improving the management of CRTs, consumer electronics and other common high-volume waste streams. Rather than use the tradition regulatory approach, HB 2915 directs KDHE to become more involved in the concept of "product stewardship." While the bill does not use this terminology, this concept is becoming popular nationally. It is based upon the principle that businesses have a responsibility to ensure that their products result in minimal environmental impacts.

Two national product stewardship initiatives have started over the past year and thus far, Kansas has not gotten involved. They include the Product Stewardship Institute headquartered in Massachusetts and the National Electronics Product Stewardship Initiative in Tennessee. Many major corporations are involved in product stewardship because they prefer taking action on their own to improve how their

products are managed when they become waste so that government will not need to establish laws and regulations. Businesses believe that government mandates may result in greater impacts and less efficiency than programs which they help develop. Some companies which have been involved in developing voluntary programs to improve the recycling of consumer electronics include Hewlett Packard, Sony, Canon, Panasonic, and Nokia. Many states and local governments are joining forces with businesses to develop reasonable methods to improve the management of consumer electronics and other products such as waste carpeting.

Passage of HB 2915 will direct KDHE to become involved in national and regional product stewardship initiatives. By being involved, Kansas can better influence national policy and bring good ideas back to our state to implement as appropriate. KDHE would need to coordinate state activities with Kansas businesses, organizations, and local governments which have an interest in these subjects. This would include business associations, chambers of commerce, the Department of Commerce and Housing, and local government associations.

The bill authorizes KDHE to enter into a contract with a statewide recycling organization to help implement product stewardship in Kansas. Department staff effort would be limited and absorbed by existing staff with responsibilities related to solid waste planning, public education, and technical training. Most work would be implemented under a contract with a private organization such as the Kansas Business and Industry Recycling Program (BIRP). KDHE has estimated that the annual cost of such a contract would be approximately \$ 75,000. This would cover the costs of one full time staff person and travel and operating expenses. KDHE would also experience expenses related to membership fees for product stewardship organizations (about \$2,000 per year). These expenses would be funded from the dedicated solid waste management fund.

KDHE believes that Kansas can benefit by being an active participant in national and regional product stewardship initiatives. The opinions of Kansas should be expressed in the important national dialog which is now underway. Also, by being involved in national activities, KDHE and the contract recycling organization can bring ideas back to Kansas and provide guidance to businesses and local governments on how we can implement appropriate product stewardship principles in Kansas. The overall goal is to improve waste management practices in Kansas using non-regulatory methods. This voluntary approach to increasing recycling and other waste reduction activities is consistent with the Kansas state solid waste plan.

Thank you for your time. I would be happy to answer any questions.

Testimony on HB 2915 presented to
The House Committee on Environment
by
Chiquita Cornelius, Executive Director
Kansas Business and Industry Recycling Program, Inc.
February 21, 2002

Madam Chair and Members of the Committee:

At this time the Kansas Business and Industry Recycling Program (Ks BIRP) is taking a neutral position on HB 2915.

We do have concerns with the current language on page 3, lines 6 and 7 "to implement such principles within this state."

We support and feel it is very important for Kansas to be represented and included in the dialogue at the national and regional levels as new programs and initiatives are explored and programs adopted as a result of these principals. We feel certain, however, that it may not be feasible or practical to implement all the programs developed around the stated principles.

Kansas along with other states in this region face the challenge of:

- Few to no end-user markets in our state for materials collected for recycling
- Low volume generation of many materials due to the smaller population

These two factors in particular make it difficult to implement or adopt some principles that might be less challenging for other states.

We also question whether a contracting organization would have all the necessary authority to implement such principles.

Thank you for the opportunity to appear before the committee.

*House Environment
2-21-02
Attachment 5*

House Bill 2915

Recommended change in the language, page 3, lines 5 through 7:

(B) Contract with a private statewide recycling organization or association to explore such principals and provide information to Kansas government officials and businesses.

*House Environment
2-21-02
Attachment 6*



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

MEMORANDUM

TO: Representative Freeborn

THROUGH: Ron F. Hammerschmidt, Ph.D. *RH*

FROM: Gary Blackburn *Gary Blackburn*

DATE: February 20, 2002

RE: Environmental Use Controls testimony on February 19th

During my testimony on February 19, 2001, I failed to provide an adequate answer to a question posed by Representative McKinney; the question was how would the committee know that KDHE would not allow too much contamination to be left behind if Environmental Use Controls were allowed. The answer to that question would best be presented in description of the process a contaminated site follows through investigation and cleanup and how the proposed legislation would actually enhance KDHE's ability to ensure protection of public health and the environment within the described process.

Initially, the site must be investigated to determine what contaminants are present and how far the contamination has migrated.

Once the investigation has been performed, actual site contamination levels are compared to established soil and ground water cleanup levels which are found in Appendix A of the Risk-based Standards for Kansas Manual (RSK levels). If the RSK levels are exceeded in surface or subsurface soil and/or ground water, a cleanup would be needed. RSK levels are established for both residential and non-residential (industrial, commercial, etc.) settings.

If the residential soil pathway numbers were exceeded then the site would need to be cleaned up. The responsible party could at this time ask to use the Environmental Use Control process to be allowed to clean the site up to the non-residential standards if a restriction is placed on the site. **Environmental Use Controls could not be applied as a sole remedy in a situation where surface or subsurface soil contamination could migrate to impact ground water.**

The difference between the residential and non-residential standards is caused primarily by the fact that direct contact to the soil would not occur at non-residential sites. This allows the responsible party to use a cleanup standard that is about ten times higher than the level that would be acceptable for direct exposure. The lead contaminated soil would be the main exception since lead contaminated soil is not likely to migrate. A clean up of a non-residential site could allow for burial of lead contaminated soil that was greater than even the non-residential standard because the primary risk

DIVISION OF ENVIRONMENT
Bureau of Environmental Remediation

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House Environment
2-21-02
Attachment 7
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Memorandum to Representative Freeborn
February 20, 2002
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from lead is through direct contact.

The comments about the responsible party choosing to participate in the program would in no way imply that they could choose to not clean up their site at all. They could only choose non-residential clean up standards listed in Appendix A of the Risk-Based Standards For Kansas Manual. Sites where groundwater contamination was to be left in place would only be approved if no receptors were effected and no threat of migration was present.

The lack of strong support for this bill is primarily because most responsible parties who clean up industrial property are already cleaning up to non-residential standards and using deed restrictions that KDHE has little ability to enforce. The bill is intended to make the use of Environmental Use Controls a more formal process that will provide added protection for the future property owners and the public.