

House Bill 2630

House Committee on Transportation

Kimberly Steves, Radiation Control Program Director

Bureau of Community Health Systems

Kansas Department of Health and Environment

February 15, 2022

Chairman Proehl and members of the committee, I am Kimberly Steves, the Director of the Radiation Control Program for the Kansas Department of Health and Environment (KDHE). Thank you for the opportunity to provide neutral testimony for House Bill 2630.

On January 1, 1965, Kansas entered into an agreement with the U.S. Nuclear Regulatory Commission to assume the NRC regulatory authority under the Atomic Energy Act of 1954. Section 274 of the Act provides a statutory basis under which the NRC relinquishes to the State portions of its regulatory authority to license and regulate byproduct materials; source materials (uranium and thorium); and certain quantities of special nuclear materials. The mechanism for this transfer of NRC's authority was an agreement signed by the Governor of Kansas and the Chairman of the Commission. As an Agreement State, Kansas is required to maintain regulations for radioactive material which are compatible with the NRC. This is important to reference at the beginning of my testimony, because this bill was written to mirror similar legislation in Missouri. Missouri is not an Agreement State, which means that the Nuclear Regulatory Commission, not the State of Missouri, regulates radioactive materials in Missouri. In Kansas, we already collect license fees for some of the radioactive materials targeted in this bill.

K.S.A. 48-1606 defines the duties of the secretary of health and environment with regards to the state radiation control program. House Bill 2630 augments those duties with the establishment of a fee fund administered by the secretary of KDHE for the transportation of certain radioactive materials through and within the state, the responsibility for reimbursing other state agencies for services rendered under this statute, receipt of notifications of low level radioactive waste shipments into Kansas, and requirements for the department to prepare and submit a written report on activities of the radioactive waste transportation operating fund to the legislature every two years.

HB 2630 provides a definition of transuranic waste in Section 1, Paragraph (a), subparagraph 8 which is not compatible with the current Kansas definition. KDHE requests that the definition of transuranic waste be left as is defined in K.S.A. 48-1603 and the exceptions listed in this bill be deleted. The existing definition is compatible with, and has been approved by, the NRC. It appears that the additional information included in this legislation is because Missouri is not an Agreement State, and they do not have regulatory authority over radioactive materials as does Kansas.

HB2630 imposes fees for radioactive materials transportation in Section 1, Paragraph (b). KDHE recommends that these fees be changed to "Maximum" fees and allow the actual fees to be set through regulation by the secretary of KDHE. This would allow the department the flexibility to lower fees in regulation to ensure that fees meet what is needed to support the program without collecting an excess from what is needed.

HB2630 states in Section 1, Paragraph (d) that nothing in this section shall preclude any other state agency from receiving reimbursement from KDHE...for services rendered. Please include wording to protect the agency from being required to reimburse for more funds than are collected in fees.

HB2630 specifies in Section 1, Paragraph (g) that only sealed sources meeting the definition of low-level radioactive waste are exempt. The scope of including unsealed low-level radioactive waste in the requirements of HB2630 could end up being very large as new medical technologies evolve. Currently Kansas radioactive materials licensees use short-lived unsealed radionuclides. This means they decay away quickly. The short-lived radionuclides currently licensed by Kansas have half-lives that would meet the 120 or less day exemption stated in Section 1, Paragraph (g), subparagraph (5), and are primarily used in hospitals and medical facilities. However, there are several new medical technologies recently approved by the NRC which use unsealed radioactive materials with longer half-lives. It is likely that in the near future we will have Kansas radioactive materials licensees using some of these new technologies with longer-lived unsealed radioactive material. This bill was modeled after similar legislation in Missouri. Missouri is not an Agreement State. In Kansas we license our own radioactive material and already collect fees for these licensees. Because that radioactive waste is already licensed by KDHE and fees are already paid to KDHE by the licensee, it is our recommendation that Kansas radioactive materials licensees be exempted from this legislation to avoid adding additional charges to hospitals and medical facilities. KDHE proposes an additional exemption be added to Section 1, Paragraph (g) which would state "(7) any Kansas-licensed radioactive material". The addition of an exemption for Kansas radioactive materials licensees may also eliminate the need for exemption (4) found in Section 1, Paragraph (g), as it would be covered by exempting Kansas-licensed radioactive material. The addition of an exemption for Kansas radioactive materials licensees would also eliminate the risk of Kansas licensees with unsealed low-level radioactive waste with longer half-lives of paying double fees.

It was challenging to develop a fiscal note for this legislation because we do not know how many shipments of radioactive waste which would fall under the requirements of this bill occur in Kansas. We modeled our fiscal estimations after the average numbers shared with us by Missouri, with the thought that many of those shipments may enter Kansas through the Kansas City area and travel south. We are also aware that the NRC has licensed an interim spent nuclear fuel storage facility in Texas. If construction of that facility comes to fruition, that could in future years increase the number of high level waste shipments which go through our state. It seems prudent to establish this program ahead of time to ensure we are prepared for these shipments.

Thank you for the opportunity to provide these comments.