

Carl Dean Holmes
Approved: January 25, 1994
Date

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes at 3:30 p.m. on January 18, 1994 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department
 Dennis Hodgins, Legislative Research Department
 Mary Torrence, Revisor of Statutes
 Shirley Wilds, Committee Secretary

Conferees appearing before the committee: Charles Jones, KS Dept of Health and Environment
 Chris McKenzie, League of Kansas Municipalities
 Ronald Hammerschmidt, PhD, KDHE Div of Environment
 Mark Tallman, KS Assn of School Boards

Others attending: See attached list

Chairman Holmes called the meeting to order, announcing the committee schedule for the week. He informed committee members that he and Representative Grotewiel will be in Little Rock on Thursday, attending a Low Level Waste Compact meeting. Vice Chairperson Walker Hendrix will chair the committee meeting in his absence.

If there are no conflicts, Chairman Holmes said he tentatively plans to have a hearing on a resolution, plus work the bills that are planned for this week.

Hearing on 2586:

Raney Gilliland. Mr. Gilliland reviewed **HB 2586**, explaining this bill would make provisions for establishing a revolving loan fund for contamination and remediation projects. He said the fund would be established in the State Treasury and money would be credited to the fund from one or a combination of sources, i.e. money received by the state from the federal government; money appropriated or otherwise made available by the legislature; money derived from the sale of bonds issued by the Kansas Development and Finance Authority; money received in loans made under this particular legislation; interest monies attributable to investment of monies in the fund and money received from any public or private entity. Those permitted to have access to the fund would include state agencies, cities, counties, townships or unified school districts. The Secretary of Health and Environment would be in charge of administering the fund and developing a priority system for contamination and remediation projects. Mr. Gilliland said the bill stipulates that at least 10% of the total dollar amount of loans on an annual basis be made to fund the projects municipalities having a population of 5,000 or less.

Chairman Holmes mentioned that one reason for going forth with a full hearing on this bill is because several amendments were added by the Interim Committee and they did not have a hearing.

Charles Jones: (See Attachment #1) Mr. Jones introduced Larry Knoche, Director of the Bureau of Environmental Remediation.

Mr. Jones told the Committee that KDHE supports the proposed plan as is outlined in **HB 2586**. He said it is essential for the public health, safety and welfare of our state and its citizens to financially assist response actions to investigate and remediate pollutions. In addition, it is advantageous to the state and local government taxpayers to undertake such a program.

Mr. Jones reported KDHE has identified at least twenty sites which would qualify for loans. He said the ultimate goal of the state is to identify permanent solutions to environmental problems in Kansas and this bill will provide a mechanism for state and local governments to work together in addressing environmental problems.

Although KDHE supports HB 2586, Mr. Jones stated they do recommend modification of select sections to clarify the intent of the proposed bill. They are: 1) To clarify the activity associated with developing a permanent remedy and including a legally-correct definition of water, as defined by existing statutes; 2) Modify the repayment of loans defined in Section 6, to begin one year from the approval of the loan and be paid in full no later than 20 years thereafter; 3) The advisory committee, as outlined in Section 5, KDHE recommends using the same priority ranking for evaluation of technical merit, maintaining consistency in KDHE's priorities of contamination sites; 4) Additional clarification concerning the intent of Section 6 with regard to the

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m. on January 18, 1994.

responsibility of KDHE.

Mr. Jones will meet with Ms. Mary Torrence, Office of Revisor of Statutes, to work on the proposed changes. Committee members will receive drafts of proposed amendments.

Chris McKenzie: Mr. McKenzie reported to the Committee he is in support of **HB 2586** and the proposed amendments by KDHE. He said the advisory committee concept is a good one, but the availability of money is a concern. Further, he has a serious concern regarding the provision on Page 5, requiring that the state agency or municipality own or operate the source. He explained, if a municipality has to own or operate the source of the contamination, it will strongly discourage them from wanting to participate in the program. He is of the opinion that this provision will initiate a lack of incentive to participate in the program.

Hearing on HB 2588:

Ron Hammerschmidt: (See Attachment #2) Mr. Hammerschmidt reported to the Committee that enactment of the lead control project provisions of **HB 2588** would be premature until a lead certification program is in place. He said in order to regulate the lead control industry in the state, the agency has proposed legislation to regulate firms and individuals engaging in lead control projects.

Mr. Hammerschmidt said the primary function of this bill pertains to financing and technical assistance for controls. Presently KSA 12-5401 provides authority for municipalities to issue and sell general obligation bonds of the municipality for payment of the costs of such removal of encapsulation of asbestos-containing material, plus costs of any remodeling, replacement or other restoration necessary. Mr. Hammerschmidt reported this law was enacted in 1985 and since that time the agency is aware of only a few instances where municipalities took advantage of the law. He said the goal of this bill is laudable, but some operation questions do remain. He said fiscal considerations are the potential demands on the fund, the cost of bond issuance and program start-up. And, additionally, he said the source of initial funds to begin program activity prior to the issuance of bonds is also a concern.

Mark Tallman. (See Attachment #3) Mr. Tallman, on behalf of the Kansas Association of School Boards, said federal laws have required school districts to devote considerable resources to the concerns of environmental issues. He reported that although little federal funding has been available in this endeavor, school districts have responded in a responsible manner.

Mr. Tallman reported that they support the loan program proposed in **HB 2588** and will allow some assistance to their members in meeting federal requirements. However, he said KASB would discourage funding the asbestos and lead control loan program with funds that should be appropriated for educational program.

Upon closing hearings on **HB 2586** and **HB 2588**, committee members and conferees held a lengthy question-and-answer exchange on both bills.

Chairman Holmes announced that **HB 2586** and **HB 2588** are scheduled for debate on Monday, January 24 and for those interested in any amendments meet with Ms. Torrence so they can be available at that time.

Upon completion of is business, the meeting adjourned at 4:55 p.m.

The next meeting is scheduled for January 19, 1994.



Department of Health and Environment

Robert C. Harder, Secretary Reply to:

Testimony Presented to
House Energy and Natural Resources Committee
by
Kansas Department of Health and Environment
Revolving Loan Fund for Investigation
Remediation of State and Local Government Sites

KDHE supports the proposed plan to establish a revolving loan fund to assist municipalities in dealing with contaminated sites in their area.

Federal and State legislation has forced us all to examine current and past storage, use and disposal practices for industrial, agricultural and household chemicals. Many substances which were once widely used and accepted have now been identified as being hazardous to public health and/or the environment. Often governmental entities are unable to bear the financial burden necessary to perform the required environmental investigations and cleanup.

Pollution of soil and waters constitutes a menace to public health; creates public nuisances; damages the environment; and impairs domestic, agricultural, recreational and other legitimate beneficial uses of the soil and water. As such, it is essential for the public health, safety and welfare of the state and its residents and advantageous to the state and local government taxpayers to undertake a program to financially assist response actions to investigate and remediate said pollution.

Frequently state agencies and local governments are willing to clean up a contaminated site. However, funding such a cleanup may be a problem. In most cases, loans are not available through financial institutions as the risk is considered too great.

An account should be established in the state treasury to provide financial assistance (loans) at low interest to qualifying governmental entities for investigation and remediation activities.

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Attachment 4

HB on Revolving Loan Fund
Investigation/Remediation of Sites
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KDHE has identified at least twenty sites which would qualify for loans. At a generalized average cost of three hundred fifty thousand dollars per site, approximately seven million dollars is needed.

The initial capital necessary to establish such a fund could be derived from any combination of State General Funds, State Water Plan Funds, or Economic Development Funds. Any city, county, or other public agency could contribute moneys to the proposed account.

The ultimate goal of the state is to identify permanent solutions to environmental problems in Kansas. A State Revolving Loan Fund will provide a mechanism for the state to work cooperatively with local governments in addressing environmental problems.

Testimony presented by: Charles Jones
Director, Division of Environment
September 15, 1993

Attn. Envtl #1-2

HB 2586 on Revolving Loan Fund
Investigation/Remediation of Sites
Attachment to Testimony presented September 15, 1993

KDHE supports H.B. 2586 however, we recommend modifying several sections to clarify the intent of the proposed bill. Recommended modifications would include:

Additional language in Section 1(a) to clarify the activity associated with developing a permanent remedy, and including a legally correct definition of water as defined by existing statutes.

The repayment of loans defined in Section 6 should be modified to begin one year from the approval of the loan and should be paid in full no later than twenty years thereafter.

In Section 5 the bill proposes that an advisory committee develop a priority ranking for the remediation of contamination projects. However, KDHE recommends using the same priority ranking system for the evaluation of technical merit to maintain consistency in KDHEs prioritization of contamination sites.

Additional clarification is needed concerning the intent of Section 6 as to KDHEs responsibility.

The ultimate goal of the state is to identify permanent solutions to environmental problems in Kansas. A State Revolving Loan Fund will provide a mechanism for the state to work cooperatively with local governments in addressing environmental problems.

Attachment 1-3

State of Kansas

Joan Finney, Governor



Department of Health and Environment

Robert C. Harder, Secretary

Testimony presented to

House Energy and Natural Resources Committee
by

The Kansas Department of Health and Environment

House Bill 2588

This bill creates a revolving loan fund program, administered by the Secretary of Health and Environment, that will provide loans to certain municipalities and state agencies to fund asbestos and lead control projects. The bill also includes a requirement that the Secretary shall provide any state or municipality, upon request, with technical advice and assistance regarding an asbestos or lead control project or an application for a loan for the payment of all or part of project costs.

The bill defines specific activities associated with asbestos and lead control projects. Those activities associated with the asbestos control projects are subject to state and federal asbestos control regulations. These regulations require individuals engaging in asbestos control projects must be accredited, certified and licensed in order to perform work. However, for lead control projects, there is presently no state or federal regulations requiring individuals engaging in lead control projects to be accredited, certified, or licensed. To regulate the lead control industry in the state, the agency has proposed legislation to regulate firms and individuals engaging in lead control projects. Therefore, enactment of the lead control project provisions of this bill would be premature until a lead certification program is in place.

The primary function of this bill pertains to financing and technical assistance for asbestos and lead control projects. Presently, K.S.A. 12-5401 provides municipalities the authority to issue and sell general obligation bonds of the municipality for payment of the costs of such removal or encapsulation of asbestos-containing material and the costs of any remodeling, replacement or other restoration necessitated by such removal or encapsulation. The statute contains a provision that any bonds issued under the authority of this law shall not be subject to any bonded indebtedness limitations of the municipality. This statute was enacted during the 1985 session of the legislation. Since enactment, the agency is only aware of a few instances where municipalities took advantage of this law. K.S.A. 12-5401 further provides municipalities with technical assistance from the agency, to perform asbestos assessments and in selecting appropriate response actions.

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Attachment 2

To fully implement the provisions of this bill will require the creation of a program to administer the revolving fee fund and a technical assistance program. Inherent in the creation of a project of this size are program costs. Fiscal considerations are the potential demands on the fund, the cost of bond issuance and program startup. The source of initial funds to begin program activity prior to the issuance of bonds is also a concern. The goal of this bill is laudable but some operational questions do remain.

Testimony presented by: Ronald Hammerschmidt, Ph.D.
Deputy Director
Division of Environment
January 18, 1994

Attached "2-2"



Testimony on H.B. 2588
before the
House Committee on Energy and Natural Resources

by

Mark Tallman, Director of Governmental Relations
Kansas Association of School Boards

January 18, 1993

Mr. Chairman, member of the committee, thank you for the opportunity to appear before you today, on behalf of our member school districts to speak in support of House Bill 2588. Federal laws concerning environmental issues such as asbestos and lead have required school districts to devote considerable resources to these environmental concerns. School districts have responded in a responsible manner to these federal mandates, even though little federal funding has been available to assist school districts in meeting the costs.

We support the loan program proposed by House Bill 2588 and believe that it will assist our members in meeting their federal responsibilities, particularly in cases where a capital outlay levy raises insufficient funding. However, we believe that meeting the educational needs of students in all school districts is of paramount importance, and would discourage funding the asbestos and lead control loan program with funds that should be appropriated for educational programs.

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Attachment # 3