

SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 433 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 13-11-2-77 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 77. (a) "Facility", for
5 purposes of IC 13-15-1-3, means a structure or an area of land used for
6 the disposal, treatment, storage, recovery, processing, or transferring of
7 solid waste, hazardous waste, or atomic radiation. The term includes
8 the following:
9 (1) A hazardous waste facility.
10 (2) An incinerator.
11 (3) A solid waste landfill.
12 (4) A transfer station.
13 (b) "Facility", for purposes of IC 13-17-7, means a single structure,
14 piece of equipment, installation, or operation that:
15 (1) emits; or
16 (2) has the potential to emit;
17 a regulated air pollutant.
18 (c) "Facility", for purposes of IC 13-18-5, means a building, a
19 structure, equipment, or other stationary item that is located on:
20 (1) a single site; or
21 (2) contiguous or adjacent sites that are owned by, operated by, or
22 under common control of the same person.
23 (d) "Facility", for purposes of IC 13-21, means a facility, a plant, a
24 works, a system, a building, a structure, an improvement, machinery,
25 equipment, a fixture, or other real or personal property of any nature
26 that is to be used, occupied, or employed for the collection, storage,
27 separation, processing, recovery, treatment, marketing, transfer, or
28 disposal of solid waste.
29 (e) "Facility", for purposes of IC 13-25-2, means all buildings,
30 equipment, structures, and other stationary items that are:
31 (1) located on a single site or on contiguous or adjacent sites; and

1 (2) owned or operated by:

2 (A) the same person; or

3 (B) any person that controls, is controlled by, or is under
4 common control with the same person.

5 For purposes of IC 13-25-2-6, the term includes motor vehicles, rolling
6 stock, and aircraft.

7 **(f) "Facility", for purposes of IC 13-25-4, has the meaning set
8 forth in 42 U.S.C. 9601(9).**

9 **(f)(g) "Facility", for purposes of IC 13-29-1, means a parcel of land
10 or site, together with the structures, equipment, and improvements on
11 or appurtenant to the land or site, which is used or is being developed
12 for the treatment, storage, or disposal of low-level radioactive waste.**

13 SECTION 2. IC 13-11-2-142.3 IS ADDED TO THE INDIANA
14 CODE AS A NEW SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2007]: **Sec. 142.3. "Nonprofit corporation",
16 for purposes of this chapter and IC 13-25-4-8, refers to a nonprofit
17 corporation:**

18 **(1) that is exempt from income taxation under 26 U.S.C. 501;**

19 **(2) for which the primary purpose, as identified in the
20 corporation's articles of incorporation, is to assist and support
21 a political subdivision in a matter of public concern; and**

22 **(3) that has no member affiliated with any other person that
23 is potentially liable for response costs at a facility through any
24 of the following:**

25 **(A) A direct or an indirect familial relationship.**

26 **(B) A contractual, corporate, or financial relationship
27 other than a contractual, corporate, or financial
28 relationship that is created:**

29 **(i) by the instruments by which title to the facility is
30 conveyed or financed; or**

31 **(ii) by a contract for the sale of goods or services.**

32 **(C) The result of a reorganization of a business entity that
33 was potentially liable for response costs at the facility."**

34 Page 2, line 42, delete "(viii)" and insert "(vii)".

35 Page 3, line 2, delete "(ix)" and insert "(viii)".

36 Page 3, line 7, delete "(x)" and insert "(ix)".

37 Page 3, line 11, delete "(xi)" and insert "(x)".

38 Page 3, line 15, delete "petroleum." and insert "petroleum,".

39 Page 3, line 29, after "(b)" insert ",".

40 Page 3, line 29, strike "and".

41 Page 3, line 29, delete "(c))" and insert "(c), and (d))".

42 Page 5, between lines 27 and 28, begin a new paragraph and insert:

43 **"(d) "Owner", for purposes of IC 13-23, does not include a
44 nonprofit corporation that acquired ownership or control of an
45 underground storage tank to assist and support a political
46 subdivision's revitalization and reuse of a brownfield for
47 non-commercial purposes, including conservation, preservation,**

1 **and recreation, unless the nonprofit corporation causes or**
 2 **contributes to the release or threatened release of a regulated**
 3 **substance, in which case the nonprofit corporation is subject to**
 4 **IC 13-23 in the same manner and to the same extent as any other**
 5 **nongovernmental entity under IC 13-23."**

6 Page 7, between lines 19 and 20, begin a new paragraph and insert:

7 **"(e) The term does not include a nonprofit corporation that**
 8 **acquired ownership or control of a facility to assist and support a**
 9 **political subdivision's revitalization and reuse of a brownfield for**
 10 **non-commercial purposes, including conservation, preservation,**
 11 **and recreation, unless the nonprofit corporation causes or**
 12 **contributes to the release or threatened release of a regulated**
 13 **substance, in which case the nonprofit corporation is subject to**
 14 **IC 13-24-1 in the same manner and to the same extent as any other**
 15 **nongovernmental entity under IC 13-24-1.**

16 SECTION 6. IC 13-11-2-183 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 183. "Regulated
 18 substance", for purposes of **this chapter and** IC 13-23, includes the
 19 following:

20 (1) Any substance defined in section 98 of this chapter as a
 21 hazardous substance, but excluding any substance regulated as a
 22 hazardous waste under:

23 (A) Subtitle C of the federal Solid Waste Disposal Act, as
 24 amended (42 U.S.C. 6921 through 6939(a)); or

25 (B) IC 13-22-2-3.

26 (2) Petroleum.

27 (3) Any other substance designated by rules adopted by the solid
 28 waste management board under IC 13-23-1-2."

29 Page 10, line 28, delete "including" and insert "~~including~~".

30 Page 13, line 23, after "16." insert "(a)".

31 Page 14, line 38, strike "in the property".

32 Page 15, between lines 38 and 39, begin a new paragraph and insert:

33 **"(h) Except as provided in subsection (i), a nonprofit**
 34 **corporation is not liable to the state under this section for costs or**
 35 **damages associated with the presence of a hazardous substance on,**
 36 **in, or at a property in which the nonprofit corporation acquired an**
 37 **interest to assist and support a political subdivision's revitalization**
 38 **and reuse of a brownfield for non-commercial purposes, including**
 39 **conservation, preservation, and recreation.**

40 **(i) Notwithstanding subsection (h), a nonprofit corporation that**
 41 **causes or contributes to a release or threatened release of a**
 42 **hazardous substance on, in, or at a property remains subject to this**
 43 **section:**

44 **(1) in the same manner; and**

45 **(2) to the same extent;**

46 **as any other nongovernmental entity under this section."**

47 Page 15, line 39, delete "(h)" and insert "(j)".

- 1 Page 16, line 9, delete "(i)" and insert "(k)".
- 2 Page 16, line 9, delete "(h)" and insert "(j)".
- 3 Renumber all SECTIONS consecutively.
(Reference is to SB 433 as printed January 24, 2007.)

Senator TALLIAN