

Approved 3/12  
Date

MINUTES OF THE House COMMITTEE ON Energy and Natural Resources

The meeting was called to order by Representative David J. Heinemann at  
Chairperson

3:30 ~~am~~/p.m. on February 1, 1984 in room 519-S of the Capitol.

All members were present except:

Representative Foster (Excused)  
Representative Kent Ott (Excused)

Committee staff present:

Ramon Powers, Legislative Research  
Theresa Kiernan, Revisor of Statutes' Office  
Raney Gilliland, Legislative Research  
Pam Somerville, Committee Secretary

Conferees appearing before the committee:

Ed Reinert, League of Women Voters of Kansas  
William Henry, Kansas Engineering Society  
Mari Peterson, Kansas Natural Resource Council  
Rocky Vacek, Kansas Limestone Association  
Rob Hodges, Kansas Association of Commerce and Industry  
Pete Rolland, Sierra Club

Hearings for proponents and opponents continued on Hazardous Waste legislation. The first conferee was Mr. Ed Reinert, League of Women Voters of Kansas. Mr. Reinert appeared before the committee in support of HB 2725. In Mr. Reinert's testimony, he stated ground burial was judged to be the least desirable and last to be used of the alternatives for the reduction and disposal of hazardous waste. (Attachment 1).

Mr. William Henry, Executive Vice President, Kansas Engineering Society, testified before the committee to present a "viable and realistic middle ground" on the issue of disposal of hazardous waste. KES proposed an amendment to HB 2725 in lines 57-62 to read: "Ground burial of Hazardous Waste is hereby prohibited in the State of Kansas except for those wastes which the Secretary determines are not technologically feasible for recycling, chemical treatment, incineration, or other methodologies of treatment." Mr. Henry also stated KES supported the Governor's move to eliminate the exemption for the small generator, but does not feel there is sufficient staff in KDHE to handle the regulation of those who generate less than 100 kilos of Hazardous Waste per year. KES suggested a graduated decrease in the amounts for small generators, 75 and 50 kilos in 1985 and 1986, respectively.

The final recommendation by Mr. Henry was to initiate appropriate financial incentive, in the form of a tax credit or accelerated depreciation, to Kansas business to encourage the shift away from dependence on ground burial. (See attachment 2) Mr. Henry also distributed the 1984 Engineering Policy Position for committee review. (See Attachment 2A).

Mari Peterson, Executive Director, Kansas Natural Resource Council (KNRC) appeared before the committee in support of the hazardous waste legislation. Ms. Peterson concurred with Mr. Fortuna's testimony (See Minutes of 1/31/84) urging ban of landfill of hazardous wastes and to allow the secretary of KDHE to reinstitute land burial for particular wastes as deemed necessary. Ms. Peterson expressed concern for the residents of the Furley site, particularly the odors they breathe, as well as the protection of the general public and their health. (See Attachment 3)

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Energy and Natural Resources,  
room 519-S, Statehouse, at 3:30 ~~xxm~~/p.m. on February 1, 1984

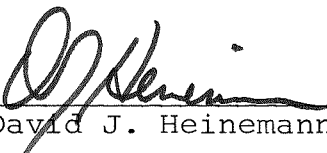
The next conferee, Mr. Rocky Vacek, Kansas Limestone Association, testified before the committee in opposition to HB 2727 and HB 2728. Mr. Vacek said his association supports clean water and clean air and further that the Mine Safety and Health Administration strictly monitors their industry for compliance. KLA opposes HB 2727 because the fee is not set forth in the bill, but authorizes the Secretary of KDHE to determine a fee at a later date. HB 2728 is opposed due to the tremendous increase in the fee schedule (ten times the current fee). Mr. Vacek expressed concern regarding the classification of their industry, and felt reclassification should be investigated. (See Attachment 4).

Bob Hodges, Kansas Association of Commerce and Industry (KACI) testified before the committee on hazardous legislation. KACI expressed concern about the many unanswered questions on prohibition of hazardous wastes and therefore cannot endorse the bill at this time. HB 2726 does not define where monies will come from to fund the "superfund". As a result KACI takes no position at this time. HB 2728 deals with fees for water pollution control permits. Mr. Hodges stated KACI has no objection to the proposed legislation, but would like to point out KDHE's proposal is for an increase in fees tenfold. The final bill, HB 2740, contains numerous provisions and Mr. Hodges said he is awaiting comment from members to make final recommendations. (See Attachment 5).

The final conferee, Mr. Pete Rolland, Sierra Club, testified before the committee in support of proposed hazardous waste legislation and made recommendations that the committee should make amendments to strengthen the language and clearly define violators. (See Attachment 6).

A brief question and answer period followed each presentation. There being no further business before the committee, the meeting adjourned at 4:15 p.m.

The next meeting of the House Energy and Natural Resources committee will meet at 3:30 p.m. February 2, 1984 in Room 519-S.

  
\_\_\_\_\_  
Rep. David J. Heinemann, Chairman



# LWVK LEAGUE OF WOMEN VOTERS OF KANSAS

909 Topeka Boulevard-Annex

913/354-7478

Topeka, Kansas 66612

January 25, 1984

## STATEMENT TO THE HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE IN SUPPORT OF HB 2725

I am Ed Reinert speaking for the League of Women Voters of Kansas. In support of House Bill 2725, I would like to call attention to the statement in the 1983-85 Study and Action on Hazardous Waste developed by the Kansas League of Women Voters two years ago.

Ground burial was judged to be the least desirable and last to be used of the alternatives for the reduction and disposal of hazardous waste. The long range costs of burial of hazardous waste are too high no matter how attractive the short range ones are. Alternatives such as recovery, reuse, concentration and detoxification are to be favored and encouraged.

It has been our understanding that the Secretary of KDH&E has always been obligated to encourage the alternative methods of hazardous waste management. This bill gives the Secretary some of the necessary authority.



Ed Reinert  
LWVK Lobbyist

Attachment 1





*Kansas Engineering Society, Inc.*  
*216 West Seventh, P.O. Box 477*  
*Topeka, Kansas 66601 (913) 233-1867*

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William M. Henry  
Executive Vice President

Testimony before the House Energy & Natural Resources Committee,  
February 1, 1984

Mr. Chairman, members of the committee, I am Bill Henry,  
Executive Vice President of the Kansas Engineering Society.

After nearly a week of hearings on these measures dealing  
with Hazardous Waste you have heard strong and well-researched  
arguments both for and against H.B.s 2725, 2726, 2727, 2728 and  
2740.

You have heard that the prohibition against land burial  
of Hazardous Waste is at one time a necessity for the protection  
of one of this State's most valuable resources, our groundwater.  
You have also heard tales of the expense involved with alternative  
methods for the disposal of these wastes.

You have heard certain individuals charge that such a ban  
is a signal to industry that Kansas is no longer interested in  
economic development or the needs of business.

Hopefully today our Society will present a viable and  
realistic middle ground to answer most of the charges you have  
heard.

Our membership is made up of Engineers who regulate Hazardous  
Wastes on behalf of our State; Engineers who design Hazardous  
Waste sites; and Engineers who treat and know how to detoxify  
these wastes. From this very diverse spectrum of interests we  
have arrived at the policy statement on page 7 of the booklet  
that is attached to our testimony.

Based upon this policy we propose the following;

In H.B. 2725, lines 57-62, there is an absolute prohibition of  
ground burial of Hazardous Waste set out. We suggest alternative  
language that would read:

"Ground burial of Hazardous Waste is hereby prohibited in the  
State of Kansas except for those wastes which the Secretary  
determines are not technologically feasible for recycling,  
chemical treatment, incineration, or other methodologies of  
treatment."

There are certain substances today for which there are no  
technologies available to render them nonhazardous. They are  
small in number and we have no doubt in the near future technology

Attachment 2

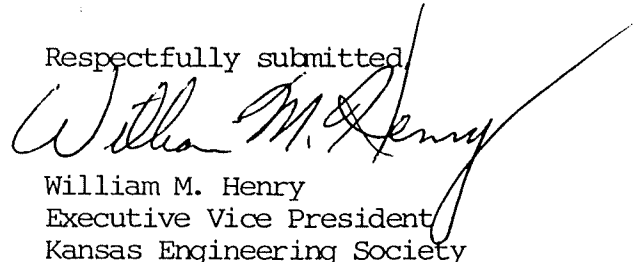
will become available to detoxify these Hazardous Wastes as well. The above suggested language would create the presumption that all Hazardous Waste should not be buried. However, such language would give the Secretary the option to determine the best way of handling those wastes that we cannot treat today. We feel that it is better to give the Secretary this discretion rather than having to create a laundry list of so-called wastes which are not treatable. If you would subscribe to the laundry list methodology you would find each year the Secretary coming back and asking for an amendment in the statute to eliminate an exemption for certain of these wastes as technology becomes available to treat them. Our Society feels that is a cumbersome approach. What the language as we have suggested would do however, is to embody the Legislature's trust in the power and authority of the Secretary to carry out the mission of that individual's position to protect the health, safety and welfare of Kansans.

Secondly, the Society also supports the Governor's move to eliminate the exemption for the small generator of Hazardous Waste. However, we do not feel at this time that there is sufficient staff within the department to handle the regulation of those who generate less than 100 kilos of Hazardous Waste a year. The Society would propose that the committee consider a phase-in of this elimination of exemptions for small waste generators. We would suggest, for instance, that in July of 1985 the small generator waste exemption would be reduced to 75 kilos. The subsequent year that should be reduced further to 50 kilos and so forth until after 4 years the exemption would be phased out entirely. This would give time to the small generator to consider what treatment process might be best suited for his business and also give that individual time to prepare.

Our final suggestion to this committee in consideration of these bills is to see that appropriate financial incentives in the form of state tax credits or accelerated depreciation are provided to Kansas business to encourage the shift away from the dependance on ground burial and to methods of recycling, treatment, and detoxification. We feel very strongly that unless these economic incentives are enacted it would be unfair to go forward with the other proposals to eliminate ground burial of Hazardous Waste.

With the changes that we have suggested the Kansas Engineering Society will support the house bills that you have before you and work to see that they are implemented fairly by rule and regulation as well.

Respectfully submitted,



William M. Henry  
Executive Vice President  
Kansas Engineering Society

# Engineering Policy Positions 1984

*Kansas Engineering Society*



*Attachment 2A*



# Forward



The following policy statements are the products of study by members of the Kansas Engineering Society. All of the statements represent the official view of the society and have been approved as such by KES' Governing Body.

The Kansas Engineering Society is made up of a broad spectrum of engineering practitioners in Industry, Private Practice, Government, Construction and Education. As a result, the organization is privy to expertise in a variety of engineering areas.

Based upon these insights members of the Society feel their duty, as professionals committed to the public's well-being, is to share their expertise with the public and the public's legislative representatives.

Inquiries to any of our positions or queries on any subject should be referred to our state office in Topeka, at 216 West 7th.

A handwritten signature in dark ink that reads "Barry Rist, Jr. P.E." The signature is written in a cursive style and is underlined.

Barry Rist, Jr., P.E.  
President  
Kansas Engineering Society, 1984

# Colleges of Engineering Equipment Needs

## **Introduction**

One of the top priorities of the Kansas Engineering Society is the funding of equipment for Engineering Colleges by the State Legislature. Summarized below are (1) the Position Paper and (2) the KES Resolutions for this most important area.

## **Position Paper-Equipment Needs in the Colleges of Engineering.**

The Colleges of Engineering in the State of Kansas are having problems of inadequate salaries, obsolete equipment and overlarge classes. Two years ago the Legislature passed a bill which gave a special salary supplement to faculty at the state institutions in engineering, business and computer science. While the supplement was not totally adequate to solve the salary problem, it was helpful and most appreciated.

The obsolete equipment problem is also a major concern for the Colleges of Engineering in the state. Each school has equipment that dates from the 1950's and is not representative of modern industrial practice. Much updating of laboratories is needed. This situation is aggravated by the need for new laboratories and new instrumentation in fields that were hardly envisioned two decades ago, such as robotics, microelectronics and acoustics, to name a few.

Concerning new technologies, unless the trends change, the Engineering Colleges will not be able to provide adequate training without substantial help. For example, integrated circuit electronics requires equipment which is out of the reach of most engineering colleges as do the new design methods based on computer graphics. Research in new areas in the energy field, as well as in manufacturing technology, also require equipment that is completely beyond the means of most engineering colleges. Who is going to provide this education?

Several years ago, the Engineer's Council for Professional Development (ECPD) studied the teaching equipment problem and estimated that the new equipment needed by an engineering college costs \$100,000 per year per program plus \$150 per student per year. Based on this estimate, a national program with 50,000 degrees per year would cost approximately \$200 million per year.<sup>1</sup> Of course, costs now are considerably higher, and engineering colleges have nothing close to this amount of money at their disposal. The integrated backlog of the shortage that is being produced is now enormous and growing.

For example, one of the most serious challenges facing the College of Engineering at Kansas State University is in Computer-Aided Graphics (CAG) Computer-Aided Design (CAD) and Computer-Aided Manufacturing (CAM).

The United States is on the threshold of a new era in manufacturing technology and in engineering design. CAG, CAD and CAM have more potential to increase productivity than any of the developments since World War II. There is a critical need in industry for people who can use these tools. Our students in engineering at K-State must be provided state-of-the-art education in these computer-aided methods. Today, they are not. Thus, the challenges to become current and to join those institutions who are the leaders in these areas.

Equipment needs in CAG, CAD and CAM have been estimated to cost \$1,000 per FTE student for five years just to be competitive with other engineering schools. To be a leader in these areas, it has been estimated that the cost would be approximately \$1,750 per FTE student.<sup>2</sup>

KSU's School of Engineering's immediate needs in the computer-aided areas are for a good-sized mini-computer such as the VAX-780 or the IBM 4341-12 with 5 to 10 billion characters of disk memory, 40 interactive workstations and major software

packages for the three areas. Estimated cost for this first phase of hardware and software is \$1,000,000. Maintenance costs are anticipated to be \$50,000 per year.

CAD/CAM cannot only help develop safer bridges and better robots, but a strong program in this area at K-State could be a big help to Kansas industry.

More recent studies demonstrate the severity of the deficit. Ohio State University recently estimated the cost of installing an adequate computer graphics system to teach modern design at \$3 million plus 15 percent per year for maintenance.<sup>3</sup> Rensselaer Polytechnic Institute made a similar analysis and obtained similar results.<sup>4</sup> The computer graphics problem is just one of many, but it is an important indicator.

Finally, and perhaps most important, in competition with industry for the recent Ph.D. graduate, the university is no longer a very attractive career choice. The reasons are obvious; salaries are no longer competitive with industry, classes are becoming too large for interaction with students, course loads are too heavy to leave time for significant research, and last but not least, **equipment and instruments are obsolete.**

In summary, immediate action is needed to update existing laboratory equipment at the state universities if they are to meet the needs of industry, the requirements of research and teaching, and the demands for high technology economic development. Moreover new methods must be found for ensuring that the equipment available in universities and colleges keeps pace with advances in the field.<sup>6</sup>

#### KES Resolution

Whereas: The economic development of the State of Kansas is of the utmost importance, not only to the Kansas Engineering Society, but to all the citizens of the state;

Whereas: The economic development of the State of Kansas is to a large extent dependent upon the State's ability to support and encourage activities of a highly technological nature;

Whereas: The State's ability to support and encourage activities of a highly technological nature is dependent upon its ability to train engineers and scientists in latest technologies;

Whereas: The equipment and laboratory apparatus available to the various state supported Universities is not consistent with the state of the art in many areas of engineering technology;

Whereas: The operating budgets of the state-supported Universities allow no direct funding for improvements in the quality and quantity of equipment required for the training of engineering students.

Therefore be it Resolved:

1. That the Kansas Engineering Society supports and encourages the State of Kansas' interest in making itself more attractive to high technology industries contemplating relocation to, or expansion in, Kansas;
2. That the Kansas Engineering Society requests the Legislature of the State of Kansas to support specific equipment appropriations in a bi-partisan spirit of improving the ability of the Schools of Engineering to educate quality engineers and to support the high technology aspect of the economic development of the State of Kansas;
3. That the Kansas Engineering Society encourages its members and staff to take whatever actions they can in support of this resolution.

<sup>1</sup> ECPD Committee Report, 1977.

<sup>2</sup> "Principles of Interactive Management," John N. Warfield, the Center for Interactive Management, Copyright 1983. To be published in the **Proceedings of the International Conference on Cybernetics and Society** to be held in Bombay, India, January 1984.

<sup>3</sup> Society of Manufacturing Engineers, Education Forum, 1980, Cleveland.

<sup>4</sup> **Chronicle of Higher Education**, January 14, 1980.

<sup>5</sup> K.L. DeVries, University of Utah, letter to Ben Wilcox, NSF, October 11, 1979.

<sup>6</sup> "Issues in Engineering Education, A Framework for Analysis," Task Force on Engineering Education of the National Academy of Engineering, April 1980.



# Minimum Desirable Streamflows

Members of the Kansas Engineering Society are active in various water related fields including agriculture, environmental health, municipal and industrial water supply, stream sanitation, and waste treatment. We congratulate the State Agencies and the Kansas Legislature for the deep interest and concern which has been given to water planning issues, especially the maintenance of adequate quality water in Kansas streams. Kansas was one of the first states in the Union to have a pollution abatement law and its Public Water Supply Statutes were first enacted in 1907. We believe that an understanding of the hydrology of the state is important to policy decisions of the Kansas Legislature and the Executive Branch of Kansas Government.

Kansas has progressed from decisions to protect minimum water quality releases made from federal storage in the mid 1960's to identifying those streams where maintaining minimum streamflows is possible. We observe that some of the public interest in this topic is based on the drying up of streams in Western Kansas, due to changes in rainfall patterns, irrigation and land practices. However, the conditions which contribute to runoff and stream depletion are quite different as one moves across the state.

The selection of minimum streamflows as having the highest priority for planning poses some serious difficulty. While it has the advantage of being a piece of an overall water planning effort, it is so closely linked to decisions about water use and reservoir operation management, that reasonable decisions are difficult without coordination with these elements. Specific information about future demands and reservoir operation needs to be included in the planning. We suggest the following parameters should be evaluated as part of the process of establishing minimum desirable streamflows:

1. Natural low-flow frequency and flow duration.
2. Availability of reservoir storage to augment flows.
3. Magnitude of foreseeable demands to be exerted on the stream, and availability of alternative supplies for those water users dependent on the streams.
4. Streamflows that can be maintained through major droughts with available reservoir storage.
5. Degree to which instream water uses are satisfied by minimum streamflows and the extent to which overall fulfillment of these uses is enhanced by maintaining minimum streamflows.
6. Comparison of instream benefits to additional costs for purchase of reservoir storage and development of alternative supplies by municipal, industrial, and agricultural water users.

While Kansas has been a leader in measuring the availability and quality of water throughout the state, these data have not been analyzed in a way which will make us aware of the impact, both positive and negative, of maintaining the minimum desirable streamflow values suggested.

To illustrate our concerns, we note that the minimum desirable streamflow recommendation for the Neosho River at Iola is 40 cfs. According to Technical Report No. 1 of the Kansas Water Resources Board, this flow is exceeded 85 per cent of the time. Technical Report No. 2 indicates that under natural conditions, flow would fall below 40 cfs for the following durations during selected droughts.

<b>Return Period</b>	<b>Duration</b>
2 years	10 days
5 years	4 months
10 years	7 months
20 years	8 months
50 years	10 months

This means that, under the recommendations in the working draft, additional municipal, industrial or agricultural demands requiring water rights with priority dates later than enactment of minimum streamflow legislation could not be met for four continuous months once every five years, seven continuous months once every ten years, etc. Municipalities and industries would be severely affected.

We are also concerned about administration of water rights during droughts to maintain minimum streamflows. The recent experience in Southeast Kansas is illustrative. Municipalities along the Verdigris River were not receptive to the idea that the river flows were for "water quality" purposes and not "water supply." Enforcement of minimum streamflows could lead to many more such conflicts.

We believe that some provision must be made to incorporate provisions for increased municipal and industrial use, beyond those rights which the cities and industries now hold.

Second we question the amount of flow given in Table No. 1, page 8. These flows substantially exceed the amount needed on the Marias des Cygnes or Neosho Rivers for example to maintain adequate levels of dissolved oxygen and to meet the State's official water quality standards. We believe these may have been calculated for lower levels of municipal and industrial waste treatment than actually exist. Also these dissolved oxygen standards require larger stream flows during warm weather months than during cool months.

Third we suggest consideration to the idea of forecasting runoff and reducing the reservoir releases when the runoff prediction methods indicate a moderate or severe drought for the watershed. Otherwise the decision of when to reduce releases to maintain minimum desirable streamflows is at best a guess and at worst a disaster.

Fourth we would encourage building in the idea of conservation by municipalities and industries at times when minimum desirable streamflows cannot be met. This can be accomplished in part by a higher degree of sewage treatment by some municipalities as well as by water saving practices which reduce the per capita consumption.

With respect to the purchase of reservoir storage, KES supports control of the waters of the state, and, to that end, endorses purchases of conservation storage in federal reservoirs by the state. However, this is valid only if the storage is to be used for M & I purposes. Present operation policies for water quality storage tends to maintain minimum streamflows anyway, and state ownership of the storage would do little to enhance minimum streamflows.



# Energy Conservation

Most of our habits, construction methods, buildings, etc., were developed or built when energy was cheap and plentiful. In the recent past, residential natural gas was less than a dollar per thousand cubic feet (MCF), gasoline was twenty to thirty cents a gallon, and electricity was two to three cents per kilowatt hour (kWh). Currently, gasoline is about \$1.15 per gallon and natural gas is around \$5.00 per MCF. Electricity prices are climbing rapidly, but current residential electricity is 6¢/kWh. To prevent these energy price increases from adversely affecting the Kansas economy, there is a need to improve existing energy use equipment as much as possible, and new construction and equipment must be built to reflect current and future energy prices rather than being built on standards which reflect old prices.

As an example of what can be accomplished, a combination of higher energy prices and government produced requirements have produced significant improvement in one energy consuming appliance – the automobile. Currently produced automobiles obtain much better gas mileage than those built ten years ago. Because the automobile stock turns over at a rapid rate (5 to 10 years) improvements in design rapidly come into use.

Buildings, however, have a much longer life. Thus, retrofitting is necessary to improve energy efficiency when energy prices increase. Sometimes, simple retrofits can be made whose cost is rapidly paid back in energy savings. Unfortunately, in many cases retrofitting is much more expensive than initially installing the energy efficient features in a building during construction. In fact, in several cases, features which can be simply and cheaply built into a structure as it is constructed are almost impossible to retrofit. Thus, it is important that the initial construction be done considering both current and future energy prices.

## CONSERVATION RECOMMENDATIONS

1. Using retrofitting techniques, some improvements have been made in the energy efficiency of state agency buildings. Much more, however, needs to be done. Most of the state building are on the campuses of the seven Board of Regents Institutions. KES recommends that the energy efficiency improvements identified by the Technical Assistance Studies (TAS) at the institutions be given a high priority in the Regent's budget. These improvements should give a very high rate of return and funds spent now will considerably ease the Kansas and Board of Regent's budget situation in the future.
2. Residences currently being built will probably be in use for the next fifty years. Thus, it is very important that they are constructed with the energy conserving features that are easily initially installed. Consider as the present base method of construction of residential housing a structure with R-11 insulated walls and R-19 insulated attic, the construction standard specified by most local codes. KES recommends that:
  - a. All residential housing started (time permit issued) after January 1, 1985 will have a total BTU load (heating and cooling) of no more than 80% of the load on a structure built to the base standards.
  - b. All residential housing started after January 1, 1987 will have a total BTU load (combined heating and cooling) of no more than 60% of the load on the structure built to the base standards.

These standards are easy to meet, even at the present time, and, as stated before, the construction improvement required are inexpensive when initially built into a structure, while being very difficult or impossible to retrofit. No complicated inspection program needs to be implemented to monitor the standards. Only a simple shopping list of improvements and the resulting percentage-improvements of each improvement needs to be issued. The architect/builder can simply select from the list of those features desired which will add up to the required energy savings.

## PLANNING

Two types of energy planning need to be done within the State. The first is emergency planning to meet short-term energy shortages which could occur. These shortages could either be local and due to distribution problems, or they could be statewide and due to national shortages such as caused by political problems. The

other type of planning is mid- to long-term planning, for periods of perhaps five to ten years into the future. Based on what has happened to energy prices in the past few years, the continuing decontrol of natural gas prices, new electrical generating facilities, and continued political instability in areas from which oil is imported, it is reasonable to assume that energy prices should continue to increase considerably faster than general inflation. The State of Kansas should have a plan of action to meet this probable increase in energy prices. Any long-term solution to our present economic situation probably depends upon improvement in several areas — higher labor productivity, better management/labor relations, improvements in the industrial base, better technically qualified corporate managers are a few. However, more efficient use of energy is also vitally important to any long-term economic progress.

#### PLANNING RECOMMENDATIONS

KES recommends that one of the state agencies be directed to begin an energy planning program which will produce five to ten year action plans for Kansas. Policies should be developed for three areas:

- a. Transportation
- b. Buildings
- c. Utilities

The actual research and planning development should be done by contractors selected by the agency. Among other issues, this planning program should consider a statewide energy data base, methods of implementing energy conservation in existing buildings, standards for new buildings, incentives for better heating/cooling equipment, and incentives for implementing renewable energy. The primary responsibility of this program would be to place Kansas in a good energy position in the future. KES believes that if an effective planning agency were in existence it would have already made at the very least the conservation recommendations contained in this position statement.

## Hazardous Waste

The National Society of Professional Engineers and the Kansas Engineering Society recommend that state and federal governments create economic incentives for private industry to provide treatment for hazardous wastes and to recover resources from waste materials. Comprehensive regional treatment and recycling facilities should be included under the options eligible for such incentives. Consideration should be given to mechanisms which expedite siting of these facilities.

The Society also recommends the following policies be legislated by Congress and implemented by the U.S. Environmental Protection Agency.

1. Increase emphasis on resource recovery, recycling, and detoxification of hazardous waste materials. Disallow land burial for materials that present a significant risk to the environment, and for which economically achievable, environmentally sound alternatives exist. Encourage the transfer of viable technology for recycling and detoxification of waste.

2. Simplify, streamline, and codify the complex regulations which have been issued to date, to make compliance requirements more understandable to those who generate, treat, or store hazardous wastes.

3. Codify procedures required for delisting petitions for treated wastes, and accelerate review and approval procedures by EPA. Specific guidelines for delisting petitions should be published, and properly prepared and submitted petitions should be acted upon within three months. Encourage delisting action by the states, where appropriate.

4. Restrict exemptions for small quantity generators of wastes which pose a significant hazard to human health and the environment.

5. The degree of risk inherent in any waste should be considered in all regulations concerning its disposal. Further controls on hazardous wastes should be limited to those wastes which pose a significant risk to the environment or to public health, and programs to encourage alternative methods of disposal should be emphasized to focus on those with the highest risk.



# Engineers in Civil and Government Service

The Kansas Engineering Society believes the citizens of Kansas are entitled to confidence that engineering tasks performed or directed by engineers in civil service are carried out in a technically competent manner, at a reasonable cost, and without political compromise affecting public health, welfare, and safety. In return, KES believes the engineer in civil service is entitled to recognition by his peers, employer, and the public as a professional and to fair compensation and an environment conducive to sustaining the above degree of public confidence. The Kansas Engineering Society is dedicated to providing a strong two-way communication link between professional engineers and the citizens of Kansas. For these reasons KES adopts a position statement including the following specific points:

1. Engineers in civil service are professionals who deserve recognition as such in all governmental deliberations involving them and their work.
2. All engineering work of governmental agencies should be under the direction of registered professional engineers.
3. All engineering position descriptions and job qualifications should be reviewed by a registered professional engineer prior to final classification.
4. Salaries and personnel benefits of engineers in government should be established in a separate professional scale commensurate with those of engineers in construction, industry, and private practice.
5. Opportunities should be provided for engineers to be involved in professional activities as an integral part of civil service employment.
6. Opportunities should be provided for engineers in government to maintain technical competence and to broaden and improve technical and managerial skills.
7. Dual career ladders should be provided to encourage engineers to advance, either in their technical field or in management, depending upon individual talents and desires.
8. Any legislation dealing with collective bargaining by public employees should allow engineers to affiliate with a separate and independent organization of professionals in which they can participate to the extent consistent with the NSPE Code of Ethics.
9. Any legislation dealing with civil service reform should be guided by the spirit and intent of this policy statement

## Engineers as Witnesses

Engineers because of their training and experience are often called upon to investigate the cause of structural failures, machine failures, and accidents, which create damage and loss to people and property. As expert witnesses engineers routinely appear before boards, panels and of course in court. The knowledge, and investigations of Registered Engineers many times provide the necessary answers to resolving disputes of liability and responsibility. Pursuant to the federal and state rules of civil and criminal procedure the testimony of Engineers as expert witnesses is often essential to the understanding of the evidence in a particular case. The Kansas Engineering Society only recently became aware of a statutory situation that, if incorrectly interpreted, could act as a bar to a Registered Engineer offering his or her expertise before a court, board or panel. The potential statutory bar which the Kansas Engineering Society is concerned with is KSA 75-7b03 which relates to the licensure and operations of private investigators. A section of that act was interpreted, incorrectly in our opinion, by certain state authorities recently to require that an engineer performing an investigation must be licensed as a private investigator. The Kansas Engineering Society does not feel this was the original intent of the legislation or its sponsors.

As a result the Kansas Engineering Society supports legislative action and amendments that would clearly continue the long-established practice of engineers appearing as expert witnesses and providing their opinions and the results of their investigations pursuant to the statutory rules of procedure.

# Lighting Standards

Members of the Kansas Engineering Society have been involved in a variety of ways in studying and recommending methods for energy conservation.

The members of our Society in industry, government, construction, education and private practice work with energy standards on a daily basis in design and development.

One of the areas of energy evaluation that many of the Society's Engineers work with is design in maximum lighting standards. The Kansas Legislature in 1979 considered this area of potential energy use and enacted KSA 58-1312 et seq. These statutory sections provide that before electrical service may be connected to any public building after January 1, 1980, that a certificate of compliance with the maximum lighting standards must be executed by the Architect or Engineer who prepared the plans for the building.

Unless such a certificate of compliance was filed by the Architect or Engineer the building could not be hooked up to electric power. The certificate of compliance, once secured by the particular electric utility, was then forwarded to the Kansas Energy Office.

The Kansas Engineering Society respects the intent of the Legislature in trying to achieve every conservation in lighting. However, after research and study by the Society's Lighting Standards Task Force, KES has found the current law to be ineffective and non-enforceable.

In studying this statute the task force found that many hours of work had to be completed to prepare the calculations necessary for completion of the certificate of compliance. Engineers recognize that there will be additional work in the implementation of conservation standards but found that there were several extra steps that had to be taken in preparation of calculations to complete the certificate. The extra cost in many cases was absorbed by the consultants. If this was the only problem with the act the Society would be quite willing to do the extra work because of the definite benefits the public would receive.

However, as we have learned, Professional Engineers and Architects are the only ones that are performing these audits and preparing the certificates of compliance. Many buildings are being constructed today whereby the electric utility does not know where the electric power is going. For example, a major corporation, in Wichita, which receives all of its power through a direct line to the property can construct any building on its grounds and the utility company will be unaware of the construction and would not demand a certificate of compliance. Secondly, many other individuals such as interior decorators are also doing lighting work in buildings, but they do not have to comply with the statute.

But the greatest problem with the act is that it is not accomplishing what is set out to do because the only enforcement is through the utility's demand for the certificate. Once the certificate is received the utility does not review it but simply forwards it to the now extinct Kansas Energy Office. The remains of that organization, now beneath the organization of the Kansas Corporation Commission, does not do any further review of the certificate to see if indeed the standards have been complied with. No spot checks or on site reviews are made of any building to see if the certificate accurately reflects the standards that the building must adhere to in lighting. Simply put there are too many ways to bypass the intent of this act.

Due to these inadequacies in the act the Kansas Engineering Society would recommend that any utility connection be included within the ambit of the act. If the act can not be broadened to cover all users of electric power then a paper tiger has been created that discriminates against one group, the Licensed Engineers and Architects which the act does cover. In effect the current act is not doing what it was designed to do because there is no enforcement and is affecting a limited group of people, i.e. the licensed design professionals. If the law can not be amended to cover more broadly all users of electric power and lighting then the Society would recommend that the law be repealed.



# High-Technology

During the 1983 Kansas Legislative session an allocation of \$1 million was made to four Kansas universities for conducting research in appropriate high-technology areas. The legislative intent was as follows:

1. To strengthen the Kansas economy through increased employment created by new and/or expanded high-technology industries.
2. To support mission-oriented industry/university research proposals that will have a favorable economic impact.
3. To strengthen relationships between representatives of high-technology industries and university-based researchers.
4. To enhance the long term educational and research capabilities of universities in high-technology fields.
5. To encourage cooperative research among Regents institutions and to ensure that inquiries from industry are brought to the attention of appropriate researchers within the Regents institutions.

The legislation divided the funds: \$390,000 for developing Centers of Excellence administered by the Kansas Board of Regents and \$610,000 to support high-technology projects administered by the Kansas Department of Economic Development (KDED). Specific dollar amounts were established for each university for Centers of Excellence; however, the grant funds were to be awarded on a competitive basis.

Since the legislation was enacted, procedures for handling those funds have been established. KDED set up a Kansas Advanced Technology Commission whose objective is to improve education and research in high-technology in the Kansas institutions of higher education. This commission approves research proposals from the various institutions submitting proposals. Further, each institution has internal procedures for evaluating the quality of proposals from that institution before they are submitted to either administering agency. Proposals have gone through this system and productive research is in progress.

There is potential for high-technology development in Kansas. On August 25, 1983, Dr. Holly Zanville, director of economic development for a group of western states, told the Kansas Legislative Planning Committee that Kansas ranks 14th from the top nationally in the number of high-technology industries it has. Further, Kansas ranks sixth from the top nationally in small business climate.

The Kansas Engineering Society supported the 1983 legislation based on the fact that engineering and the Kansas engineering schools must make significant contributions if any high-technology thrust is to be successful. The 1983 appropriation level was quite modest; however, with the progress being made currently and the proposal approval structure established, there is significant potential for further development.

The Kansas Engineering Society again supports the concept of State appropriations for high-technology research in that the appropriation should continue and significantly increase. The Society makes the following recommendations:

1. That the appropriation level increase to \$5 million for fiscal 1985.
2. That the industrial matching requirement be established at 50% of the State appropriation level.
3. That equipment-in-kind be acceptable for meeting the matching requirement as well as hard dollars.
4. That the allocation system, to the Centers of Excellence through the Kansas Board of Regents and projects through KDED, continue as initiated in fiscal 1984.
5. That KU, KSU, WSU and PSUs share in the KDED monies in proportion to the engineering and/or engineering technology student enrollments.
6. That the legislature support this program to achieve long-term benefits and thus not discontinue the program should the immediate impact on economic development be small.

# Highways

The 1983 Legislature enacted an overdue antidote to the state's ailing highway system. Responsible parties on both sides of the Legislative aisle worked long, and patiently to construct a highway package that addressed the needs of both city, state and county road systems. KES' 1983 Highway Task Force had found the needs for rehabilitation, reconstruction, and improvement of the state and local roads amounted to \$244 million.

The five year phase-in funding measure, passed by the 1983 Legislature will raise a little less than half that amount; but coupled with the Federal infusion of highway tax dollars the picture is considerably brighter.

Unfortunately, as Secretary of Transportation John Kemp has pointed out to the 1983 Legislative Interim Infrastructure Committee, the state and federal funding acts of 1982 & 1983 will only begin to reverse a trend of a declining investment which still leaves Kansas in a catch-up situation.

Because the state's transportation facilities have been wearing out faster than they were being repaired or replaced the cost of this "deferred maintenance" must be added to other highway needs.

And because of the delay in addressing our needs three or four years ago it is now more expensive to meet those needs today.

The Kansas Engineering Society voices its continued support for improvements in our state and local highway systems and voices its particular thanks to those government officials in 1983 who voted to reverse the rapidly deteriorating trend in maintenance of our highway system.

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# Kansas Natural Resource Council

## TESTIMONY

Presented to  
the House Energy and Natural Resources Committee

by

Mari Peterson, Executive Director

February 1, 1983

(As the hosting organization of the Environmental Lobbying Conference, we want to acknowledge the support of The Land Institute, the Kansas Rural Center, and Kansans for Safe Pest Control on this position.)

Mr. Chairman and Members of the Committee:

We are concerned about the quality of life in Kansas. We are concerned that anytime hazardous chemicals come in contact with the environment, we take the risk that in the longrun those chemicals may come in contact with people through their water and through the air they breath. This risk is not worth taking.

KNRC concurs with Mr. Fortuna's testimony of yesterday that Kansas should ban the landfill of hazardous wastes and allow the Secretary of KDHE to reinstitute land burial for particular wastes as deemed necessary.

We are learning that clean-up of Superfund sites and leaking landfills is expensive. Though landfilling appears to be the least expensive alternative, we're finding the state and federal government are spending a great deal of money on problem sites. Knowing that all landfills eventually leak, we might as



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well view each landfill as a potential Superfund site in the future.

Since there are 201 sites in Kansas which could pose some danger, we encourage this committee and the legislature to support funding for a state Superfund. These sites need to be investigated. What we don't know might very well hurt us.

We also encourage elimination of the small generator exemption. There are ways that the small generator can be aided so that this does not pose an economic hardship. However, we simply cannot afford to have hazardous chemicals put in ordinary landfills and down sink drains. To help the small generator, we would support tax credit assistance. We also recommend the immediate creation of a hazardous waste exchange by which people have the opportunity to locate industries which need the very chemical that one industry ends up with as waste. If properly considered, hazardous "wastes" can actually be resources either through recycling or through exchange.

KNRC also concurs with Professor Rowland of the Sierra Club in recommending stricter regulation by KDHE and less co-management of hazardous waste generators and disposers.

Lastly, in keeping with our interest in the quality of life for people in Kansas, we ask you to require air quality monitoring at existing hazardous waste sites. Many people near Furley complain of breathing horrendous odors. What chemicals are they taking into their bloodstream? The state must act to protect the public's health.

I have merely summarized our positions on the hazardous waste issues before you. I am open to questions and am willing to elaborate on any of these positions.

KANSAS LIMESTONE ASSOCIATION

Testimony Before The  
HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

February 1, 1984

Mr. Chairman and Members of the Committee:

My name is Rocky Vacek and I represent the limestone producers and its association in Kansas. These companies vary in size from large multi-faceted national corporations to the small family-owned business. I appreciate the opportunity to appear before the Committee today to present our comments on House Bill 2728.

First, we would like to go on record that clean water and clean air benefits us all. Further, the Mine Safety and Health Administration already strictly monitors our industry, though these periodic inspections relate to amount of dust, noise, and general safety environment in which an employee is subjected to.

During the 1983 Kansas legislative session, Senate Bill No. 414 was passed and signed into law. In relationship to the crushed stone industry, this bill authorized the Secretary of Health and Environment to establish permitting procedures for air quality control to include a fee system. Regarding the water quality program, my members were already being assessed \$30.00 per year per permit per active quarry site.

In September 1983, the limestone association sent a letter to Secretary Sabol asking to become involved with the regulating process, the drafting of the proposed regulations and the public hearings. This resulted in a very positive working relationship with the Bureau of Air Quality. All that we asked was that there should be a

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classification of air polluting industries with a rate schedule developed based upon the relevant potential for pollution. As a result, our industry felt that a fair and equitable classification structure was created along with a reasonable fee schedule.

Then on November 6, 1983, we first learned of a public hearing scheduled for November 28th by the Department of Health and Environment. The purpose of this hearing was to consider the adoption of proposed regulations regarding a revised fee schedule for water pollution control permits. The fee for obtaining these permits would have increased tenfold. By definition, limestone operations are defined as an "industrial or commercial waste treatment facility." We strongly feel there should have been a reclassification. Falling under sewage permit fees is rather hard for our membership to understand. These operations are primarily involved in the removal of rainwater runoff and groundwater infiltration from the quarries to facilitate production. The operations which generate process water have closed circuit water systems with no discharge to state waters. For your information, limestone is used to remove sulfur dioxide from stack emissions at coal-fired energy plants; limestone is experimentally being used in the control of acid rain in the northeastern part of the United States; and now scuba divers take their tests for licensing purposes in abandoned limestone pits, . . .or as technically defined a waste treatment facility. Also, we would like to note that prior to the hearing concerning the air quality program, the limestone quarry owners and therefore being potential air permit holders were notified by letter from the Department of the proposed regulations. This was not the case in the water quality program. Those limestone producers having current water permits were never notified

by the Department of this November 28th hearing and the proposed regulations. The result of this hearing was that the proposed regulations were withdrawn. Further, the Department's hearing officer recommended. . . "This work should be done in consultation with the municipalities and industries affected by the permit program."

House Bill 2727 addresses fees for instructional correspondence courses for persons who operate water supply systems and waste water treatment facilities. We object to this bill as it creates an additional fee. And during these harsh economic times, my members are beginning to question if Kansas is a good place to invest and/or expand their operations. We firmly believe that the fee should be set forth in this bill, and not an amount to be later determined by the Secretary. And could not these fees be again increased next year?

House Bill 2728 relates to the fees collected for the water pollution control permit system. The association does not object to the existing fee system, but the Department is proposing to increase the fees to \$300 per permit per year per active quarry. We still believe that there should be a reclassification of the water polluting industries with a reasonable rate schedule developed based upon the relevant potential for pollution. And what would restrict the Department from again increasing the fees next year?

In conclusion, we recommend the adoption of legislation which would limit an agency as to what they can increase their fees for obtaining permits each year.

Again, thank you Mr. Chairman, for the opportunity to appear before the Committee today. I would be pleased to answer any questions.



# Legislative Testimony

Kansas Association of Commerce and Industry

500 First National Tower, One Townsite Plaza

Topeka, Kansas 66603

A/C 913 357-6321

KANSAS ASSOCIATION OF COMMERCE AND INDUSTRY

Testimony Before the

HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

February 1, 1984

Mr. Chairman and Members of the Committee:

My name is Rob Hodges and I am Executive Director of the Kansas Industrial Council, a major division of the Kansas Association of Commerce and Industry. I appreciate the opportunity to appear before the Committee today to present the Association's preliminary comments on the package of bills dealing with hazardous waste management, specifically: HB 2725, HB 2726, HB 2728, and HB 2740.

The Kansas Association of Commerce and Industry (KACI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KACI is comprised of more than 3,000 businesses plus 215 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KACI's members having less than 25 employees, and 86% having less than 100 employees.

The KACI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

KACI has two policies which relate to the topics of the bills being considered by the Committee. I have attached to this testimony a copy of the two policy positions adopted by our Board of Directors. Rather than read them to you, I would encourage each Committee member to read them at a later time.

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Because the bills being considered were not available in printed form until just last week, most KACI members have not had an opportunity to communicate with our office in regard to what is being proposed. For that reason my comments will be largely general in nature.

HB 2725 calls for a ban on the burial of hazardous wastes. Secretary Sabol has indicated that above ground storage is to be used in its place. While above ground storage would make monitoring and observation easier, it raises some questions. How would the waste be stored above ground? In barrels on a concrete pad? In a "bunker" of some type? Under a canopy? Also, where would this storage be located? Would it be readily accessible to waste generators, or removed from those locations to an area less accessible? Finally, what costs are being discussed for constructing an above ground storage facility? What about the cost of permitting fees? Will there be a fee to each generator for permission to use the facility? We have too many questions yet unanswered for us to endorse this bill.

HB 2726 would establish a super fund for cleaning up hazardous waste sites. An amount of \$500,000 would be taken from the State General Fund for this purpose. How will that money be replaced in the General Fund? Will increased permit fees and licensing costs be assessed against the business community to replace that money? Many businesses are concerned about the potential for having to replace the money, and want more information before determining their positions on establishment of a state superfund.

HB 2728 deals with the fees collected for the water pollution control permit system. Currently, permit holders pay a five-year fee for a five-year permit. The bill would allow the Kansas Department of Health and Environment to charge annual fees

for annual permits. KACI has no objection to that proposal, but would like to point out to the Committee that the reason this bill has become an issue, is that the Department is proposing to increase the fees tenfold. Rather than assess a five-year fee which is tenfold higher than was assessed to the same permit holders when they last applied for a permit, the Department wants to have the option of offering an annual fee. KACI's question is not about the bill, so it may not be germane today. But our question regards the necessity of a tenfold fee increase itself. What additional services will be provided that make a tenfold increase necessary?

Finally, HB 2740. This bill would amend several definitions relating to hazardous waste, would change rules and regulations to be established by the Secretary of the Department of Health and Environment, and would also change permit fees set by rules and regulations. Quite frankly, the provisions of the bill are so numerous and far reaching, we have not yet heard from our members about the potential impact. We have sent copies of this bill to our Energy and Natural Resources Committee, along with copies of the other bills being considered by your Committee. Hopefully, input from members of the business community will be available in time for you to take it into consideration as you take action on these important bills.

Thank you, again, Mr. Chairman for the opportunity to appear before the Committee today. I would be pleased to attempt to answer your questions.

(ENR-1) Environmental Priorities. The Kansas Association of Commerce and Industry shares society's concern for the quality of our total environment. Therefore, to effectively realize the maximum technological benefits available through a coordinated industrial and governmental effort, the Association actively supports and encourages the allocation of human, technical, and financial resources according to the following priorities:

First Priority: Where environmental conditions already represent a clear and overt health hazard.

Second Priority: Where serious health hazards will arise unless corrective action is taken soon.

Third Priority: Where health is not immediately at issue, but where it is desirable to improve the quality of our life.

Further, the Association believes that all control regulations and implementation time tables should reflect these objectives and priorities. (Initiated 1971 - effective through October 1984)

(ENR-10) Hazardous Wastes. KACI recognizes the necessity of prudent management and disposal of hazardous wastes. KACI further recognizes the need for adequate hazardous waste transportation and disposal capabilities which will allow for the most economical management methods practicable while ensuring the public health and welfare of the citizens of Kansas as well as protecting the state's environment. To meet these needs, KACI encourages the following:

1. That the Kansas Legislature not enact legislation which would severely limit or ban the establishment or expansion of hazardous waste disposal facilities on sites deemed to be safe to the health and welfare of the general public and the environment.
2. That private ownership and private operation of hazardous waste management and disposal sites should be considered the most desirable approach to ownership and operation of sites in Kansas, that public ownership with private operation of a site should be considered the second most desirable approach, and that public ownership and public operation of a site should be considered undesirable.
3. That industry seek alternatives to ground burial disposal when such alternatives are cost effective, and that the Kansas Legislature consider providing tax incentives to encourage industry to convert to alternative technologies.
4. That the Kansas Department of Health and Environment should be assigned the responsibility of approving new or expanding hazardous waste sites.
5. That fines and penalties for illegal disposal of hazardous wastes not exceed those called for by the federal government.
6. That the determination for what should be considered a hazardous waste be left at the federal level.
7. That other state regulations should not be more restrictive than federal regulations.
8. That the possibility of Kansas and surrounding states participating in a waste exchange program should be explored.

(Initiated 1980 - effective through February 1985)





TALLGRASS PRAIRIE BY TOM SNYDER

# SIERRA CLUB

LAWRENCE, KANSAS 66044

February 1, 1984

My testimony this afternoon is based on the assumptions that we share a common concern for protecting Kansas' supply of clean ground water and that we recognize that protecting the environment today is less expensive than trying to correct an ecological and economical catastrophe tomorrow. This is not to say that today's protection is inexpensive; to the contrary, environmental protection imposes significant costs on the generators, transporters and storers of hazardous waste and on the state and its citizens. Nor is it to say that we should not try to minimize these immediate economic burdens. However, the question is not if we pay. The questions are when we pay, how much we pay and who pays. If we value our natural heritage and the way of life it supports, if we are determined to pass this heritage and our respect for it on to future generations, then we will insure that those who profit today from producing hazardous waste will bear their fair share of the regulatory costs so our children and grandchildren don't bear the catastrophe economic and biological cost tomorrow.

Given these shared assumptions, I would like to share with you some reactions to House Bill No. 2740, an act relating to the regulation of hazardous waste in Kansas. Overall, the amendments to current statutes proposed by this bill are commendable steps in the right direction. However, if the bill is to achieve its long-range purposes, it should be strengthened in several ways.

A major purpose of the bill is to impose immediate deterrents against those who would profit from depositing toxic wastes in the environment. Safe disposal is expensive and imposes substantial costs on generators and transporters. These costs serve as incentives to circumvent the law and therefore the costs of safe disposal. As the severity of our waste problem and the threat to the environment grow, we impose progressively greater cost. Ironically this increases the incentives to violate the law and evade these costs. Moreover, by reducing their costs violators are given important advantages over their competitors and their competitors are encouraged to respond with evasive behavior of their own. The state can respond in one of two ways. It can, on one hand, make compliance easier (less expensive) by moving toward lax regulation. But this merely exacerbates the problem and postpones the inevitable. On the other hand, the state can impose sanctions that serve as disincentives and effective deterrents against those who would increase profits by violating the law. The bill before the House shows a willingness to increase sanctions; however, for reasons I shall outline below, we feel the proposed sanctions remain inadequate to achieve the purpose of the legislation.

To serve as a deterrent a law should impose costs that exceed the benefit a potential violator would gain from behaving illegally. Thus if the violator stands to gain \$1,000.00 and the probability of getting caught is 100 percent, the effective law would impose a fine equal to or greater than \$1,001.00.

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2-1-84

However, as the probability of getting caught diminishes, the deterrent can be maintained only by increasing the severity of sanction. For example, if the probability of getting caught were 10 percent, the minimum effective deterrent would be  $1,00/.10 = \$10,000.00$ .

As illustrated above the effectiveness of a deterrent is a trade off between the probability of apprehension and the severity of sanction. Recognizing this, a state can maximize the deterrent effect of its laws by either increasing the probability of apprehension or increasing the severity of sanction. Either strategy would be effective, but increasing the probability of apprehension is extremely expensive, requiring unrealistic commitments of personnel, technology and other resources. Kansas, like most cost-conscious states, has chosen to increase the severity of sanctions.

We believe that, given the law commitment of implementation and enforcement resources (11 person years in 1982), the sanctions proposed in HB 2740 are inadequate to achieve the deterrent effect we all desire. Specifically, most violations, such as knowingly concealing or destroying required records or making false material statements, are defined as Class "A" misdemeanors, the maximum penalty for which is one-year incarceration and/or \$2,500.00 fine. Those who dispose of hazardous waste in a manner contrary to KDHE rules are guilty of a Class "E" felony, the penalty for which is an indeterminate sentence of one to five years incarceration and/or a fine not to exceed \$5,000.00. Only those who "willfully, wantonly or recklessly" violate the act shall be guilty of a Class "C" misdemeanor, the penalty for which is one to ten years and/or a fine not to exceed \$10,000.00. Given the low probability of personnel apprehension and the historically low incidence of incarceration for first-time, ~~white~~-collar offenders, these sanctions are not commensurate with either the benefits of non-compliance or the damage inflicted on the state's environment and citizens. We urge you, therefore to increase the severity and certainty of sanction against those who would poison our land and water.

The inadequacy of sanctions is exacerbated by the bill's language at several points. For example, the requirement that only wanton, willful or reckless violators be prosecuted for Class "C" felonies places an extreme burden of proof on the state and virtually excludes the threat of felony conviction for first-time offenders. Elsewhere (eg: sec. 11, 1907) the KOHE secretary may order modified procedures if waste threatens to become a hazard to public health and safety; given the purpose of this bill and the responsibility of the legislature, we feel the permissive may should be changed to shall.

Placing undue burdens of proof on prosecutors and undue discretion in the hands of administrators creates an illusion of permissiveness and implicitly reduces the seriousness of illegal waste disposal by distinguishing illegal disposers from traditional criminals such as arsonists. In the short term this reduction encourages illegal dumping based on a rational calculus of anticipated costs and benefits. In the long-term the effects may be more serious. Law is an important teacher. Children learn that what is illegal is also morally wrong. Thus, stealing is not only against the law, it is wrong, immoral. Likewise introducing poison into a tourist water supply is not just illegal, it is wrong. Once introduced into our moral fabric, a law becomes for most of us, self enforcing. But if the law is to help society define what is wrong as well as what is illegal it must treat illegal behavior as morally reprehensible as well as economically irrational. Thus the severity of sanction for a given behavior defines not only its degree of illegality but its degree of immorality. To impose minor sanctions of behavior that

sacrifices long term social values for short-term individual profit is to define that behavior as slightly illegal and marginally wrong ie, its not so bad if you don't get caught and there are loopholes if you do. If we are to survive and prosper this is not a value or attitude we should use the law to teach our young. We urge you, therefore, to put teeth in the law by increasing sanctions and defining the illegal disposal of poison waste as unequivocally criminal and as reprehensible as any other form of poisoning or property destruction.