

Approved January 31, 1989
Date

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources

The meeting was called to order by Senator Ross Doyen at
Chairperson

8:08 a.m. ~~p.m.~~ on January 25, 1989 in room 423-S of the Capitol.

All members were present except: Quorum was present.

Committee staff present:

Don Hayward, Revisor
Raney Gilliland, Research
Lila McClaflin, Secretary

Conferees appearing before the committee:

John Strickler, Governor's office
Karen Gale, Sedgwick County CITizens for Recycling
Dennis Murphey, Department of Health and Environment

Chairman Doyen stated he had request for several bills to be introduced.
Staff was called on to brief the committee.

Mr. Hayward told the committee the proposed legislation relating to
conservation districts; concerning the program for protection of riparian
and wetland areas, was strictly a cleanup proposal (Attachment I).

A motion was made by Senator Hayden to introduce the legislation. Senator
Langworthy seconded the motion. Motion carried.

Chairman Doyen called attention to a proposal relating to the regulation
of storage tanks. He state the Department of Health and Environment and
the industry have spent several weeks working out the proposed legislation.

Senator Martin made the motion to introduce the proposal. Senator Sallee
seconded the motion. Motion carried (Attachment II).

The minutes of January 17 and 18 were adopted.

Chairman Doyen opened the hearing on S.B. 7 - concerning recycling;
providing for establishment of a recycling program in state offices in
the state capitol complex and adoption of certain state procurement practices
regarding goods made from recycled materials. He called on John Strickler.

Mr. Strickler stated the governor wished to express appreciation to the
Interim Special Committee on Energy and Natural Resources for its support
of a recycling program. It was his hope that through an Executive Order
an effective paper recycling program can be developed. Executive Order
No. 89-113 is attached to his testimony (Attachment III).

Karen Gale read written testimony supporting S.B. 7 (Attachment IV). In
response to a question, she stated, a market was easily found for the
items they collected in their recycling program. They picked up waste
oil, car batteries, newspapers, 3 colors of glass, 2 liter pop bottles
and aluminun cans.

Joyce Wolf, representing the Kansas Audubon Council, was not present,
but prestented written testimony supporting S.B. 7. (Attachment V)

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Engergy and Natural Resources,
room 423-S Statehouse, at 8:08 a.m./~~p.m.~~ on January 25, 1989

The chairman commended Ms. Gale for their efforts and encouraged her group to keep up the good work. The hearing was closed on S.B. 7. The chairman stated, Executive Order No. 89-113 was designed to implement the procedures addressed in S.B. 7. S.B. 7 was tabled.

Attention was called to S.B. 6 - concerning hazardous waste. The chairman referred to the amendments proposed by Dr. Hulett. On page 1, in line 25 striking "small businesses" in line 32, by striking "shall" and inserting "may".

A motion was made by Senator Sallee to adopt the amendment. Senator Hayden seconded the motion.

Discussion followed. Dennis Murphey from the Department of Health and Environment responded to questions.

The amendments were adopted.

Senator Martin made a motion to report S.B. 6 as amended, favorable for passage. Senator Langworthy seconded the motion. Motion carried.

The meeting adjourned at 8:30. Next meeting will be on January 31, 1989.

The Honorable Ross Doyen, Chairperson
Senate Committee on Energy and Natural Resources
Senate Chamber
Third Floor, Statehouse


Dear Senator Doyen:

SUBJECT: Fiscal Note for SB 7 by Special Committee on Energy and
Natural Resources

In accordance with KSA 75-3715a, the following fiscal note concerning SB
7 is respectfully submitted to your committee.

SB 7 requires the Secretary of Administration to establish rules and
regulations governing the separation, collection, and recycling of
wastepaper generated by state offices in the capitol area. All state
offices would be required to participate. In addition, the bill requires
that preference be given to goods made of recyclable materials for goods
purchased for state agencies.

The fiscal effect for the program primarily centers on initial set-up
costs, including educational materials to explain how the program will work,
special costs for transporting wastepaper within buildings, and space
modifications to establish collection sites. Preliminary estimates range
from \$125,000 if storage collection facilities are established only on the
first floor of capitol area buildings to \$250,000 if they are provided on
each floor. These amounts, all of which would be from the State General
Fund, would be in addition to expenditures included in the Governor's Report
on the Budget. Offsetting revenues from the sale of salvageable materials
are expected to be minimal.


Michael F. O'Keefe
Director of the Budget

MFO:LSC:sm

cc: Nick Roach, Director, Division of Purchases
Sherry Brown, Fiscal Officer, Dept. of Administration

5122

_____ BILL NO. _____

By

AN ACT relating to conservation districts; concerning the program for protection of riparian and wetland areas; amending K.S.A. 1988 Supp. 2-1915 and repealing the existing section.

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

Section 1. K.S.A. 1988 Supp. 2-1915 is hereby amended to read as follows: 2-1915. (a) Appropriations may be made for grants out of funds in the treasury of this state for terraces, terrace outlets, check dams, dikes, ponds, ditches, critical area planting, grassed waterways, tailwater recovery irrigation systems, precision land forming, range seeding, detention and grade stabilization structures and other enduring water conservation practices installed on public lands and on privately owned lands. Except as provided by the multipurpose small lakes program act, any such grant shall not exceed 80% of the total cost of any such practice.

(b) A program for protection of riparian and wetland areas shall be developed by the state conservation commission and implemented by the conservation districts. The conservation districts shall prepare district programs to address resource management concerns of water quality, erosion and sediment control and wildlife habitat as part of the conservation district long-range and annual work plans. Preparation and implementation of conservation district programs shall be accomplished with assistance from appropriate state and federal agencies involved in resource management.

(c) Subject to the provisions of K.S.A. 1988 Supp. 2-1919, and amendments thereto, any holder of a water right, as defined by subsection (g) of K.S.A. 82a-701, and amendments thereto, who is willing to voluntarily return all or a part of the water right

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(Attachment I)

to the state shall be eligible for a grant not to exceed 80% of the total cost of the purchase price for such water right. The state conservation commission shall administer this cost-share program with funds appropriated by the legislature for such purpose. The chief engineer shall certify to the state conservation commission that any water right for which application for cost-share is received under this section is eligible in accordance with the criteria established in K.S.A. 1988 Supp. 2-1919, and amendments thereto.

(d) The state conservation commission shall adopt rules and regulations to administer such grant program and protection programs.

(e) Any district is authorized to make use of any assistance whatsoever given by the United States, or any agency thereof, or derived from any other source, for the planning and installation of such practices.

Sec. 2. K.S.A. 1988 Supp. 2-1915 hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

SE4NR
7/25/89

January 20, 1989

_____BILL NO._____
BY _____

AN ACT relating to the regulation of storage tanks.

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

Section 1. It is hereby declared that the protection of the environment and the health and welfare of the citizens of Kansas requires the regulation of above ground and underground storage tanks.

Section 2. As used in this act:

() "Guarantor" means any person, other than the owner or the operator, who provides evidence of financial responsibility for a storage tank.

() "Facility" means all contiguous land, structures and other appurtenances and improvements on the land used in connection with one or more storage tanks.

() "Operator" means any person in control of, or having responsibility for, the daily operation of a storage tank. Such term shall not include a person whose only responsibility regarding such storage tank is filling such tank with a regulated substance and who does not dispense or have control of the dispensing of the regulated substance from the storage tanks.

() "Owner" means:

(1) In the case of a storage tank in use on November 8, 1984, or brought into use thereafter, any person who owns a storage tank; or

(2) In the case of a storage tank in use before November 8, 1984, but no longer in use on or after that date, any person who owned such tank immediately before the discontinuation of its use or the owner of the premises on which the storage tank is located.

() "Own" means to hold title to or possess an interest in a storage tank or the regulated substance in a storage tank, but does not include any person whose sole interest is to protect a security interest in the storage tank or regulated substance until such time as that person acquires the storage tank or regulated substance through foreclosure of any lien or interest therein.

() "Person" means an individual, trust, firm, joint stock company, corporation (including a governmental corporation), partnership, association, state, municipality, commission, political subdivision of a state, interstate body, consortium, joint venture, commercial entity, or the United States government.

() "Financial responsibility" means insurance, guarantee, surety bond, letter of credit, qualification as a self insurer or any other method satisfactory to the secretary to provide for taking corrective action (including clean up and restoration of any damage to the land, air or waters of the state) and compensating third parties for clean up, bodily injury or property damage resulting from a sudden or nonsudden release of a regulated substance arising from the construction, relining, ownership or operation of an underground storage tank.

() "Regulated substance" means:

(1) an element, compound, mixture, solution, or substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 of the United States as in effect on January 1, 1989, but not if regulated as a hazardous waste under the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Secs. 6921 through 6939b) as in effect on January 1, 1989; or

(2) an element, compound, mixture, solution, or substance that, when released into the environment, presents a substantial danger to the public health, welfare, or the environment; or

(3) an element, compound, mixture, solution, or substance otherwise designated by rule and regulation by the secretary; or

(4) petroleum.

() "Petroleum" means petroleum, including crude oil or any fraction thereof, which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).

() "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a storage tank into groundwater, surface water, surface or subsurface soils.

() "Storage tank" means any one or combination of tanks used to contain an accumulation of regulated substances, the associated piping and ancillary equipment and the containment system.

() "Tank" means a stationary device designed to contain an accumulation of substances and constructed of non-earthen materials (e.g., concrete, steel, plastic) that provide structural support.

() "Underground storage tank" means any storage tank in which ten percent (10%) or more of the tank volume, including volume of the piping, is below the surface of the ground.

() "Above ground storage tank" means any storage tank in which greater than ninety percent (90%) of the tank volume, including volume of the piping, is not below the surface of the ground.

() "Trade secret" may include, but is not limited to, any customer lists, any formula, compound, production data or compilation of information which is not patented and which is known only to certain individuals within a commercial concern using it to fabricate, produce or compound an article of trade, or any service having commercial value, which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

() "Underground storage tank installer" or "installer" means an individual who has an ownership interest or exercises a management or supervisory position with an underground storage tank contractor. The term shall include the crew chief, expeditor, engineer, supervisor, leadman, or foreman in charge of a tank installation project.

() "Underground storage tank contractor" or "contractor" means a business which holds itself out as being qualified to install, repair, or remove underground storage tanks.

() "Removal" means the process of removing and disposing of an underground storage tank no longer in service, and shall also mean the process of abandoning such a storage tank, in place, through use of prescribed techniques for cleanup of surrounding soils, the purging of vapors and the filling of the storage tank with an inert material.

() "Repair" means modification or correction of an underground storage tank including, but not limited to, relining, replacement of piping, valves, fillpipes, vents, and liquid level monitoring systems, and the maintenance and inspection of the efficacy of cathodic protection devices. "Repair" does not include the process of conducting a tightness test to establish the integrity of a storage tank.

() "Secretary" means the secretary of health and environment.

() "Department" means the Kansas department of health and environment.

Section 3. Except as provided in paragraph (p) of Section 5 of this act, this act shall not apply to:

(1) Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

(2) Tanks used for storing heating oil for consumptive use on a single family residential premise where stored;

(3) A pipeline facility (including gathering lines) regulated under:

(A) The Natural Gas Pipeline Safety Act of 1968; and

(B) The Hazardous Liquid Pipeline Safety Act of 1979;

(C) state laws relating to intrastate pipelines comparable to the provisions of law referred to in subparagraphs (A) and (B) above;

(4) Surface impoundments, pits, ponds, septic tanks or lagoons;

(5) Storm water or waste water collection systems;

(6) Flow-through process tanks;

(7) Liquid traps, storage tanks, or associated gathering lines directly related to oil or gas production and gathering operations;

(8) Storage tanks situated in an underground area (such as a basement, cellar, mine working, drift, shaft or tunnel) if the storage tank is situated upon or above the surface of the floor;

Section 4. (a) Each owner of a storage tank shall notify the department of the tank's existence, including age, size, type, location, associated equipment and uses.

(b) In addition and to the extent known, each owner of an underground storage tank which has not been removed, but was taken out of service after January 1, 1974 and prior to May 8, 1986, shall notify the department of the date the tank was taken out of operation, the age of the tank on the date taken out of operation, the capacity, type and location of the tank, and the type and quantity of substances stored in the tank on the date taken out of operation.

(c) Notice shall be made on an approved form provided by the department.

Section 5. The secretary is authorized and directed to:

(a) Adopt rules and regulations establishing performance standards for underground storage tanks first brought into use on or after the effective date of this act. The performance standards for new underground storage tanks shall

include, but are not limited to, design, construction, installation, release detection, and product compatibility standards.

(b) Adopt rules and regulations establishing performance standards for above ground storage tanks brought into use after the effective date of this act. The performance standards for new above ground storage tanks shall include, but are not limited to, design, construction, installation, release detection, and product compatibility standards.

(c) Adopt rules and regulations establishing performance standards for the inground repair of underground storage tanks. The performance standards shall include, but are not limited to, specifying under what circumstances an underground storage tank may be repaired and specifying design, construction, installation, release detection, product compatibility standards and warranty.

(d) Adopt rules and regulations establishing performance standards for maintaining spill and overfill equipment, leak detection systems, and comparable systems or methods designed to prevent or identify releases. In addition, the secretary shall establish standards for maintaining records and reporting leak detection monitoring, inventory control, and tank testing or comparable systems.

(e) Adopt rules and regulations establishing requirements for reporting a release and for reporting and taking corrective action in response to a release.

(f) Adopt rules and regulations establishing requirements for maintaining evidence of financial responsibility to be met by owners and operators of underground storage tanks .

(g) Adopt rules and regulations establishing requirements for the closure of underground storage tanks including the removal and disposal of underground storage tanks and regulated substance residues contained therein to prevent future releases of regulated substances into the environment.

(h) Adopt rules and regulations for the approval of tank tightness testing methods, including determination of the qualifications of persons performing or offering to perform such testing.

(i) Adopt rules and regulations establishing site selection and cleanup criteria regarding response actions related to a release and which address the following: The physical and chemical characteristics of the released substance, including toxicity, persistence, and potential for migration; The hydrogeologic characteristics of the release site and the surrounding land; The proximity,

quality, and current and future uses of ground water; An exposure assessment; The proximity, quality, and current and future use of surface water; and The level of the released substance allowed to remain on the facility following cleanup.

(j) In adopting rules and regulations under this section, the secretary shall take notice of rules and regulations pertaining to fire prevention and safety adopted by the state fire marshal pursuant to K.S.A. 31-133(a)(1), and amendments thereto.

(k) Nothing in this section shall interfere with the right of a city or county having authority to adopt a building or fire code from imposing requirements more stringent than those adopted by the secretary pursuant to subsections (a), (b), (c), (g) and (l) of this section.

(l) In adopting rules and regulations under this section the secretary shall adopt schedules requiring the retrofitting of storage tanks in existence on the effective date of this act and for the retirement from service of underground storage tanks placed in service prior to the effective date of this act. Such schedules shall be based on the age and location of the storage tank and the type of substance stored. Such retrofitting shall include secondary containment, corrosion protection, linings, leak detection equipment, and spill and overfill equipment.

(m) The secretary shall adopt rules and regulations prescribing fees for the registration of storage tanks, the issuance of permits, the approval of plans for new installations, and the conducting of inspections. The fees shall not exceed the amount of revenue required for the proper administration of the provisions of this act. All fees shall be deposited in the state general fund.

(n) Adopt rules and regulations for determining the qualifications, adequacy of performance, and financial responsibility of persons desiring to be licensed as underground storage tank installers or contractors. In adopting rules and regulations, the secretary may specify classes of specialized activities (such as the installation of corrosion protection devices or inground relining of underground storage tanks) and may require persons wishing to engage in such activities to demonstrate additional qualifications to perform these services.

(o) Adopt rules and regulations prescribing fees for the issuance of licenses to underground storage tank installers and contractors. The fees shall

not exceed the amount of revenue determined by the secretary to be required for administration of the provisions of section 10.

(p) Adopt rules and regulations requiring the registration with the department of any class of storage tank otherwise exempted from regulation by this act. Such registration shall not require the payment of any registration fee.

Section 6. (a) On and after the effective date of this act, no person shall construct, reline, own, or operate a storage tank unless a permit or other approval is obtained from the secretary. Applications for permits shall include proof that the required performance standards will be met and evidence of financial responsibility. For purposes of administering this section, any storage tank registered with the department on the effective date of this act shall be deemed to be a permitted storage tank so long as the owner or operator shall comply with all applicable provisions of this act.

(b) Permits may be transferred upon acceptance of the permit obligations by the person who is to assume the ownership or operational responsibility of the storage tank from the previous owner or operator. The department shall furnish a transfer of permit form providing for acceptance of the permit obligations. A transfer of permit form shall be submitted to the department not less than 7 days prior to the transfer of ownership or operational responsibility of the storage tank.

(c) The secretary may deny, suspend or revoke any permit issued or authorized pursuant to this act if the secretary finds, after notice and the opportunity for a hearing conducted in accordance with the Kansas administrative procedure act, that the person has:

(1) Fraudulently or deceptively obtained or attempted to obtain a storage tank permit;

(2) Failed at any time to maintain the storage tank in accordance with the requirements of this act or any rule and regulation promulgated hereunder;

(3) Failed at any time to comply with the requirements of this act or any rule and regulation promulgated hereunder; or

(4) Failed at any time to make any retrofit or improvement to a storage tank which is required by this act or any rule and regulation promulgated hereunder.

(d) Any person aggrieved by an order of the secretary may appeal the order in accordance with provisions of the act for judicial review and civil enforcement of agency actions.

Section 7. (a) Each owner or operator of an underground storage tank shall provide evidence of financial responsibility.

(b) If the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the federal bankruptcy law, or if jurisdiction in any state or federal court cannot be obtained over an owner or operator likely to be solvent at the time of judgement, any claim arising from conduct for which evidence of financial responsibility must be provided under this act may be asserted directly against the guarantor providing the evidence of financial responsibility. In the case of action pursuant to this subsection, the guarantor is entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if any action had been brought against the guarantor by the owner or operator.

(c) The total liability of a guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this section. This subsection does not limit any other state or federal statutory, contractual, or common law liability of a guarantor to its owner or operator, including, but not limited to, the liability of the guarantor for bad faith in negotiating or in failing to negotiate the settlement of any claim. This subsection does not diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, or other applicable law.

Section 8. (a) For the purposes of developing or assisting in the development of any regulation, conducting any study, or enforcing the provisions of this act:

(1) It shall be the duty of any owner or operator of a storage tank, upon the request of any duly authorized representative of the secretary made at any reasonable time, to furnish information relating to the storage tank, including tank equipment and contents, to conduct monitoring or testing, to permit such authorized representative to have access to and to copy all records relating to such tanks.

(2) Any officer, employee or other authorized representative of the secretary is authorized to enter at reasonable times any establishment or place where a storage tank is located, to inspect and obtain samples from any person of any regulated substance contained in such storage tank, and to conduct or require the owner or operator to conduct monitoring or testing of the tanks, associated equipment, tank contents, or surrounding soils, air, surface water, or groundwater.

(b) Each inspection shall be commenced and completed with reasonable promptness.

(c) Any records, reports, documents, or information obtained from any person under this act shall be available to the public except as provided in this section.

(d) Any person submitting any records, reports, documents, or information required by this act, may, upon a showing satisfactory to the secretary, claim any portion of such record, report, document, or information confidential as a trade secret. The department shall establish procedures to insure that trade secrets are utilized by the secretary or any authorized representative of the secretary only in connection with the responsibilities of the department pursuant to this act. Trade secrets shall not be otherwise used or disseminated by the secretary or any representative of the secretary without the consent of the person furnishing the information.

(e) Notwithstanding any limitation contained in this section, all information reported to, or otherwise obtained by the department under this act, shall be made available to the administrator of the United States environmental protection agency, or an authorized representative of the administrator, upon written request. In submitting any trade secrets to such administrator or the authorized representative of such administrator, the secretary shall submit the claim of confidentiality to the administrator or authorized representative of the administrator.

Section 9. (a) It shall be unlawful for any person to:

(1) Knowingly deposit, store or dispense, or permit any person to deposit, store or dispense, any regulated substance into any storage tank which does not comply with the provisions of this act, the rules and regulations promulgated hereunder, or any order of the secretary.

(2) Construct, modify, or operate a storage tank without a permit or other written approval from the secretary or otherwise be in violation of the rules and regulations, standards or orders of the secretary.

(3) Refuse or hinder a properly identified officer or employee of the department or other authorized agent of the secretary from entering, inspecting, or sampling at a facility on which a storage tank is located or from copying records concerning such storage tank as authorized by this act.

(4) Knowingly make any false material statement or representation in any application, record, report, permit or other document filed, maintained or used for purposes of compliance with this act.

(5) Knowingly destroy, alter, or conceal any record required to be maintained by this act or rules and regulations promulgated hereunder.

(6) Knowingly allow a release, knowingly fail to report a release, or knowingly fail to take corrective action in response to a release, of a regulated substance in violation of this act or rules and regulations promulgated hereunder.

(b) Any person who violates paragraphs (1) through (6) of subsection (a) of this section shall be guilty of a class A misdemeanor and, upon conviction thereof, shall be punished as provided by law.

Section 10. (a) It shall be unlawful for any person to practice, or hold oneself out as authorized to practice, as an underground storage tank installer or underground storage tank contractor or use other words or letters to indicate such person is a licensed installer or contractor unless the person is licensed in accordance with this section.

(b) The secretary shall:

(1) Develop and administer a written examination to candidates for licensing under the terms of this section. Questions used in the examination shall be derived from standard instructions and recommended practices published by such authorities as the Petroleum Equipment Institute, American Petroleum Institute, Steel Tank Institute, National Association of Corrosion Engineers, Fiberglass Tank and Pipe Manufacturers Institute, National Fire Protection Association, Western Fire Chiefs Association, and Underwriters Laboratories. Additional questions shall be derived from state and federal regulations applicable to storage tanks. The secretary shall make available sample questions

and related material to qualified candidates to be used as a study guide in preparation for the examination.

(2) Conduct at least one on site inspection annually, observing procedures used by each licensed underground storage tank contractor for installing, repairing or removing an underground storage tank.

(c) Any person who willfully violates any provision of subsection (a) of this section shall be guilty of a class "C" misdemeanor and, upon conviction thereof, shall be punished as provided by law.

(d) Prior to 12 months after the effective date of this act, the department shall conduct written examinations, at such times and locations within the state as the department may designate, for the purpose of identifying installers as being qualified to receive a "Tank Installer's License." Each Tank Installer's License shall be issued for a period of two years and shall be subject to periodic renewal thereafter under procedures prescribed by the department.

(e)(1) Beginning six months after the effective date of this act, no contractor shall engage in the installation, repair, or removal of an underground storage tank unless the contractor shall have filed with the department, on a form prescribed by the secretary, documentation demonstrating that within the previous two years the contractor has been regularly and specifically engaged in the installation, repair, and removal of underground storage tanks, as a primary business activity, and the department shall have issued to such contractor, as a result of such documentation, an "Interim Contractor License."

(2) Beginning 18 months after the effective date of this act, no contractor shall engage in the installation, repair, or removal of an underground storage tank unless such contractor shall have been issued a "Contractor License." Each Contractor License shall specify a date on which the license will expire and such license shall become invalid unless renewed prior to the expiration date pursuant to procedures prescribed by the secretary.

(f) A contractor must meet the following requirements to qualify for a Contractor License:

(1) At least one active officer or executive of the business must possess a valid Tank Installer's License.

(2) The contractor must submit documentation showing that it has insurance, surety bonds or liquid company assets which, in combination, represent a value of not less than five times the value of the largest underground storage tank

installation, removal, or repair contract performed by the contractor during the previous two years.

(3) The contractor must state in its license application and agree that at all times on any and all jobs involving the installation, repair, or removal of an underground storage tank, an individual who possesses a valid Tank Installer's License will be present at the job site not less than 75% of the time during the progress of the work, and that such installer shall exercise responsible supervisory control over the work.

(g) The secretary may elect to establish reciprocal arrangements with states having similar licensing requirements and to provide for the licensing in this state of persons who have successfully completed examinations and otherwise qualified for licensure in another state.

(h) A valid Interim Contractor License or an unexpired Contractor License shall be valid in all counties and municipalities throughout the state and the issuance of either license to a contractor shall serve as authority for the contractor to engage in the installation, repair, and removal of underground storage tanks in any jurisdiction within the state without requirement for obtaining additional county or local licenses. However, local jurisdictions may impose more stringent requirements for installation, repair, or removal of such systems than are imposed by state regulations in which case a contractor shall be required to conduct its operations in the local jurisdiction in conformity with the local requirements.

Section 11. (a) The secretary may deny any license applied for, or suspend or revoke any license issued, pursuant to Section 9 of this act if the secretary finds, after notice and the opportunity for a hearing conducted in accordance with the provisions of the Kansas administrative procedure act, that the applicant or licensee, whichever is applicable, has:

(1) Fraudulently or deceptively obtained or attempted to obtain a license;
or

(2) Failed at any time to meet the qualifications for a license or to comply with any provision or requirement of this act or of any rule and regulations adopted thereunder; or

(3) Failed to comply with local requirements of any jurisdiction within which the licensee has installed, repaired or removed an underground storage tank.

(b) Any person aggrieved by a final order of the secretary may appeal the order in accordance with the provisions of the act for judicial review and civil enforcement of agency actions.

Section 12. The secretary may designate a local fire department, building inspection department, health department, department of environmental control, or other municipal, county or local governmental agency, to act as the secretary's agent to carry out the provisions of this act under such terms and conditions as the secretary shall prescribe.

Section 13. (a) Any person who violates any provision of section 8 or section 9 of this act, and amendments thereto, shall incur, in addition to any other penalty provided by law, a civil penalty in an amount of up to \$10,000 for every such violation, and in case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) The director of the division of environment, upon a finding that a person has violated any provision of section 8 or section 9 of this act may impose a penalty within the limits provided in subsection (a) of this section, which penalty shall constitute an actual and substantial economic deterrent to the violation for which it is assessed.

(c) No penalty shall be imposed pursuant to this section except upon the written order of the director of the division of environment to the person who committed the violation. Such order shall state the violation, the penalty to be imposed and the right of such person to appeal to the secretary. Within 15 days after service of the order, any such person may make written request to the secretary for a hearing thereon in accordance with the Kansas administrative procedure act.

(d) Any action of the secretary pursuant to subsections (c), (f)(1) or (f)(2) of this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

(e) Any penalty recovered pursuant to the provisions of the section shall be deposited in the state treasury and credited to the general fund.

(f) Notwithstanding any other provision of this act, the secretary, upon receipt of information that the storage or release of a regulated substance may present a hazard to the health of persons or to the environment, may take such action as the secretary determines to be necessary to protect the health of such

persons or the environment. The action the secretary may take shall include, but is not limited to:

(1) Issuing an order, subject to review pursuant to the Kansas administrative procedure act, directing the owner or operator of the storage tank, or the custodian of the regulated substance which constitutes such hazard, to take such steps as are necessary to prevent the act, to eliminate the practice which constitutes such hazard, to investigate the extent of and remediate any pollution resulting from the storage or release. Such order may include, with respect to a facility or site, permanent or temporary cessation of operation.

(2) Issuing an order, subject to review pursuant to the Kansas administrative procedure act, directing an owner, tenant or holder of any right of way or easement of any real property affected by a known release from a storage tank to permit entry on to and egress from that property, by officers, employees, agents or contractors of the department or of the person responsible for the regulated substance or the hazard, for the purposes of monitoring the release or to perform such measures to mitigate the release as the secretary shall specify in the order.

(3) Commencing an action to enjoin acts or practices specified in subsection (a)(1) of this section or requesting the attorney general or appropriate county or district attorney to commence an action to enjoin those acts or practices. Upon a showing that a person has engaged in those acts or practices, a permanent or temporary injunction, restraining order or other order may be granted by any court of competent jurisdiction. An action for injunction under this subsection shall have precedence over other cases in respect to order of trial.

(4) Applying to the appropriate district court for an order of that court directing compliance with the order of the secretary pursuant to the act for judicial review and civil enforcement of agency actions. Failure to obey the court order shall be punishable as contempt of the court issuing the order. The application under this subsection shall have precedence over other cases in respect to order of trial.

(g) In any civil action brought pursuant to this section in which a temporary restraining order, preliminary injunction or permanent injunction is sought, it shall not be necessary to allege or prove at any stage of the proceeding that irreparable damage will occur should the temporary restraining

order, preliminary injunction or permanent injunction not be issued or that the remedy at law is inadequate, and the temporary restraining order, preliminary or permanent injunction shall issue without such allegations and without such proof.

Section 14. This act shall be known and may be cited as the storage tank act.

Section 15. This act shall take effect and be in force from and after its publication in the statute book.

STATE OF KANSAS



OFFICE OF THE GOVERNOR

State Capitol
Topeka 66612-1590
(913) 296-3232

Mike Hayden Governor

January 24, 1989

The Honorable Ross Doyen
Chairperson
Senate Committee on Energy and Natural Resources
State Capitol
Topeka, KS 66612

Dear Ross:

Attached is Executive Order No. 89-113 establishing a Capitol Complex pilot paper recycling program and procurement policy.

I want to express my appreciation to the Interim Special Committee on Energy and Natural Resources for its study and support of such a program. It is my hope that through this Executive Order, we can move in an expeditious manner to develop an effective paper recycling program within the Capitol Complex. Success in such an effort can lead to expansion of this program within other state owned facilities.

Through the Department of Administration, we will be checking to ensure that there are no artificial barriers to state purchase of recycled paper under existing purchasing policies. We will then explore the feasibility and potential costs of purchasing recycled paper.

We look forward to the interest and support of the Legislature in making this pilot program a successful effort.

Sincerely,


MIKE HAYDEN
Governor


MH:JKS:np

cc: Members, Senate Committee on Energy and Natural Resources
Shelby Smith
Stan Grant

SE&NR
V25189
(Attachment III)

STATE OF KANSAS



OFFICE OF THE GOVERNOR

State Capitol
Topeka 66612-1590
(913) 296-3232

Mike Hayden Governor

EXECUTIVE ORDER NO. 89-113

ESTABLISHING A CAPITOL COMPLEX
PILOT PAPER RECYCLING PROGRAM AND
PROCUREMENT POLICY

Executive Department
State House
Topeka, Kansas

WHEREAS, the Interim Special Committee on Energy and Natural Resources has studied and supported a paper recycling project for the Capitol Complex.

WHEREAS, concerns about solid waste management are becoming increasingly urgent throughout the nation. Solid waste disposal costs are increasing as space in existing landfill facilities is depleted. Environmental, geographical and political concerns make development of new sites difficult.

WHEREAS, the citizens and governing bodies of the State of Kansas must take positive steps to prevent a solid waste management crisis similar to those faced in other states.

WHEREAS, through responsible management of solid wastes generated by state agencies, state government can provide leadership and a model in constructive solid waste management practices.

WHEREAS, one such practice is recycling of solid wastes.

WHEREAS, other states have estimated that 50 % of the solid wastes generated by their state agencies consists of paper.

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Mike Hayden
Executive Order No. 89-113
Page Two

WHEREAS, such a recycling program assists in extending the life of existing landfills, thus reducing the need for new sites, conserves and protects natural resources and reduces energy consumption in the manufacture of paper.

WHEREAS, development of a market for recycled paper products is necessary to fully realize the benefits of recycling programs.

NOW, THEREFORE, the Secretary of Administration and the Secretary of Health and Environment are directed to investigate paper recycling and recycled paper procurement programs in other states, establish a paper recycling pilot program within the Capitol Complex area and develop recycled paper procurement policies.

This document shall be filed with the Secretary of State as Executive Order No. 89-113 and shall become effective immediately.

THE GOVERNOR'S OFFICE

By the Governor Mike Hayden

January 23, 1989

Bill Haw
Secretary of State

Assistant Secretary of State

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Sedgwick County Citizens for Recycling would like to express our support for Senate Bill 7. Our organization is dedicated solely to the increase of recycling in Sedgwick County and Kansas. We believe any materials that can be recycled in lieu of being landfilled or incinerated should be recycled.

To illustrate the citizen interest in recycling we conducted a pilot curb-side collection project in a one-square mile area of a Wichita neighborhood.

With only 2 weeks notice, by paper door knob

SE4NR

425189

(attachment IV)

hangers, from Citizens for Recycling- a group no one had heard of before, on the Thanksgiving holiday weekend, we collected over 5000 pounds of recyclable materials.

Our current pilot project is to provide monthly drop-off sites at 3 Wichita shopping centers. Our first day is February 4 and we will continue the first Saturday of every month.

We believe pilot, or demonstration, projects help citizens realize recycling not only can save money and resources,

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but also that recycling is easy. That recycling becomes a habit. That recycling is not messy or dirty. The example of recycling at the State government level will help Kansans with their own efforts to recycle at home and in offices and businesses. We encourage you to support Senate Bill 7.

Kansas Audubon Council

Position paper

STATE PAPER CONTRACTS

Recognizing the environmental problems resulting from the production of virgin paper and the disposal of all papers, and recognizing that the State of Kansas is a major consumer of paper;

And further recognizing that markets for recycled products need to be developed, and that the State of Kansas should take a leadership role,

The Kansas Audubon Council encourages Kansas legislators to:

Develop and pass legislation that will require all state agencies to purchase a specified percentage (20% by 1990, 40% by 1992, 60% by 1995 and 75% by 2000) of certain categories of paper goods (offset/opaque, bond non-rag, text/text cover) that will contain at least 75 percent recycled (post-consumer) fibers.

SUPPORTING INFORMATION

- * Ten million acres of forest, worldwide, is devoted to the production of paper.
- * The U.S. annually imports 800 million pounds of paper from Brazil, thus contributing to the destruction of tropical rainforests
- * Paper, most of which could be recycled, makes up more than one-third of the total volume of waste that is flooding our landfills
- * The U.S. leads the world in per capita paper consumption and trails most developed nations in paper recycling
- * Only six percent of office and writing paper used in the U.S. is made from recycled fiber
- * Establishing markets for recycled products will create sustainable, ecologically sound industry
- * Other methods of dealing with waste paper, such as incineration, create additional environmental problems and solve none of the problems associated with production
- * State government can set a responsible example for businesses and citizens of the state

SPECIFIC INFORMATION

- * In 1987, the State of Kansas purchased 2,296,378 pounds of offset/ opaque paper, 684,917 pounds of bond non-rag paper, and 196,097 pounds of text/text cover paper. All of these are available as recycled paper from several vendors.
- * Mandatory recycled paper procurement programs have been established in 17 states and a number of cities.
- * Some states have staggered the implementation of set-aside procurement programs, requiring increased percentages over a period of years. This is the approach we are advocating.
- * Since much of the largest category (offset/opaque) is used in copiers, some states require that new copiers being purchased be compatible with recycled paper.
- * It is important to specify the post-consumer fiber content in the legislation, as without it, vendors have difficulty bidding.
- * In order to inspire interest at the practical level, some states allow procurement officials to establish specific standards for recycled paper and to perform the initial feasibility study.

