

Approved March 13, 1990  
Date

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

The meeting was called to order by Representative Dennis Spaniol at  
Chairperson

3:30 ~~xxx~~ p.m. on February 27, 1990 in room 562-S of the Capitol.

All members were present except:

Representative Holmes (Excused)  
Representative Charlton (Excused)

Committee staff present:

Raney Gilliland, Principal Analyst, Legislative Research  
Mary Torrence, Revisor of Statutes' Office  
Pat Mah, Legislative Research  
Maggie French, Committee Secretary

Conferees appearing before the committee:

Representative John D. McClure, 106th District  
Representative Eugene L. Shore, 124th District  
Ms. Joyce Wolf, Kansas Audubon Council  
Ms. Charlene Stinard, Program Director, Kansas Natural Resource Council  
Mr. James A. Power, Jr., P.E., Director, Division of Environment, Kansas  
Department of Health and Environment  
Mr. Bill R. Fuller, Assistant Director, Public Affairs Division, Kansas  
Farm Bureau  
Mr. John V. Black, Attorney, Pratt, Kansas  
Mr. Gregory J. Stucky; Attorney, Southwest Kansas Royalty Owners Association  
Mr. Robert A. Anderson, Oklahoma-Kansas Division, Mid-Continent Oil and  
Gas Association  
Mr. Ronald R. Hein, Attorney, Mesa Limited Partnership  
Mr. Donald P. Schnake, Executive Vice President, Kansas Independent Oil  
and Gas Association  
Mr. Jerry F. Coffey, Koch Oil Company, Wichita, Kansas

Chairman Dennis Spaniol called the meeting to order.

House Bill No. 2765 -- An act excluding water protection fees from gross receipts for sales tax purposes.

Chairman Spaniol called for final action on House Bill No. 2765. Representative Guldner motioned to report favorably and place the bill on the Consent Calendar, seconded by Representative Grotewiel. Discussion followed on why Section 2 stated "publication in the Kansas register," instead of the statute book. Motion carried.

House Bill No 2843 -- An act concerning wildlife; requiring a permit to engage in certain commercial guide services relating to hunting and fishing activities.

Following call for final action on House Bill No. 2843, Representative Lacey outlined proposed amendments to the bill (Attachment 1). Discussion followed including the comment that the proposal for the Kansas Department of Wildlife and Parks to publish a list of guides was well received. Representative Lacey moved that the amendments to the bill be adopted and the committee report favorably on passing the bill. Representative McClure seconded the motion. Motion passed.

House Bill 2854 -- An act requiring certain labeling of plastic containers.

The chairman called the attention of the committee to written testimony received by mail from Ms. Anne C. Crews, Manager, Public Affairs, Mary Kay Cosmetics, Dallas, Texas, and from Mr. Dirk C. Bloemendaal, Attorney, Corporate Government Affairs, Amway Corporation, Ada, Michigan, supporting House Bill No. 2854, stating that all committee members had been furnished copies of the letters. (Attachments 2 and 3)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

room 526-S, Statehouse, at 3:30 ~~xxx~~ p.m. on February 27, 1990

Representative John D. McClure, 106th District, co-sponsor of House Bill No. 2854, presented his testimony regarding adoption of codes for plastic containers as well as recycling procedures (Attachment 4). He circulated examples of codes used on actual plastic containers. Discussion following included questions relative to passage of similar bills in large-population states, at which time the chairman called the attention of the committee to the fact that this does not appear to be a problem since letters were received by the committee from national organizations. Representative McClure stated this bill would aid recycling efforts. Chairman Spaniol noted receipt of a fiscal note on House Bill No. 2854 which reflected no impact to the state.

Ms. Joyce Wolf, Kansas Audubon Council, testified on behalf of House Bill No. 2854, commenting that the Kansas Audubon Council believes this is one more step the State of Kansas can take to address the need for reduction in the solid waste stream. No questions were forthcoming from the committee following Ms. Wolf's testimony (Attachment 5).

Ms. Charlene Stinard, Program Director, Kansas Natural Resource Council, urged the committee to pass House Bill No. 2854 in her testimony (Attachment 6). During discussion following Ms. Stinard's testimony, Representative Shore pointed out 20 states have adopted container codes.

Mr. James A. Power, Jr., P.E., Director, Division of Environment, Kansas Department of Health and Environment, opposed passage of House Bill No. 2854 as it is written. He stated the department recommends it be replaced with a resolution and outlined reasons in his testimony (Attachment 7). In response to a question from Representative Freeman, Mr. Power indicated the Kansas Department of Health and Environment generally supports the bill if it is amended as suggested in his testimony.

Chairman Spaniol concluded hearings on House Bill No. 2854. He advised the committee to be prepared for amendment or debate on this bill on February 28, 1990, since it will be brought up at that time.

House Bill No. 2985 -- An act concerning oil and gas; relating to payment of interest on proceeds from oil or gas production.

Representative Eugene L. Shore, 124th District, testified as a proponent on House Bill No. 2985, stating that royalty checks sometimes are delayed as long as two years (Attachment 8). Discussion included a question as to whether or not an attorney had drafted the bill (which Representative Shore affirmed); placement of suspended royalties in interest-bearing accounts or requiring payment of the amount the state charges for delinquent accounts.

Mr. Bill R. Fuller, Assistant Director, Public Affairs Division, Kansas Farm Bureau, stated in his testimony as a proponent on House Bill No. 2985 that the Kansas Farm Bureau supported the concept and had passed a resolution on mineral interests at their 1989 annual meeting (Attachment 9). No questions were asked by the committee.

Mr. John V. Black, Attorney, Pratt, Kansas, testified in favor of House Bill No. 2985 commenting that 60 days is a charitable time to pay or a specified percentage of interest should be paid on suspended royalties. He distributed copies of payment records to point out the delays in payment (Attachments 10 and 11). Discussion included cost of oil and gas leases and the need for royalty owners to be able to protect themselves.

Mr. Gregory J. Stucky, Attorney, testified as a proponent on behalf of Southwest Kansas Royalty Owners Association on House Bill No. 2985 discussing reasons for suspending royalty payments and urged the committee to pass this bill to require the suspending party to pay interest on these

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES,

room 526-S, Statehouse, at 3:30 ~~xxx~~/p.m. on February 27, 1990.

amounts (Attachment 12). Discussion included checking of leases being sold to other operations; production going on during court action; penalties if interest is not paid; definition of "payee" and payment of interest through Kansas banks.

Mr. Robert A. Anderson, Oklahoma-Kansas Division, Mid-Continent Oil and Gas Association, testified as an opponent on House Bill No. 2985. He indicated that escrow account management throughout numerous states would certainly increase the cost and complexity of doing business and allow smaller interests for royalty owners (Attachment 13). Discussion included the possibility of deleting the lines relative to escrow accounts from the bill.

Mr. Ronald R. Hein, Attorney, testified as an opponent on behalf of Mesa Limited Partnership, indicating there is no opposition to the concept and intent of the bill; however, concerns were outlined including the 60-day time frame (Attachment 14). Questions were asked by the committee including preference for paying interest rather than having interest-bearing account; cutting the payments on a Kansas bank, and rates of interest.

Mr. Donald P. Schnake, Executive Vice President, Kansas Independent Oil and Gas Association, testified in opposition to House Bill No. 2985. He expressed disapproval of the escrow account procedure in the bill and commented KIOGA does not believe KSA 16-204, Line 33, is the proper statute to apply the proposed interest rate (Attachment 15). In response to questions from the committee, Mr. Schnake stated his association does not see a problem with royalty payments. Other discussion included the amount of time required to identify the payee on new wells; receipt of interest by the oil company while payments are in suspension, etc.

Mr. Jerry F. Coffey, Koch Oil Company, Wichita, Kansas, presented testimony opposing House Bill No. 2985, stating that problems with the bill included definitions of payees, payment, payors, interest 60-day time limit, and waiver (Attachment 16). Discussion following included questions relative to the number of barrels of crude oil purchased monthly in Kansas; price of crude oil; retention of royalties for specified periods of time; time of purchase and disbursement of funds for crude oil, etc. Representative Krehbiel requested the committee be provided with total monthly production of oil and gas and the amount of money held in suspension so the committee will know what this means in dollars and cents, stating this information would be helpful in determining whether or not this bill is needed.

Chairman Spaniol appointed a three-member sub-committee to study the amendments and make appropriate recommendations to the committee on House Bill No. 2985. The sub-committee included Representative Shore as chairman and Representatives Krehbiel and Patrick as members.

Hearings were concluded on House Bill No. 2985 by the chairman.

The chairman announced that House Bills No. 2985, No. 2854 and No. 2919 will be brought up for final action on February 28, 1990. He appointed the following sub-committee on House Bill No. 2911: Representative Freeman, Chairman; and Representatives Barr, Fry, Krehbiel and Patrick as members.

The meeting adjourned at 5:20 p.m.

The next meeting of the committee is scheduled for 3:30 p.m., February 28, 1990.

Date: 2-27-90

GUEST REGISTER

HOUSE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

NAME	ORGANIZATION	ADDRESS	PHONE
Robert Anderson	MID CONT OIL	OTTAWIA	842-1834
Rae Hein	Mesa	Topeka	273-1441
Jerry F. Coffey	Koch Industries, Inc.	Wichita	(316) 832-5705
Don Schuck	ICIGRA	Topeka	232-7772
Chiquita Cornelias	K.S. B.I.R.P.	Topeka	273-6804
Joyce A. Wolf	Ks Audubon Council	LAWRENCE	749-3203
Charlene Striand	Ks Natural Resource Council	Topeka	233-6707
Laura McClure		Glenn Elder Ks	545-3592
Cynthia B. Burt		RT 2 Puma	312 422 702
TREVA POTTER	PEOPLES NAT. GAS	TOPEKA	235-5996
James Power	KDHE	Topeka	296-1535
ROSS MARTIN	KAC	IL	234-0589
Beard White		Garnett	
Jace White	Ks. Corn Growers Assn.	Garnett	448-6902
GREG KRISSEK	Ks Bdt of Ag	Topeka	296-2653
MIKE BEAM	Ks LIVSTK. ASSN.	TOPEKA	273-5115
Scott Vard		Topeka	
Beverly Steinmeyer	Corporation Commission	Topeka	
Judy Brown	Ks Soc of Architects	"	357-5308
Janet Harlow	Ks Wildlife Fed.	Topeka	266-6185
Walter Dumm	EKOGA	V	2725674
Scott Andrews	Sierra Club	Topeka	862-0739







H ENERGY AND NR  
2-27-90  
ATTACHMENT 1

1 (c) The secretary may issue a commercial guide permit if the  
2 secretary determines that:

- 3 (1) The applicant possesses adequate knowledge of wildlife and
- 4 parks laws of this state and rules and regulations of the secretary;
- 5 (2) the applicant possesses adequate knowledge of hunting or
- 6 fishing skills; and
- 7 (3) the application is complete and accurate.

8 The secretary may require an applicant to successfully complete  
9 a written or oral examination before issuing a commercial guide  
10 permit.

11 (f) A commercial guide permittee shall make such reports of per-  
12 mitted activities to the secretary as required by rule and regulation  
13 adopted by the secretary in accordance with K.S.A. 1989 Supp. 32-  
14 805 and amendments thereto.

15 (g) A commercial guide permittee may employ one or more as-  
16 sociate guides to conduct services authorized by the commercial  
17 guide permit while the associate guide is in the employment of the  
18 commercial guide permittee. On and after ~~July 1, 1990~~ January 1, 1991,  
19 a commercial guide permit is required for any individual so employed by a com-  
20 mercial guide permittee.

21 (h) Any individual who desires to obtain an associate guide permit  
22 ~~shall~~ may apply to the secretary. The application shall give the name and  
23 address of the applicant; the name, address and commercial guide  
24 permit number of the commercial guide by whom the applicant  
25 would be employed; the notarized signature of such commercial  
26 guide permittee; and such other information as required by the  
27 secretary. The fee prescribed pursuant to K.S.A. 1989 Supp. 32-988  
28 and amendments thereto shall accompany the application.

29 (i) The secretary may issue an associate guide permit if the sec-  
30 retary determines that:

- 31 (1) The applicant possesses adequate knowledge of wildlife and
- 32 parks laws of this state and rules and regulations of the secretary;
- 33 (2) the applicant possesses adequate knowledge of hunting or
- 34 fishing skills; and
- 35 (3) the application is complete and accurate.

36 The secretary may require an applicant to successfully complete  
37 a written or oral examination prior to issuance of an associate guide  
38 permit.

39 (j) Commercial guide permits and associate guide permits expire  
40 on ~~June 30~~ of each year. December 31

41 (k) A commercial guide permittee or associate guide permittee  
42 may assist with the legal taking of wildlife while providing commercial  
43 guide services but shall not perform the actual taking or shooting



of wildlife for the guided person.

~~(l) In order to conduct hunting activities, a commercial guide permittee or associate guide permittee is required to possess all licenses, permits and stamps which the permittee would be required to have under law or rules and regulations of the secretary to personally take the wildlife taken during such activities. In order to conduct fishing activities, a commercial guide permittee or associate guide permittee is required to possess all licenses, permits and stamps which the permittee would be required to have under law or rules and regulations of the secretary to personally take the wildlife taken during such activities.~~

(m) the secretary shall adopt, in accordance with K.S.A. 1989 Supp. 32-805 and amendments thereto, such rules and regulations as necessary to administer and govern commercial guide services, including such restrictions and conditions as required for wildlife resource protection and to protect the public interest and public safety.

(n) In addition to any other penalty prescribed by law, failure to provide required reports or failure to comply with the wildlife and parks laws of this state or rules and regulations of the secretary shall be grounds for the secretary to refuse to issue, refuse to renew, suspend or revoke a commercial guide permit or an associate guide permit. Any such refusal, suspension or revocation shall be in accordance with the Kansas administrative procedure act.

(o) The secretary may prepare a general publication listing commercial guide permittees and services offered by the permittees for the purpose of assisting the public in securing the services of a commercial guide. No commercial guide permittee shall be included in such publication without the written consent of the permittee.

Sec. 2. K.S.A. 1989 Supp. 32-988 is hereby amended to read as follows: 32-988. (a) The secretary is authorized to adopt, in accordance with K.S.A. 1989 Supp. 32-805 and amendments thereto, rules and regulations fixing the amount of fees for the following items, subject to the following limitations and subject to the requirement that no such rules and regulations shall be adopted as temporary rules and regulations:

Big game permits

Resident: minimum \$10, maximum \$100

Nonresident: minimum \$30, maximum \$400

Combination hunting and fishing licenses

Resident: minimum \$10, maximum \$30

Lifetime: minimum \$400, maximum \$600; or 8 quarterly payments, each minimum \$55, maximum \$80

Unless exempt pursuant to K.S.A. 1989 Supp. 32-919 and amendments thereto, a commercial guide permittee or associate guide permittee shall be required to possess a valid hunting license issued to such permittee in order to conduct hunting activities. Unless exempt pursuant to K.S.A. 1989 Supp. 32-911 and amendments thereto, a commercial guide permittee or associate guide permittee shall be required to possess a valid fishing license issued to such permittee in order to conduct fishing activities. A commercial guide permittee or associate guide permittee shall be required to possess any stamp as required by law to engage in the activity.

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1 Rehabilitation permits: maximum \$50  
 2 Scientific, educational or exhibition permits: maximum \$10  
 3 Wildlife damage control permits: maximum \$10  
 4 Wildlife importation permits: maximum \$10  
 5 Special permits under K.S.A. 1989 Supp. 32-961: maximum \$100  
 6 Miscellaneous fees  
 7 Special events on department land or water: maximum \$200  
 8 Special departmental services, materials or supplies: no maximum  
 9 Other issues of department: no maximum  
 10 Vendor bond: no maximum  
 11 (b) The fee for a landowner-tenant resident big game hunting  
 12 permit shall be an amount equal to 1/2 the fee for a general resident  
 13 big game hunting permit.  
 14 (c) The fee for a furharvester license for a resident under 16  
 15 years of age shall be an amount equal to 1/2 the fee for a resident  
 16 furharvester license.  
 17 (d) The secretary may establish a different fee for each class of  
 18 the following:  
 19 (1) Resident and nonresident big game permits;  
 20 (2) commercial harvest permits; and  
 21 (3) duplicate licenses, permits, stamps and other issues of the  
 22 department.  
 23 (e) For the calendar year 1989, the fee for falconry permits  
 24 shall be as follows: (1) Apprentice falconry permit, \$100; (2)  
 25 general falconry permit, \$200; and (3) master falconry permit,  
 26 \$300.  
 27 (f) For the calendar year 1989, the falconry testing fee shall  
 28 be \$50.  
 29 Sec. 3. K.S.A. 1989 Supp. 32-988 is hereby repealed.  
 30 Sec. 4. This act shall take effect and be in force from and after  
 31 its publication in the ~~Kansas register.~~ statute book

Anne C. Crews, MANAGER, PUBLIC AFFAIRS

February 26, 1990

The Honorable Dennis Spaniol  
Chair, House Energy and Natural Resources Committee  
State House  
Topeka, Kansas 66612

Dear Representative Spaniol:

On behalf of Mary Kay Cosmetics and its sales force in Kansas, let me express support for HB 2854 which proposes a plastic container coding system. The bill is to be heard by the House Energy and Natural Resources Committee on February 27.

Mary Kay Cosmetics, which manufactures products in Dallas for distribution throughout the country, is dedicated to the recycling of plastic containers through use of the Society of the Plastics Industry (SPI) Voluntary Coding System. The system identifies bottles and other containers by material type, thus helping recyclers to sort containers by resin composition. The system is contained in HB 2854.

In Section 1 (5) (b), we recommend deletion of an item. It would be appropriate to remove "(includes multi-layer)" from 7 = OTHER (includes multi-layer).

That is because some bottles or containers are made of layers of the same resin. Experts say the layering does not affect recyclability. If a container is made of layered HDPE, for instance, the container would be more likely to be recycled if labeled by its layered resin (for instance 2 = HDPE) than by 7 = OTHER.

Mary Kay Cosmetics is phasing—in the SPI code, which provides a uniform consistent uncomplicated system. In today's marketplace, it is crucial that the system be uniform. Use of different code systems by various companies or states could disrupt interstate commerce. Should a state such as Kansas, move forward with any plastic container coding legislation, the requirements must be consistent with the SPI system for nationwide uniformity.

Some twenty states have adopted the container code. We urge your support of HB 2854, and thank you for your time.

Sincerely,



Anne Crews

ACC:lb

H ENERGY AND NR  
2-27-90

ATTACHMENT 2



Amway Corporation, 7575 Fulton Street, East, Ada, Michigan 49355-7410  
Legal Division

February 26, 1990

The Honorable Dennis Spaniol, Chairman  
Energy and Natural Resources Committee  
State House  
Topeka, KS 66612

Subject: HB 2854 / Plastic Container Coding System

Dear Chairman Spaniol:

I understand House Bill 2854, a bill proposing to create a uniform state plastic container coding system, will soon be heard by the Energy and Natural Resources Committee. On behalf of Amway Corporation, and its several thousand Kansas Amway distributors, we wish to express our support for this legislation.

By way of brief background, Amway Corporation is a manufacturer and distributor of over 300 quality personal care and home care products sold by approximately 1 million independent distributors worldwide. As part of its total effort in meeting present and future environmental challenges, Amway has adopted the SPI Plastic Container Coding System, upon which HB 2854 is in part based. The use of the voluntary seven-symbol container coding system will encourage collection and recycling efforts by easily identifying bottles and other containers by resin composition for sorting purposes.

Amway is marking all of its 16-ounce and larger plastic bottles made on-site with SPI's Code. This means that over 24 million Amway-made bottles are coded annually. The coding encompasses all of Amway's liter, quart, gallon, 16-ounce and 2.5-gallon plastic bottles.

As a worldwide distributor of personal care and home care products sold in all 50 states and over 40 countries and territories, Amway strongly supports the use of the SPI Coding System. The System is simple and effective, offering valuable uniformity to both recyclers and manufacturers. Such uniformity is critical to national marketers such as Amway who rely upon the smooth flow of interstate commerce in bringing quality products to market at reasonable prices. The SPI Coding System also represents a valuable tool in formulating sound environmental policy.

With New Jersey's recent adoption of the Code, 20 states have now moved forward in this area on a uniform basis. These states are: California, Colorado, Connecticut, Florida, Illinois, Indiana, Iowa, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, North Carolina, North Dakota, Ohio, Texas and Wisconsin. The adoption of the Code in Kansas would represent an important step towards developing viable markets for recycled plastics.

Therefore, we respectfully urge your support for HB 2854 with the technical amendments suggested by the Council for Solid Waste Solutions. Thank you for your kind attention.

Very truly yours,

Dirk C. Bloemendaal, Attorney  
Corporate Government Affairs

DCB806b:gt

CC: Members of Energy and Natural Resources Committee

JOHN D. McCLURE  
REPRESENTATIVE, 106TH DISTRICT  
RT 1, BOX 124  
GLEN ELDER, KANSAS 67446  
(913) 545-3592



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HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
MEMBER: ENERGY AND NATURAL RESOURCES  
GOVERNMENTAL ORGANIZATION  
LOCAL GOVERNMENT

Testimony on House Bill 2854 for the House Energy and Natural Resources Committee.

Since different types of plastics require specific recycling procedures, a coding system to aide consumers in curbside sorting is vital to a plastics recycling program.

H.B. 2854 will require that as of July 1, 1992, to be sold in this state plastic bottles over 16 oz. and rigid plastic containers over 8 oz., must be labeled with a code indicating the type of plastic resin used in the product.

The code required in this bill is the nationally recognized Plastic Container Code System, also known as the Rutgers University Coding System.

This code has been adopted by at least 18 states and many manufacturers are already voluntarily using it. By adopting this code, we would, at no cost to the state, aide individual and community recycling efforts and reward manufacturers already using the code by forcing their competiton to adopt it also.

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ATTACHMENT 4

# LASTIC CONTAINER CODE SYSTEM

PBI, in cooperation with its member companies, established a nationally recognized voluntary material identification system to assist separators of plastic bottles and create a higher value for recycled material.








The Plastic Container Code System is beneficial largely because of the uniformity it offers to bottle manufacturers and recyclers alike. Several states, as well as many bottle and product manufacturers, have recently adopted the code system. Full use will be gradually phased in over three years, with most bottles coded by mid-1991.

Bottles are coded by the six most widely used resins. Here is what to look for:

**PLASTIC BOTTLES 16 OZ. CAPACITY AND LARGER**  
*(Other rigid plastic containers, such as tubs and trays, 8 oz. and up)*

**LOCATE CODE ON BOTTOM OF BOTTLE OR CONTAINER**  
*(Or as near as possible with special shapes)*

**SIZE OF SYMBOL: MINIMUM 1/2 IN. - MAXIMUM 1 IN**

<u>CODE</u>	<u>MATERIAL</u>	<u>% OF TOTAL BOTTLES</u>
 PETE	----- Poly-Ethylene Terephthalate (PET)*	20-30%
 HDPE	----- High Density Polyethylene	50-60%
 V	----- Vinyl / Polyvinyl Chloride (PVC)*	5-10%
 LDPE	----- Low Density Polyethylene	5-10%
 PP	----- Polypropylene	5-10%
 PS	----- Polystyrene	5-10%
 OTHER	----- All Other Resins and Layered Multi-Material	5-10%

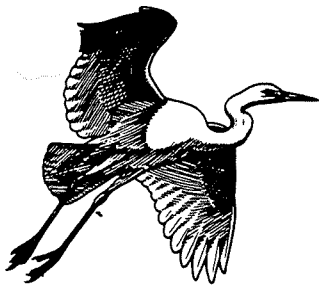
\*Stand alone bottle code is different from standard industry identification to avoid confusion with registered trademarks.

**THE PLASTIC BOTTLE INSTITUTE** is a non-profit association whose members include manufacturers of plastic bottles for commercial sales or captive use, and suppliers of resin for such manufacture. PBI plays an active role in fostering better understanding of the environmental role and consumer benefits of plastic bottles. Among PBI's objectives are the promotion of new applications, the improvement of plastic recycling technology, and the development of test methods and voluntary standards.

## **PBI Member Companies**

Allied-Signal Corporation  
B.P. America  
Cain Chemical, Inc.  
Continental Can Company  
Continental Plastics, Inc.  
Dow Chemical USA  
Eastman Kodak Company  
Exxon Chemical Company  
Georgia Gulf Corporation  
BF Goodrich Company  
ICI Americas, Inc.  
InnoPak Plastics Corporation

Johnson Controls, Inc.  
Mobil Chemical Company  
Occidental Chemical Corporation  
Owens-Brockway, Inc.  
Phillips 66 Company  
PMS Consolidated  
Progressive Plastics, Inc.  
Quantum Chemical Corporation  
Rohm and Haas Company  
Soltex Polymer Corporation  
Sunbeam Plastics Corporation  
Union Carbide Corporation



# Kansas Audubon Council

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HB 2854

February 27, 1990

House Energy and Natural Resources Committee

I am Joyce Wolf and I am pleased to be here today on behalf of the 5000 Kansas members of the National Audubon Society who support the wise use and protection of our natural resources.

In preparation for the current legislative session, the Kansas Audubon Council updated its position paper on solid waste management. One of the items we particularly endorse is for the state to actively promote waste reduction by encouraging recycling activities.

HB 2854 helps address the need to be able to easily identify the type plastic a container is made from. Even "experts" have difficulty in differentiating the various types of plastic resins. Because a load of plastic recyclables can be made essentially useless by being "contaminated" with the "wrong" kinds of materials, this measure will greatly alleviate those problems, and thus will promote the recyclability of plastic bottles and rigid plastic containers.

The Kansas Audubon Council believes this is one more step that the state of Kansas can take to address the need for reduction in the solid waste stream.

We appreciate the opportunity to express our support of HB 2854 and urge the committee to vote favorably on it.



# Kansas Natural Resource Council

Testimony presented before the House Energy and Natural Resources Committee  
HB 2854: identifying plastic containers for recycling

Presented by Charlene A. Stinard, Program Director

February 27, 1990

My name is Charlene Stinard, and I represent the 800 members of the Kansas Natural Resource Council, a private, non-profit research and public education organization which promotes sustainable natural resource policies for the state of Kansas. I appear today as well on behalf of the members of the Kansas Sierra Club.

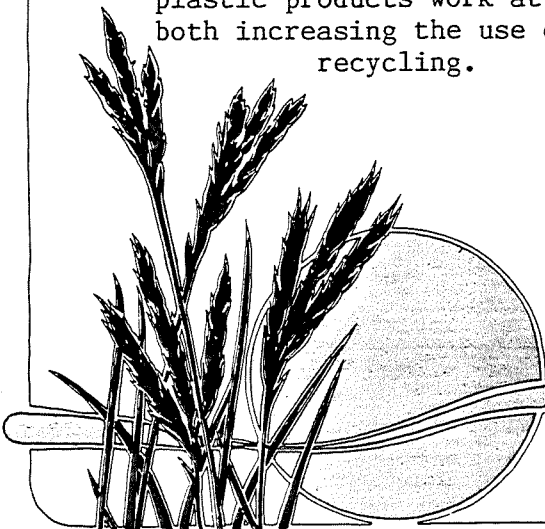
We know that waste reduction and recycling are the keys to an integrated solid waste management plan. The first essential step is to reduce the volume of trash we produce; the second is to recycle waste materials.

By current estimates, 1/3 of the municipal waste stream is containers and packaging. According to Franklin and Associates, 5.6 million tons of plastic packaging were discarded in 1986. The director of the US Environmental Protection Agency's Municipal Solid Waste program calls plastics "a major solid waste problem." Americans dispose of 10 million tons of plastics a year, 7% of the waste stream by weight, or between 14% and 28% by volume. Experts believe that we will experience a 60% growth in plastics waste by the end of the decade.

The principal packaging materials are paper and paperboard, glass, and plastics. Recycling rates for some packaging materials are improving: aluminum 50%, paper 23%. Plastics recycling has far to go. Currently, we recycle only about 2% of the plastics used in packaging.

One obstacle to recycling plastics is their content - there are more than 46 types of plastic resins in common use today; only single-resin plastics are easily recycled. A second obstacle is the inadequacy of collection systems for plastics -- they must be separated by type in order to be reused.

The so-called degradable plastics complicate the picture further. Even as questions are being raised about their fate in the environment, degradable plastic products work at cross purposes to plastics recycling efforts -- both increasing the use of plastics, and reducing the emphasis on recycling.



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HB 2854 addresses the critical elements of the problems involved in efforts to recycle plastics. By identifying the resin content of plastic containers, the coding system facilitates the separation of plastics from the waste stream, and promotes their reuse in future products.

We urge the committee to pass HB 2854.



# State of Kansas

Mike Hayden, Governor

Department of Health and Environment  
Division of Environment

Stanley C. Grant, Ph.D., Secretary

Forbes Field, Bldg. 740, Topeka, KS 66620-0002

(913) 296-1535  
FAX (913) 296-6247

Testimony Presented to  
House Energy and Natural Resources Committee  
by  
Kansas Department of Health and Environment  
House Bill 2854

Eighteen months ago Stan Grant, Secretary of the Kansas Department of Health and Environment, appointed the Solid Waste Advisory Task Force to assess the current status of solid waste management systems in Kansas and to make recommendations. Members of the task force represented city, county, and state governments; academia; public interest associations; waste marketers; and management companies. After many meetings and long deliberations, a report entitled Recommendations on Solid Waste Management, A Report to the Secretary of the Kansas Department of Health and Environment from the Solid Waste Advisory Task Force was published. The report contains 48 recommendations to the Secretary. These recommendations consider regulatory and nonregulatory methods of fostering effective solid waste management in Kansas. Copies of the report were distributed to the legislature last week.

Distinguishing one type of plastic from another is a nagging problem in separating plastics for recycling. Several states have passed legislation requiring coding of plastic. Plastic containers may not be sold or offered for sale in these states unless they have a molded imprint indicating the plastic resin used to produce the container. The plastics industry has voluntarily adopted a coding system.

The task force recommends --

All plastics industries should adopt the Rutgers University plastic coding system, and the Kansas Legislature should adopt the model state law on the subject.

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2-27-90

ATTACHMENT 7

A labeling scheme for plastic containers being developed by the Society of the Plastics Industry (SPI) appears rather straightforward, but has generated some controversy. Because a number of businesses (and states) are preparing to adopt this system, there is an urgent need to develop a broad-based national consensus on the definition of "recyclable." One set of symbols is proposed by the plastics industry to identify the type of resin used in products and packaging in order to enhance their recyclability. If states vary in their adoption of standards and regulations for describing products as recyclable, businesses could incur considerable additional expense to accommodate differences among states. House Bill 2854 is consistent with this system.

The basic elements of the SPI voluntary coding system have met virtually unanimous support: each of seven different plastic resin types is to be designated by a number imprinted on the bottom of the containers. The primary aim is to assist recycling processors, not consumers, to make proper separation of resin types as may be appropriate to their recycling operations. A few companies already have begun to modify their production processes to accommodate this scheme. Luke Schmidt, National Association for Plastic Container Recovery (NAPCOR), testified that existing container molds should be replaced with new mold codes within two years.

The Council for Solid Waste Solutions has drafted a plastic container coding legislation (attached). Provisions of House Bill 2854 appear to be consistent with the Council's recommended legislation, except for a section dealing with failure to comply. The Council has inventoried other states which have adopted legislation dealing with coding of plastic bottles. Nineteen states have adopted legislation or have proposed regulations, adopting the Society of Plastics Industry coding program. In addition, eleven states have proposed legislation in 1990.

The department recommends House Bill 2854 be replaced by a resolution since (a) the industry intends to replace molds within two years (b) thirty states have proposed or adopted legislation, and (c) House Bill 2854 has no enforcement section. If the industry does not comply within two years, then the legislature may wish to consider a bill similar to House Bill 2854 with enforcement provisions.

Testimony presented by: James A. Power, Jr., P.E.  
Director  
Division of Environment  
February 27, 1990

DRAFT  
PLASTIC CONTAINER CODING

A bill to require the labelling of certain plastic products; to provide for the powers and duties of certain state departments and officials and to prescribe penalties and remedies.

Section 1: As used in the act:

- (a) "Department" means the department of environmental quality.
- (b) "Label" means a molded, imprinted or raised symbol on or near the bottom of a plastic container or bottle.
- (c) "Person" means an individual, sole proprietor, partnership, association, corporation or other legal entity.
- (d) "Plastic" means any material made of polymeric organic compounds and additives that can be shaped by flow.
- (e) "Plastic bottle" means a plastic container intended for single use that has a neck that is smaller than the body of the container, accepts a screw-type, snap cap or other closure and has a capacity of 16 fluid ounces or more, but less than five gallons.
- (g) "Rigid plastic container" means any formed or molded container, other than a bottle, intended for single use, composed predominantly of plastic resin, and having a relatively inflexible finite shape or form with a capacity of 8 ounces or more but less than five gallons."
- (h) "Container," unless otherwise specified, refers to "rigid plastic container" or "plastic bottle" as those terms are defined above.

Section 2:

- (1) The provisions of this Section and any rules or regulations adopted hereunder shall be interpreted to conform with nationwide plastics industry standards.
- (2) "On or after July 1, 1991, no person shall distribute, sell or offer for sale in this state any plastic bottle or rigid plastic container unless such container is labeled with a code identifying the appropriate resin type used to produce the structure of the container. The code shall consist of a number placed within three triangulated arrows and letters placed below the triangle of arrows. The triangulated arrows shall be equilateral, formed by three arrows with the apex of each point of the triangle at the midpoint of each arrow, rounded with a short radius. The pointer (arrowhead) of each arrow shall be at the midpoint of each side of the triangle with a short gap separating the pointer from the base of the adjacent arrow. The triangle, formed by the three arrows curved at their midpoints shall depict a clockwise path around the code number. The numbers and letters used shall be as follows:

- (a) 1. = PETE (polyethylene terephthalate)
- (b) 2. = HDPE (high density polyethylene)
- (c) 3. = V (vinyl)
- (d) 4. = LDPE (low density polyethylene)
- (e) 5. = PP (polypropylene)
- (f) 6. = PS (polystyrene)
- (g) 7. = OTHER

- (3) The department shall maintain a list of the label code provided in subsection (2) and shall provide a copy of that list to any person upon request.

Section 3:

- (1) After being notified that a plastic container does not comply with the rules under Section 2, a person who violates Section 2 is subject to a civil penalty of \$50 for each violation up to a maximum of \$500 and may be enjoined from such violations.

## STATES REQUIRING PLASTIC CONTAINER CODING

Prepared by the Council For Solid Waste Solutions January 7, 1990

The following states require the coding of plastics bottles of 16 ounces or more and other rigid plastic containers of 8 ounces or more following the Society of the Plastics Industry voluntary coding program.

### DEADLINE FOR CODING

January 1, 1990	Connecticut
July 1, 1990	Florida
January 1, 1991	Wisconsin - regulations pending Illinois Minnesota - proposed regulations Missouri Louisiana Ohio New Jersey
July 1, 1991	Texas Massachusetts Maine North Carolina
December 31, 1991	North Dakota
January 1, 1992	Michigan California Indiana
July 1, 1992	Iowa Colorado

Note: New Hampshire has enacted legislation to establish a state recycling emblem program which recognizes and protects the SPI voluntary coding program as a distinct material identification system.

**1990 Proposed Legislation:** Alaska, Arizona, Georgia, Kentucky, Oklahoma, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Virginia

EUGENE L. SHORE

ENERGY COMMITTEE: Testimony for February 27, 1990, 3:30 P.M.,

Rm. 526-S, PROPONENT FOR HB-2985.

House Bill 2985 was introduced at the request of the Southwest Kansas royalty owners. The problem is usually not a total lack of payment of royalties, but extremely slow payment by some producer companies.

HB-2985 provides that if not paid in 60 days from the last day of the month following production, interest would be paid in addition to royalty.

We recognize that sometimes tardiness is necessary especially on new wells when legal problems may slow the payment of royalties because the correct division may not be known. This bill would not have a punitive rate of interest. The royalty could be placed in an interest bearing account in a bank or savings and loan or interest would be paid at the same rate the state collects on delinquent accounts.

I am aware of neighbors who waited over a year for sizable royalty checks on oil. I have personally waited for a year for gas royalty. There are instances of amounts of \$20,000 to \$30,000 being held for 6 or 7 years with no diligent effort made to pay them. These royalties when paid do not include any interest. Sometimes a small amount of interest has been negotiated for, but is not required.

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ATTACHMENT 8



I think an amendment may be appropriate which would not require interest to be paid on small amounts of royalty with a dollar limit of \$25 or less since some companies do not distribute these amounts on a monthly basis.



# PUBLIC POLICY STATEMENT

## HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES

RE: H.B. 2985 — Payment of Interest on Delayed Proceeds from Oil and Gas Production

February 27, 1990  
Topeka, Kansas

Presented by:  
Bill R. Fuller, Assistant Director  
Public Affairs Division, Kansas Farm Bureau

Chairman Spaniol and Members of the Committee:

My name is Bill Fuller. I am the Assistant Director of the Public Affairs Division for Kansas Farm Bureau. We certainly appreciate this opportunity to speak on behalf of the farmers and ranchers who are members of the 105 County Farm Bureaus in Kansas.

We **support the concept of H.B. 2985.** Our position is based upon a new section in Farm Bureau policy on "Mineral Interests." The 437 voting delegates representing the 105 County Farm Bureaus at the 1989 KFB Annual Meeting adopted this resolution:

### Mineral Interests

We believe legislation should provide for an orderly divestiture of mineral interests held by the Farm Credit System. These mineral interests should be appraised and sold to the owners of overlying surface property.

We support legislation to reduce from 20 years to 10 years the time required for unused mineral interests to be returned to the owner of the overlying surface land.

We support legislation which would result in renegotiation of mineral leases involving infill drilling.

We support legislation to give a royalty owner a lien to ensure royalty payments — or an improved, secured creditor position in the case of a mineral producer bankruptcy.

We believe legislation is needed to protect a landowner and royalty owner from division orders which modify or amend the terms of an original lease to the disadvantage of the royalty owner or landowner. We support legislation to require the payment of interest on suspended royalties.

We believe the provision requiring interest "... 60 days from the last calendar day of the month in which oil or gas is produced for which the payee is entitled to payment ..." is reasonable. In practice, interest in some cases would not accrue until nearly 3 months had passed.

Thank you for this opportunity to express Farm Bureaus support for H.B. 2985.

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*ATTACHMENT 9*

Recd 1-9-89 10

LEASE 06446 JOHN BLACK

1/07/89

DATE	LEASE	BO/MCF	GROSS	TAX	TNT PCT	OWN GRS SHR	TAX	PAY AMT
1130	0442 R	425 MCF	617.51	1.70	.12500000	77.19	.21	74.98
	BUICKI TN				PRATT			
1129	0442 R	154.08 BBL	2065.44	2.08	.12500000	258.18	.26	257.92
	BUICKI TN				PRATT			
								334.90

OIL PRODUCERS, INC. OF KANSAS

SEE REMITTANCE ADVICE FOR LEASE DISTRIBUTIONS

1-9-89

Gas + Oil  
334.90  
selling to alpine again per John W. etc.

334.90

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ATTACHMENT 10

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 ATTACHMENT 11

643475	07 01	876.0000000	01/87	200.90	3,362.06	100.46	3,261.60	148.09	3,113.51
LEASE TOTAL				200.90		100.46		148.09	
					3,362.06		3,261.60		3,113.51 **
643475	07 01	876.0000000	01/88	200.89	3,173.06	.00	3,173.06	140.11	3,032.95
643475	07 01	876.0000000	02/88	198.64	3,113.69	.00	3,113.69	137.50	2,976.19
643475	07 01	876.0000000	03/88	199.91	3,069.62	.00	3,069.62	135.61	2,934.01
643475	07 01	876.0000000	04/88	199.49	3,344.45	.00	3,344.45	147.51	3,196.94
643475	07 01	876.0000000	06/88	197.51	3,073.26	.00	3,073.26	135.74	2,937.52
643475	07 01	876.0000000	07/88	194.35	2,826.82	.00	2,826.82	125.03	2,701.79
643475	07 01	884.0000000	10/88	197.33	2,400.17	.00	2,400.17	106.59	2,293.58
LEASE TOTAL				1,388.12	21,001.07	.00	21,001.07	928.09	20,072.98 **

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STATEMENT OF GREGORY J. STUCKY  
IN SUPPORT OF HOUSE BILL NO. 2985

My name is Gregory J. Stucky, from Wichita. I am here on behalf of Southwest Kansas Royalty Owners Association, a non-profit association comprised of over 2,000 owners of royalty interests under oil and gas leases in a 10-county region in southwest Kansas within the confines of the Hugoton Gas Field. I am a lawyer with the law firm of Fleeson, Goings, Coulson & Kitch, in Wichita, and the primary emphasis of my practice has been in oil and gas law. I am president of the Oil and Gas Section of the Kansas Bar Association. However, neither that Section nor the Kansas Bar Association, to my knowledge, has taken any action with respect to House Bill No. 2985, nor am I here as a representative of either that Section or the Kansas Bar Association.

The timely payment of royalties have always been a matter of utmost concern to royalty owners in western Kansas. While royalty owners generally are paid monthly, for a variety of reasons, some of which are admittedly valid, those royalties are on occasion suspended. For example, on the death of a royalty owner or another occasion in which the royalty payments would be transferred to another party, those royalty payments are suspended until satisfactory documentation is obtained. When operators of a well change, royalty payments are also often suspended during the transition period. When there is a change in the purchaser of the production, royalty payments are also often suspended, pending the receipt by the purchaser of new

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division orders from royalty owners. There are endless other reasons why royalty owners do not receive their regular monthly checks.

House Bill No. 2985 does not attempt to classify, as justified or unjustified, each of the endless number of reasons why royalty payments would be suspended. Its approach is much simpler, and is based upon fundamental equitable considerations. This Bill merely provides that if royalty payments are suspended for any reason, interest should be paid by the suspending party. It is that party who normally has the use of the royalty owners' funds during its period of suspension, and it is that party who should pay interest to the royalty owners for the use of those funds.

We do not know any information that would give us a reliable estimate as to the amount of production proceeds suspended. I noticed, however, an article in this Sunday's The Wichita Eagle (page 16L) in which B.E. Nordling, the Executive Secretary of the Southwest Kansas Royalty Owners Association, estimated that each year there is approximately \$500 million worth of production checks being sent out for production from the Hugoton Field. If only one percent of that amount were suspended at any one time, that would amount to \$5 million of suspended proceeds. This Bill would require that the suspending party pay interest on those amounts.

On behalf of the Southwest Kansas Royalty Owners Association, I urge that the legislature of the state of Kansas enact House Bill No. 2985.

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**STATEMENT OF ROBERT A. ANDERSON  
FOR OKLAHOMA-KANSAS DIVISION  
MID-CONTINENT OIL & GAS ASSOCIATION**

**Before House Energy and Natural Resources Committee  
on House Bill 2985  
February 27, 1990**

We believe that royalty owners should be paid in a timely manner and would support stiff penalties for fraudulent late payment or fraudulent nonpayment of royalties. We do not believe, however, that such measures as escrow accounts, or trust accounts beyond the first sale of production are necessary or desirable to address these problems.

Timely payment of royalties by oil and gas producers has been an issue of legislative interest for many years. During the past few years, the oil and gas industry has experienced difficult financial conditions which has led to a claim by a number of royalty owners that they have not received their royalty payments on a timely basis or have not been paid at all. Several state legislatures have responded to these developments by considering, and in some cases enacting, legislation which provides varying penalties for late payment of royalties and other provisions relating to the fiscal responsibility of producers.

We support provisions such as those in Texas, Oklahoma, Wyoming, and many other producing states which require that royalty payments commence within six months after the date of first sale and thereafter no later than sixty days after the end of the calendar month within which subsequent production is sold. Anything less than the initial six months would not allow sufficient time for adequate title searches or opinions. Additionally where the monthly royalty payment to be paid is less than \$25, we support provisions for annual payment. Requirements for payment of royalty in shorter time periods are unrealistic.

Escrow accounts represent an expensive and unwieldily approach to late payments. The majority of late royalty payments result from problems attributable to the inherent complexities of administering and maintaining the royalty payment system. An incorrect address, a title dispute or probate of a will can all result in a late or deferred payment of royalty. The imposition of a third party (e.g., a bank) in the royalty payment system would increase the chances for administrative error and could result in additional, not fewer payment problems for royalty owners. In the case of small royalty owners, bank fees for handling such accounts could seriously deplete a royalty owner's interest. Escrow account requirements also have proven extremely difficult and expensive to administer for all parties concerned: the producer, the bank and the royalty owner.

Those who argue that other business concerns such as real estate firms routinely use escrow accounts for protection of funds fail to state that such concerns generally operate within one small geographic area: a given oil and gas company is likely to have leases spread throughout the nation. Escrow account management throughout numerous states would certainly increase the cost and complexity of doing business, thereby allowing smaller interests for royalty owners.

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ATTACHMENT 13

Ronald R. Hein  
William F. Ebert

HEIN AND EBERT, CHTD.  
ATTORNEYS AT LAW  
5845 S.W. 29th, Topeka, Kansas 66614  
913/273-1441

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE  
TESTIMONY RE: HB 2985

PRESENTED BY RONALD R. HEIN ON BEHALF OF  
MESA LIMITED PARTNERSHIP  
February 27, 1990

Mr. Chairman, members of the committee:

My name is Ron Hein, and I am legislative counsel for Mesa Limited Partnership, an oil and gas production company with significant reserves in Kansas, primarily in the Hugoton field.

We do not oppose the concept and intent of HB 2985. As we understand it, this is an attempt to give the payee some protection from payors who wrongfully withhold payments due to the payee.

However, we have several concerns about this particular bill.

1. Who is the payee that needs to be paid? The bill does not define payee, and it should do so. Is the payee the owner of production payment, a working interest owner, an overriding royalty interest owner, or the royalty interest owner? If the bill is designed to protect royalty interest owners, then it should be limited to them, and the payor should be limited to the business that would have knowledge as to who the payee should be.

Many times the first purchaser and even the operator do not know who the payee should be, as oftentimes there is no contractual relationship between the two at all. Most of the interests created other than royalty interests are created between people in the oil business, and they should be capable of taking care of themselves. In many instances, there may not even be a notification of a transfer of interest, death of an interest owner, new heirs who are now interest owners, etc. It seems unfair to require interest to be paid where payment cannot be made due to lack of knowledge as to who the payee is.

2. The sixty day time frame provided on line 34 is simply inadequate. Ninety days would be preferable.

3. This bill statutorily changes the terms of existing contracts.

4. This bill is unnecessary. Under current law, the parties can contract for interest to be paid on the terms that they desire.

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ATTACHMENT 14



5. If HB 2985 and HB 2872 were to pass, there would be an apparent conflict in the laws. HB 2985 appears to permit a waiver of interest, but traditionally that would be done by virtue of a division order. Passage of HB 2872 would seem to prohibit such a waiver as possibly being in conflict with the original lease agreement, thus rendering that portion of the division order void.

6. Section 4 is very unclear. It seems to entitle an award of attorneys fees for recovering payments due under the lease agreement only in the event that there is an allegation that interest is due. Sections 1, 2, and 3, do not specifically provide a new cause of action which does not already exist, so it is unclear what is meant by an action brought "pursuant to this act" on page 2, line 4.

7. There is no protection for the payor in the event that he is unable to pay the appropriate payee for reasons beyond the payor's control. For instance, the payor may be ready, willing, and able to make payment, but is unable to do so because of a dispute of ownership or for some other reason. It may even result from particular actions of the payee that payment cannot be made. Why should the burden and responsibility be placed by law upon an innocent purchaser to go to the trouble, time, effort, and expense of opening an account at a financial institution, keeping track of new data and documentation on the interest applicable to that particular payee, etc., when the inability to pay is not the fault of the purchaser?

Thank you very much for permitting me to testify today. I will attempt to yield to any questions, or to obtain answers to any questions that I can't personally answer.



## KANSAS INDEPENDENT OIL & GAS ASSOCIATION

105 SOUTH BROADWAY • SUITE 500 • WICHITA, KANSAS 67202 • (316) 263-7297

February 27, 1990

**TO: House Committee on Energy & Natural Resources**

**RE: HB 2985**

We have reviewed HB 2985 and appear in opposition to the bill. Our association represents interest holders of all types. We are a statewide association of producers, working interests, override interests, and royalty interests. All of these interests are involved with the paperwork and flow of money from the sale to the first purchaser. We are interested in prompt payments, but we are also aware there are many reasons why payment may be delayed, suspended, or not made. We have not received any pressure or communication to introduce and support a bill like HB 2985. We have many problems with the bill and urge you not to pass this legislation.

The Committee, I am sure, is aware of the sharp economic decline that occurred in 1986. The industry retreated by laying off thousands of workers, leaving fewer people to process the increased paper flow. Operators have increased switching purchasers. Increased sales of properties have been taking place resulting in title searches and an enormous paper trail. Some of this is responsible for delayed or suspended payments to make certain the right party is receiving the money.

We don't approve of the escrow account procedure provided in HB 2985, nor do we think KSA 16-204, line 33, is the proper statute to apply the proposed interest rate. KSA 16-204 applies to interest on judgements which have nothing to do with HB 2985.

We sympathize with those few persons that insist on prompt payment. We believe that mission is generally being handled well today. I've not seen any statistics that would indicate there is a big problem of failure to pay interest holders. We think it's probably a very small issue compared to the total. I personally have dealt with a number of first purchasers who send out checks and I've never experienced any problems.

**Donald P. Schnacke**  
**Executive Vice President**

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*ATTACHMENT 15*

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Testimony - House Bill 2985  
House Committee on Energy and Natural Resources  
February 27, 1990 3:30 PM

Jerry F. Coffey  
Koch Oil Company, Wichita  
(316) 832-5105

Koch Oil Company, with its headquarters in Wichita, is the largest oil purchaser in Kansas. Its Division Order department consists of 50 people whose function it is to see that payment is made to all owners in both a timely and accurate manner. It is not our goal to keep large sums of money in suspense to earn interest. Indeed, we strive to provide the fastest and most efficient payment of proceeds wherever we do business. Competition demands such service. We are opposed to HB 2985 for the following reasons:

I. Specific Provisions

A. Definition of "payee"

1. Does a "payee" need to have marketable title
2. Does a "payee" need to warrant or certify that he/she is the holder of marketable title
3. Is one required to sign a division order before being "legally entitled to payment"
  - a. if so, what provisions are necessary
  - b. what provisions are allowed
4. Application
  - a. Kansas residents
  - b. Kansas production
  - c. all owners, whether royalty, overriding royalty, or working

B. Definition of "payment"

1. Is the "mandatory sum" equal to the value of the oil or gas produced
  - a. if so, determined by what price
  - b. assume only for the share of that owner
2. Is the amount before or after deductions
  - a. taxes
  - b. transportation, compression, dehydration costs
  - c. working interest expenses

C. Definition of "payor"

1. "... any person who has entered into an arrangement ..."
  - a. is this limited to the operator
  - b. if the first purchaser makes this arrangement, does this absolve it of liability, or does it still face "double jeopardy" if the payor leaves town

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**D. Interest**

1. "Federally insured" bank - accounts will only be insured up to \$100,000
2. If deposit is made, interest rates may or will fluctuate, then what rate will be paid
  - a. the rate at time of deposit
  - b. the rate at time of payment
  - c. the monthly rate
3. The rate proposed encourages people to not clear title to their own interest. It is far above that which could be earned by an individual

**E. 60 day time limit**

1. Does not allow for 'minimum suspense' for amounts under \$25, \$15
  - a. every other state with such legislation has made this provision
  - b. no exception is made for new production where title work may not be readily available to the purchaser

**F. Waiver**

1. The language as to what would constitute an acceptable waiver is unclear (ex. is Koch's division order covenant acceptable?)

**II. Overriding Concerns**

**A. Measure is punitive in nature**

1. Purchaser is required to pay interest in all cases, regardless of fault. There are many valid reasons that dictate proceeds be suspended.
  - a. applies to minimal sums
  - b. applies where litigation affects title
  - c. applies where a Kansas attorney has made a title requirement
  - d. punishes the purchaser even in cases where it was not given title information

**B. If there are problems in the industry of late payments to interest owners, they need to be identified.**

1. Purchasers are competitive
  - a. one competitive feature is the service (speed) in delivering payment to owners - a purchaser slow in making payments will not be able to survive
2. We, and other purchasers, have adopted measures that seek to address reasons for late payment. (90 day procedures)