

Approved

John D. McClure
Date 3/4/91

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES

The meeting was called to order by Representative John McClure at
Vice Chairperson

3:30 ~~xxx~~ p.m. on February 26, 1991 in room 526-S of the Capitol.

All members were present except:
Representative Correll

Committee staff present:

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

Conferees appearing before the committee:

Representative Gary Blumenthal
Representative Ed McKechnie
Ron Hammerschmidt - Acting Director, Division of Environment
Shaun McGrath - Kansas Natural Resource Council
Joan Vibert, Recycling Coordinator, Lake Region Recycling
Randel Messner - Crawford County Citizens for Recycling
Bob Walters - Crawford County Citizens for Recycling
Joyce Wolf, Kansas Audubon Council
Freda Culver - Galena & Riverton, Kansas
Scott Andrews - Sierra Club - Kansas Chapter
Ernie Mosher - League of Kansas Municipalities
John Torbert - Executive Director, Kansas Association of Counties

The Vice Chair called the meeting to order and opened the hearing on
HB 2027.

Representative Blumenthal testified in support of HB 2027. He stated that the strength of a locally designed recycling program will be dependent upon the strong advocacy generated within each local community, however, the ultimate decision regarding recycling will be left in the hands of local elected officials. (Attachment 1)

Representative McKechnie testified in support of HB 2027, stating that this bill is a first step in managing the solid waste problems of this state - it certainly does not address all of the problems, but it is a start. (Attachment 2)

Ron Hammerschmidt, Division of Environment, testified on HB 2027, and stated that the department supports the resource recovery concepts embodied in this bill. He also stated that if this bill were enacted KDHE would expect to approach its implementation in a manner which would be no less than a comprehensive review of all solid waste options available to Kansas communities. (Attachment 3)

Shaun McGrath, Kansas Natural Resource Council, testified in support of HB 2027. He also encouraged the Committee to first consider the spate of solid waste management bills which have been introduced into the Legislature this year. Mr. McGrath recommended that a tipping fee on solid waste be established, and that the moneys be deposited in a dedicated solid waste management fund. (Attachment 4)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES,
room 526-S, Statehouse, at 3:30 ~~xxx~~ p.m. on February 26, 1991

Joan Vibert, Lake Region Recycling, testified in support of HB 2027. She stated that because of the success and strengths gained from their regional approach to recycling, she would like to see this be an option in the bill instead of requiring cities or counties to bear the burden of a plan and its implementation. (Attachment 5)

Randel Messner, Crawford County Citizens for Recycling, testified in support of HB 2027. He stated that local government has many more resources available to it to implement a large scale recycling program than a modest volunteer program such as theirs could ever hope to have. He also suggested amendments as shown on (Attachment 6).

Bob Walters, Crawford County Citizens for Recycling, testified in support of HB 2027. He stated that they got into this recycling program to prove how good it is for private enterprise to be involved in recycling.

Joyce Wolf, Kansas Audubon Council, testified in support of HB 2027, but stated that they have concerns about section (h) which allows the secretary to waive the recycling requirement, dependent upon how much revenue is generated by the sale of the recycled materials. She also stated that they support HB 2410, but prefer that both bills be incorporated into a single, comprehensive bill that addresses the entire waste management situation. (Attachment 7)

Freda Culver testified in support of both HB 2027 and HB 2410. She stated that recycling is the right thing to do with little market for recyclables and more companies making diapers; small containers that will deteriorate in a landfill. (Attachment 8)

Scott Andrews, Sierra Club - Kansas Chapter, testified that they support the concept of this bill, but feel these efforts must be part of a comprehensive solid waste management strategy. (Attachment 9)

Ernie Mosher, League of Kansas Municipalities, testified in opposition to HB 2027. He stated that they do not believe that matters relating to solid waste recycling, resource recovery or yard waste composting to be such a vital matter of public health and welfare to justify state mandated standards. (Attachment 10)

John Torbert, Kansas Association of Counties, testified in opposition to HB 2027. He stated that this bill does not make any changes in the composition of the county solid waste management committees. He also said that they do not feel the state should be mandating this sort of activity upon local governments. (Attachment 11)

The Vice Chairperson concluded the hearing on HB 2027.

The Vice Chair then directed the Committee to turn to HB 2410.

Ron Hammerschmidt, Acting Director, Division of Environment, testified that the Department of Health and Environment is very supportive of the apparent goals of this bill. Their review of this bill has raised questions regarding the intent of the bill and whether the existing language serves to fulfill that intent. Another issue they wish to be clarified is the definition of an importer as used in the bill. He feels that one unintended side effect of this bill would be to restrict recycling markets where recycling facilities rely on populations that cross state lines to provide sufficient quantities of solid waste to make recycling economically feasible. (Attachment 12)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES,
room 526-S, Statehouse, at 3:30 ~~xx~~ p.m. on February 26, 1991

Scott Andrews, Kansas Chapter of the Sierra Club, testified in support of HB 2410. He stated that they support this bill because they believe there is a critical need to regulate solid waste imported to Kansas. They also believe this bill could benefit from a comprehensive package of solid waste legislation. (Attachment 13)

Shaun McGrath, Kansas Natural Resource Council, testified in support of HB 2410. He stated that it is a sensible piece of legislation which could better ensure that solid wastes generated outside of Kansas, and which are to be disposed of in Kansas, meet, at a minimum, the Kansas regulations for solid waste disposal. (Attachment 14)

Written testimony on HB 2410 was submitted by Richard Goodstein, Browning Ferris Industries (Attachment 15)

Written testimony on HB 2027 and HB 2410 was submitted by Margaret Miller, Wichita, Kansas (Attachment 16)

Vice Chairperson McClure closed the hearing on HB 2410.

The meeting adjourned.

COMMITTEE: E+NR

DATE: 2/26/91

| NAME (PLEASE PRINT) | ADDRESS | COMPANY/ORGANIZATION |
|---------------------|--|---|
| Randell L. Messner | P.O. Box 344 Pittsburg, KS 66762 | Crawford County Citizenstar Recycling |
| Robert R. Walter | 515 Hobson Dr. Pittsburg, Ky 66762 | Crawford County Citizens for Recycling |
| Jim Ludwig | Topeka | KPL GAS SER. |
| Freda Culver | Reverton, Ka | |
| Shelley Sutton | Topeka | KS ENGINEERING SOC. |
| Judy Aron | " | Am Inst of Architects |
| Mike Miller | " | City of Topeka |
| JOHN TORBERT | " | ASSN. OF COUNTIES |
| Chiquita Cornelius | Topeka | KS. B.I.R.P. |
| Joan Vibert | 121 E. 2nd Ottawa | Lake Region Recycling |
| Gary Satter | Rt. 2, Box 1108 Osaka, KS | Glacial Hills Recycling |
| Drew Potter | Topeka | People Nat. Sec. |
| Jack Slaves | Wichita | KN Energy |
| STEVE KEARNEY | TOPEKA | VETERAN ASSOC. |
| John Mack | Topeka | Hill & Ebert |
| Susan Berton | Olathe | City of Olathe |
| Marshall Clark | Topeka | KEC |
| Bruce GRAHAM | Topeka | KEPCO |
| Mark McLeod | 1965 College Heights manhattan KS 66502 | Intern |
| Larry Miller | Topeka | Dept. of Commerce |
| Juni Wolf | Lawrence | Ks. Audubon Council |
| Shawn McGrath | Topeka | KNRC |
| Scott Andrews | Topeka | Sierra Club |
| E.R. "Woody" Moses | Topeka | KAPPA |
| W. Mosher | Topeka | Assoc of KS |
| JOHN GOTTSCHAWER | 109 W 9th | KS WATER OFFICE |

STATE OF KANSAS

GARY H. BLUMENTHAL

REPRESENTATIVE, TWENTY-THIRD DISTRICT
JOHNSON COUNTY
10125 EDELWEISS CIRCLE
MERRIAM, KANSAS 66203-4608
HOME (913) 262-4635
CAPITOL OFFICE (913) 296-7693



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

CHAIRMAN: GOVERNMENTAL ORGANIZATION

MEMBER: APPROPRIATIONS
EDUCATION
LEGISLATIVE, JUDICIAL AND CONGRESSIONAL
APPORTIONMENT

NATIONAL CONFERENCE OF STATE LEGISLATURES
TASK FORCE ON DEVELOPMENTAL DISABILITIES

Testimony of Rep. Gary Blumenthal
To the Committee on Energy and Natural Resources
February 26, 1991

Thank you Mr. Chairman and members of the Committee for allowing me to speak to you today in support of House Bill 2027 which will provide a vehicle for ensuring the consideration and implementation of recycling plans in every community within Kansas.

The intent of HB 2027 is to provide a mechanism that will allow recycling proponents the opportunity to sit down with local elected officials to design the most appropriate recycling plan for that community. Specifically the bill will require each local unit of government to design a recycling program and then submit the plan to the Secretary of Health and Environment by January 1, 1994.

The strength of a locally designed recycling program will be dependent upon the strong advocacy generated within each local community, however the ultimate decision regarding recycling will be left in the hands of local elected officials. Some may feel that this bill could be strengthened by giving greater authority to the Secretary of H & E to define and approve locally designed plans, however I believe that the public support for recycling is such that local advocates will be able to effectively make their case at the local level. I believe that local ownership of a plan is more likely to produce success than greater state control.

Your support of HB 2027 will be greatly appreciated. Thank you Mr. Chairman for allowing me this opportunity to speak to you today on behalf of HB 2027.

E+NR

2/26/91

Attachment 1



TOPEKA

HOUSE OF
REPRESENTATIVES

ED McKECHNIE

REPRESENTATIVE, THIRD DISTRICT

224 W. JEFFERSON

PITTSBURG, KANSAS 66762

(316) 231-1669

ROOM 281-W

STATEHOUSE

TOPEKA, KS 66612

ASSISTANT MAJORITY WHIP

COMMITTEE ASSIGNMENTS

VICE CHAIRMAN: COMPUTERS, COMMUNICATION
AND TECHNOLOGYMEMBER: ELECTIONS
ENERGY AND NATURAL RESOURCES
TRANSPORTATION
PENSIONS, INVESTMENTS AND
BENEFITS

Testimony of Rep. Ed McKechnie
To the Committee on Energy and Natural Resources
February 26, 1991

Thank you Mr. Chairman and members of the Committee for allowing me speak today on behalf of House Bill 2027. When Rep. Gary Blumenthal and I first visited about this idea we wanted to address three specific points:

- 1 -- As a state, we believe action must be taken to slow the incredible amount of solid waste dumped into land fills each day.
- 2 -- Recycling programs are best left to be managed at the local level. We do not believe the state should be in the recycling business.
- 3 -- As a state, we should encourage cities and counties to do their part to address this problem, unless it is absolutely cost prohibitive.
- 4 -- As a state, we should not wait for the federal government to develop a national solid waste management policy. It might not ever be developed.

The intent of HB 2027 is to require every city and county in the state to sit down, discuss recycling and get involved in the process of managing solid waste. This bill requires each of these local units of government to form a solid waste management committee and submit a plan to the Secretary of Health and Environment by January 1, 1994. HB 2027 requires cities and counties to become involved in the process and make a dent - however small it may be - in the mountains of solid waste created in each county. For some counties at this time, a recycling program may be cost prohibitive.

There is a provision in this bill allowing cities and counties to opt out of the requirement of a recycling program if they can show to the Secretary of Health and Environment cause as to why they cannot recoup 60 percent of the cost of the program. These costs would include collecting, processing and transporting recyclables under such a program, excluding any administrative costs. This may seem to give the counties an easy way out, but it requires a single collection point program be considered to prohibit counties from opting out of a "Cadillac curb-side" program when a "Chevette single collection point" program would get the job done.

Mr. Chairman, this bill is a first step in managing the solid waste problems of this state. It certainly does not address all of the problems, but it is a start. Thank you Mr. Chairman, I would like to introduce Bob Walter and Randy Messner who are both members of the Crawford County Citizens for Recycling.

E+NR
2/26/91
Attachment 2



State of Kansas

Governor Joan Finney
Department of Health and Environment
Division of Environment

Acting
Stanley C. Grant, Ph.D., Secretary

Forbes Field, Bldg. 740, Topeka, KS 66620-0001

Respond to:
FAX (913) 296-6247

Testimony presented to
House Committee on Energy and Natural Resources
by
The Kansas Department of Health and Environment
House Bill 2027

The department supports the resource recovery concepts embodied in HB 2027. The solid waste task force and the commission on waste reduction and recycling have made specific recommendations that both parallel and compliment the concepts found in HB 2027.

KDHE would like to take this opportunity to explain its concept of how the first phase of 2027 would be implemented. House bill 2027 embraces resource recovery concepts that are clearly to be supported, but contains subtle and potentially very significant hidden impacts. Although it appears relatively straight forward, it would require the department to revisit and update all the city and county solid waste management plans (about 115 counting individual city solid waste plans). Because most of the plans are 15 to 20 years old, the persons preparing the plans would essentially need to acquire and analyze new data about the waste stream; collect information about the composition of the solid waste; analyze marketing opportunities; do an evaluation of the recycling costs for the materials being recycled and compare those costs to upgraded sanitary landfills.

The department would need to:

- (1) establish, by regulation, criteria to be included in the plans;
- (2) furnish technical assistance including training to the entities preparing and implementing plans (K.S.A. 65-3405 (f) and K.S.A. 65-3406 (f));
- (3) review and comment on plans as they were submitted;
- (4) be prepared to make an independent evaluation of market conditions and operating parameters for those persons wishing to be exempted from implementation. As marketing conditions would almost never be static this would be an continual process;
- (5) make decisions on applications of local entities which would request exemptions.

E+NR
2/26/91
Attachment 3

PRINTED ON RECYCLED PAPER

Charles Konigsberg, Jr., M.D., M.P.H.,
Director of Health
(913) 296-1343

Director of Environment
(913) 296-1535

Lorne Phillips, Ph.D.,
Director of Information
Systems
(913) 296-1415

Roger Carlson, Ph.D.,
Director of the Kansas Health
and Environmental Laboratory
(913) 296-1620

Although recycling programs have the potential to make significant contributions to solving solid waste management problems, recycling is not the only answer. Even under the most optimistic recycling scenario sixty to seventy percent of the solid wastes produced in Kansas will remain to be managed in other ways.

If HB 2027 were enacted KDHE would expect to approach its implementation in a manner which would be no less than a comprehensive review of all solid waste options available to Kansas communities.

HB 2027 carries with it, a rather imposing fiscal note. Even without the local planning grants authorized in the solid waste management act (65-3415) its timely implementation would require doubling the current solid waste management staff. KDHE believes that Kansas must begin to address solid waste issues in a comprehensive rather than a piecemeal fashion. This will involve addressing fiscal needs in ways directly attributable to the costs associated with the consumption of goods and the production and management of solid waste.

Testimony presented by: Ron Hammerschmidt
Acting Director
Division of Environment
February 26, 1991

from 3 to 6 people

Kansas Natural Resource Council

February 26, 1991

Testimony before the House Energy and Natural Resources Committee

Re: HB2027 Concerning Solid Waste Management Plans and Recycling Programs

From: Shaun McGrath, Program Director

My name is Shaun McGrath, and I represent the Kansas Natural Resource Council, a private, non-profit, organization which advocates sustainable resource policies for the state. Our membership is over 850 statewide.

KNRC supports the intent of HB2027. We agree that every county solid waste management plan should include a program for recycling, and that such recycling programs should be developed to meet the specific needs and abilities of the county. HB2027 also mandates the implementation of the recycling plans, and addresses the question of funding the implementation.

Before passing this bill, we would encourage the Committee to first consider the spate of solid waste management bills which have been introduced into the Legislature this year. A bill introduced in the Senate yesterday, for example, contains provisions which deal with related aspects of recycling plans that are not contained in this bill. A bill expected from KDHE which has still not been introduced, will hopefully address yet other aspects of recycling and solid waste management.

With regard to the important question of funding recycling programs, and more generally, funding implementation of county solid waste management plans, KNRC recommends that a tipping fee on solid waste be established, and that the moneys be deposited in a dedicated 'solid waste management fund.' I would also point out that the Beverage Container Deposit Law introduced yesterday in the House Judiciary Committee creates a Solid Waste Management Fund, and could generate \$5-10 million per year in revenues from unredeemed beverage containers for this fund.



TESTIMONY BEFORE THE HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE
REGARDING HOUSE BILL NO. 2027

February 26, 1991

I am Joan Vibert, Recycling Coordinator for Lake Region Recycling a six county project sponsored by the Lake Region Resource Conservation and Development Council, a non profit corporation. The RC&D is a rural development project initiated by the county commissioners, conservation districts and communities at large. The counties in our region are: Miami, Franklin, Osage, Linn, Anderson, and Coffey. Lake Region Recycling is a grassroots organization staffed solely by volunteers and we currently have chapters in three counties with a fourth forming. My position is funded by grants and donations which I am responsible to obtain.

Our pilot project is a donation only drop off recycling collection held monthly in Ottawa. This was organized by volunteers with a donation of \$250 from the county and no city support or help. We have been collecting for eighteen months and it has only been in recent months that our credibility has become established. I am telling you this because I would like to reinforce the need for enforcement of K.S.A. 65-3405 which this bill is amending. An established solid waste management plan in our counties would have aided our program considerably from the onset and would have provided valuable information required for a successful program. However, there must be an allowance for funds to KDHE to provide the enforcement. This is easily acquired through a surcharge on landfill tipping fees.

Because of the success and the strengths gained from our regional approach, I would like to see this be an option in the bill instead of requiring cities or counties to bear the burden of a plan and its implementation. I feel that this would also negate the need for the provisions in subsection (8)(h) which ties revenue from the collected materials to determining the ability of an entity, city or county, to actually have a recycling and resource recovery program. Anyone actively involved in such a program currently would tell you that if expenses for collecting, processing and transporting recyclables are compared to revenue generated from those collectibles, the 60% factor would not stand up. The expense of machinery and labor required to process materials to insure minimization of transportation costs could more fairly be borne by a region than by individual counties or cities. Subsection (8)(h) should be stricken because it insures failure in a city or county not wanting to comply and has the potential to devalue markets. If a program was not desired, an entity could choose to "dump" material in order to be below the 60%.

Again, these programs will only be as good as funding will allow.

E+NR
2/26/91
Attachment 5

testimony of Randel L. Messner of Pittsburg, Kansas, proponent of H.B. 2027.

Mr. Chairman and members of the Energy & Natural Resources Committee of the Kansas House of Representatives:

First, let me thank you for giving me this opportunity to express my views on H.B. 2027.

As a citizen of Kansas concerned with recycling issues, I support H.B. 2027. I am a member of Crawford County Citizens For Recycling (CCCR), a nonprofit organization formed in Crawford County, Kansas, dedicated to educating and informing the public of recycling issues. I cannot give this legislation the official endorsement of CCCR to support this legislation, simply because CCCR is concerned about the effect "lobbying" may have upon its application to the IRS for nonprofit status; however, I can say that individuals within the group have expressed to me their support of this legislation as a first step in bringing local government into recycling.

As a part of its effort to inform and educate the public, CCCR operates a recycling program in Pittsburg, Kansas, during the first Saturday of each month. The labor is provided by volunteers of CCCR, and approximately 125 volunteers work at the collection site each month. These volunteers are not compensated for their time. The collection site is in the parking lot of a grocery store (the space being donated). Use of nearly all of the equipment (such as tables, forklifts, storage space, and baler) is donated by a local rental shop. When CCCR first collected recyclables in June, 1990, we collected approximately nine tons of material in one day (glass, aluminum, plastic, and paper).

All of it fit into one forty foot long semi-truck trailer. Since then, public demand has grown to the point that we now have two such trailers to accept the amount of paper brought to us, we have a third trailer just for the newspaper, and two smaller trucks are on hand to accept the aluminum, glass, plastic and steel. All recyclables are collected in one day. Public response has been overwhelming. For example, at our December, 1990 collection we had 1,743 vehicles bring recyclables to our site. We estimate that we are presently collecting fifty tons of recyclables each month, and we expect that figure to grow with time. Citizens in Parsons, Girard, Fort Scott and Miami, Oklahoma, have contacted our group asking for assistance in setting up recycling programs in their cities.

Hopefully this legislation, if passed, will be a basis for local government to provide assistance to programs such as ours, or better yet, to implement a program that would replace them. Local government has many more resources available to it to implement a large scale recycling program than a modest volunteer program such as CCCR's could ever hope

E+NR

2/26/91

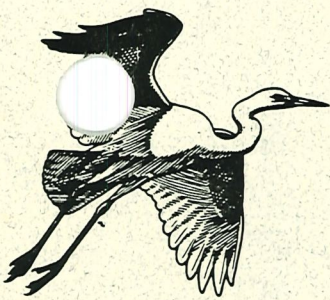
Attachment 6

to have.

Members of our group have expressed to me the following suggestions to be included in H.B. 2027:

- a) requiring it to specify a percentage reduction of the solid waste presently going into local landfills;
- b) requiring it to mandate a "recycled material preference" for local government procurement (for paper, for example);
- c) requiring it to mandate local government to recycle their own waste materials whenever possible;
- d) requiring provisions that would place the responsibility for recycling upon the public by encouraging consumer separation of recyclables;
- e) providing tax incentives for businesses that use recycled products or that recycle consumer wastes into new products.

Once again, I would like to thank you for giving me this opportunity to express my views regarding this most important issue.



Kansas Audubon Council

HB 2027

February 26, 1991

House Committee on Energy and Natural Resources

Thank you Mr. Chairman for this opportunity to speak on behalf of the 5000 Kansas members of the National Audubon Society. Because we support the wise use and protection of our natural resources, we support the intent of HB 2027 which promotes recycling and natural resources recovery in Kansas, appropriate to the areas covered by the plan.

That particular phrase "appropriate to the area," we believe, is the key phrase because it gives recognition to the wide variation across the state, first in the population of cities and counties, and, secondly the differences from east to west in the amount of rainfall and therefore the amount of yard wastes generated in the area. The other concept which is in HB 2027 which the Council believes is critical to recycling in Kansas is the formulation of regional planning units as permitted on page 3, lines 21 and 22.

We do have concerns, however, about section (h) which allows the secretary to waive the recycling requirement, dependent upon how much revenue is generated by the sale of the recycled materials. Because markets and prices for recyclable materials fluctuate considerably over time, it is conceivable that the 60% cut-off point could be attained at some time and not at others. That puts in question when a system would be required and when it would be exempted. Additionally, it seems that a recycling system would almost have to be entirely put into place, either as a curbside method or at drop-off sites, and then once implemented, an evaluation would be made to see if enough revenue were generated to sustain the effort. This last situation demonstrates the need for funding to encourage recycling in the state. The Council would support a state-wide tipping fee credited to a solid waste management fund as proposed by a draft bill that was presented to the State Recycling Commission, or from the unreclaimed deposits of a state beverage container deposit law.

We believe HB 2027 and 2410, which addresses the intention to regulate the importation of out-of-state wastes, speak to the need for Kansas to develop a comprehensive approach to solid waste management. While we support the intent of both HB 2027 and 2410, we would prefer that they be incorporated into a single, comprehensive bill that addresses the entire waste management situation: the need to update state and local plans; implementation of recycling plans and programs; banning certain kinds of wastes; policy decisions on special wastes (used oil, unregulated quantities of hazardous wastes, batteries, white goods etc.); and perhaps most importantly, the need to fund the increased demands that this will place on KDHE as well as on the State Coordinator for Waste Reduction, Recycling, and Market Development.

E + NR

2/26/91

Attachment 7

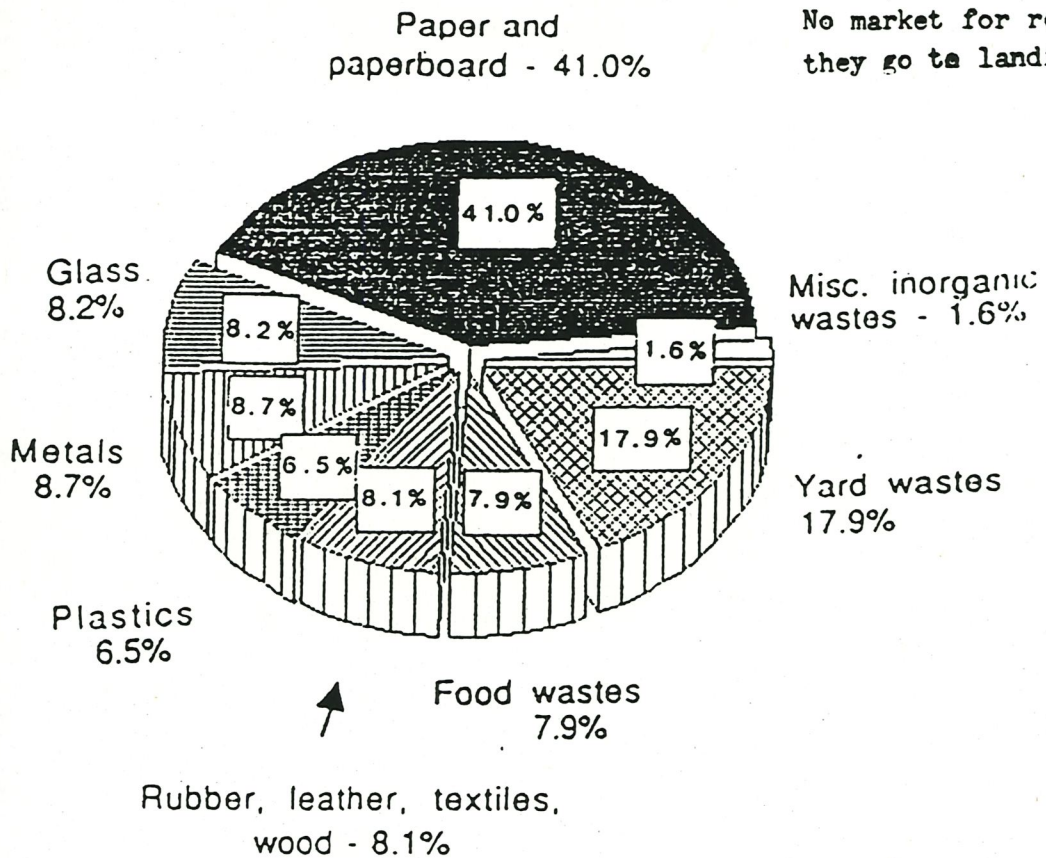


FIGURE 1 - GROSS DISCARDS, BY WEIGHT, OF MSW MATERIALS, 1986

(Source: Characterization of Municipal Solid Waste in the United States, 1960 to 2000; Franklin Associates, 3/30/88)

E+NR
2/26/91
Attachment 8

Thanks to the committee members for this.

My name is Freda Culver, and I have lived in Galena and Riverton Ks. (which is the extreme part of S.E. Ks) all my life. My wanting to address this committee on Hb # 2027 is to say "consider looking before you leap" Or "think about not getting the cart before the horse" with recycling. I say this because of the state of Missouri passing recycling legislation before they know what to do with what is termed "recyclables" Referring to the recyclable wheel, as we call it, it's easy to see 41% is paper and cardboard. St. Louis Missouri has shredded news papers and tried to market it as insulation. It won't sell, and maybe never will as long as fiber-glass insulation is around. The shredding of news papers for cow bedding is questionable because of printers ink used. And papers used this way can not be mixed in with solid waste. You know a old cow will eat most anything, even plastic sheets if it settles in a pasture.

"Pellet fuel" is not cost effective. Mainly because it can not be burnt alone, and the "cinders" that remain are not easily disposed of. "Fluff" burnt in incinerators supplies energy to a municipality in Missouri. This is for large cities so I did not pursue it. Aluminum cans is about the only recyclable that is really worth any money, and that market fluctuates considerably. And people don't through to many away.

We are all excited over the word "recycling" It's a fairly new word, heard very often, and it's the right thing to do. With little market for recyclables and more and more companies making diapers, small containers, even Mc. Donald, and Windys using bio-degradable food containers that will deteriorate in a landfill. Will research to see what the future for recyclables might be avoid more problems than anticipated? HB # 2410 for recycling tires reads very very good.

Missouri passed legislation last year, and they have declared what is not to enter a Missouri landfill, but not how to dispose of it.

Joplin Mo. has a Facility built in Galena Kansas. As long as the proprietor is willing to certify that he is recycling 10% of Joplin trash haulers trash it is sufficient for Joplin. But when there are no markets where do you think it goes. The semi-trucks that transfer Joplin trash to the Kansas landfill has requested special over load permits to run on Kansas state Hwy. after several fines.

I don't know if it is because this is a Joplin Facility built in Kansas that KDHE does not act on the Kansas permit violations--or what. We are told "Do not worry about these permit violations. They are only "infractions" of the laws and permissible". Until we have people in KDHE responsible to the people of Kansas, and not outside interest-----.

Thank goodness for HB # 2407.



SIERRA CLUB

Kansas Chapter

Testimony to House Energy & Natural Resources

H.B. 2027 - Mandating Recycling Programs

I am Scott Andrews representing the Kansas Chapter of the Sierra Club. We support the concept of this bill and the need for cities and counties to all have recycling programs. However, we feel these efforts must be part of a comprehensive solid waste management strategy. It is probably the best approach for the state to mandate recycling to cities and counties without giving technical assistance or even guidelines for achieving it. It would be better to provide a framework, assistance and incentives for local units to participate in recycling.

We are also concerned with the approach used in H.B. 2027 where if 60% of the program cost is not recovered application for an exemption may be made. Such cost figures would be difficult to ascertain before a program is in operation and prices of recycled materials fluctuate a great deal. It is likely situations would occur where programs are started and then discontinued. This leads to frustration by consumers who are then reluctant to participate in future recycling efforts.

We want to commend the sponsors of H.B. 2027 for their efforts and concerns about these problems, however, we urge the committee to work towards more comprehensive legislation to deal with solid waste management and recycling.

** NOT*

E+NR

2/26/91

Attachment 9



**League
of Kansas
Municipalities**

**Municipal
Legislative
Testimony**

PUBLISHERS OF KANSAS GOVERNMENT JOURNAL 112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

TO: House Committee on Energy and Natural Resources
FROM: E.A. Mosher, Executive Director, League of Kansas Municipalities
RE: HB 2262--Yard Waste Disposal; HB 2027--Waste Recycling and Resource Recovery
DATE: February 26, 1991

By action of the League's State Legislative Committee, I appear in opposition to HB 2027, as well as HB 2262 scheduled for public hearing tomorrow. We have grouped the two bills together since our opposition is a matter of principle, equally applicable to both bills.

Our Committee's position is consistent with a section of our convention-adopted Statement of Municipal Policy which provides:

"Local governments should encourage recycling efforts at the local level. We oppose state mandates requiring cities and counties to establish recycling or composting programs. We support state efforts to develop markets for recyclable materials and promote waste minimization efforts."

We are aware of the provisions of HB 2027, which defers until January 1, 1994 the implementation of a recycling and resource recovery plan, "appropriate to the area". We are also aware of the provisions of subsection (h) on page 3 which would permit the secretary of KDHE to waive the state mandate under certain circumstances. However, we still consider both bills to be imposing a state mandate, on a matter which should be dealt with on a community basis.

We do not believe that matters relating to solid waste recycling, resource recovery or yard waste composting to be such a vital matter of public health and welfare to justify state mandated standards. We believe local governments are sensitive to public needs and to environmental concerns--and to public demand for recycling programs. Given the widely varying conditions in Kansas, we think matters like recycling should be dealt with at the local level, and not in Topeka. We urge that both HB 2027 and HB 2262 be adversely reported.

E & NR

2/26/91

Attachment 10



"Service to County Government"

212 S.W. 7th Street
Topeka, Kansas 66603
(913) 233-2271
FAX (913) 233-4830

EXECUTIVE BOARD

President
Marjory Scheufler
Edwards County Commissioner
R.R. 1, Box 76
Belpre, KS 67519
(316) 995-3973

Vice-President
Marion Cox
Wabaunsee County Sheriff
Wabaunsee County Courthouse
Alma, KS 66401
(913) 765-3303

Past President
Winifred Kingman
Shawnee County Commissioner
(913) 291-4040
(913) 272-8948

Thomas "Tom" Pickford, P.E.
Shawnee County Engineer
(913) 266-0192

Murray Nolte
Johnson County Commissioner
(913) 791-5501

DIRECTORS

Leonard "Bud" Archer
Phillips County Commissioner
(913) 689-4685

George Burrows
Stevens County Commissioner
(316) 593-4534

John Delmont
Cherokee County Commissioner
(316) 848-3717

Berneice "Bonnie" Gilmore
Wichita County Clerk
(316) 375-2731

Betty McBride
Cherokee County Treasurer
(316) 429-3848

Roy Patton
Harvey County Weed Director
(316) 283-1890

Gary Post
Seward County Appraiser
(316) 624-0211

Nancy Prawl
Brown County Register of Deeds
(913) 742-3741

Vernon Wendelken
Clay County Commissioner
(913) 461-5694

NACo Representative
Keith Devenney
Geary County Commissioner
(913) 238-7894

Executive Director
John T. Torbert

February 26, 1991

Testimony

To: House Energy Committee

**From: John T. Torbert
Executive Director**

Subject: HB 2027- Recycling Programs

The Kansas Association of Counties appears today in opposition to HB 2027. We are **not** opposed to recycling. Indeed, we have counties and cities currently investigating and involved in recycling programs. There is more activity in this area literally every day. We are opposed however to the methodology envisioned in HB 2027.

Many of you are aware of the Kansas Solid Waste Advisory Task Force that last year put forth a number of recommendations on solid waste management in Kansas. That task force included representatives from business, government and industry and did an excellent job of formulating its recommendations. A number of items suggested in this legislation are in opposition to the recommendations of that task force.

HB 2027 does not make any changes in the composition of the county solid waste management committees. The task force noted in its recommendations that "this composition has resulted in very large committees composed of people who have very little interest in the subject while omitting others with a great deal of interest. The statute was based on a Pennsylvania law where townships are influential units of government. Township representation does not seem relevant to Kansas. The task force debated whether composition should be left entirely to the discretion of the Board of County Commissioners or statutorily revised to identify different interest groups. The consensus was the committee would be more effective if the county commissioners were allowed to determine composition."

*E+NR
2/26/91
Attachment 11*

The task force did recommend that the local solid waste plans be revised and updated. Those recommendations contained two very important caveats though. The number one recommendation of the task force was that the state solid waste plan (last updated in 1981) should be revised by December of this year. I do not know if this has been done or is even contemplated. It was only **after** the state plan was redone that the task force felt that the local plans should be updated. This update should take place within two years of the state's revised plan being completed. The task force further recommended that the state provide financial assistance of up to 50% of the costs of plan revision to the local governments. This bill contains no such provision.

Our other major concern with the legislation is that we simply do not feel that the state should be mandating this sort of activity upon local governments. The language in new section (h) on page three is confusing at best and would require subjective instead of objective evaluations by the secretary of KDHE. The recycling industry is growing quickly at both the state and national level. It is growing because government, business and private individuals all have reasons for wanting it to work. And it is growing without the existence of any state law that says that it **has** to happen. This legislation would only inject an artificial factor into the marketplace that would not be beneficial and may even prove harmful.

We urge your opposition to this legislation.

tsjrecyc



State of Kansas

Governor Joan Finney
Department of Health and Environment
Division of Environment

Acting
Stanley C. Grant, Ph.D., Secretary

Forbes Field, Bldg. 740, Topeka, KS 66620-0001

Respond to:
FAX (913) 296-6247

Testimony presented to
House Energy and Natural Resources Committee

by

The Kansas Department of Health and Environment

House/Senate Bill 2410

The department is very supportive of the apparent goals of this bill. There is an economic advantage gained by Missouri businesses and businesses of other states who do not regulate hazardous waste the way Kansas does. These businesses are then allowed to send their solid waste across the border into Kansas for disposal in Kansas landfills.

Kansas imposes stringent requirements on businesses who generate in excess of 25 kg of hazardous waste per month. Missouri, for example, imposes the same degree of regulation on businesses only after they generate 100 kg per month.

The department's review of House Bill 2410 has raised questions regarding the intent of the bill and whether the existing language serves to fulfill that intent. We also have concerns over unintended consequences of the bill. The first question arises from the Kansas definitions of solid and hazardous waste and how they apply to this bill. The definition of solid waste located at K.S.A. 65-3402 provides that hazardous wastes are not a subset of solid waste. On the contrary, they are mutually exclusive. On the federal level, and in many other states, hazardous waste is considered to be a subcategory of solid waste.

If the purpose of this bill is to ensure that hazardous wastes which are generated in jurisdictions that have an exemption limit greater than our 25 kilogram limit, are not imported into Kansas mixed with other trash, it does not clearly do so. Since the definition of solid waste in K.S.A. 65-3402 does not include hazardous wastes, the bill could be interpreted to provide that only solid wastes from such jurisdictions will be restricted. It does not clearly state that hazardous wastes which are exempt in other jurisdictions, mixed with solid waste would also be restricted.

A second issue which should be clarified is the definition of an importer as used in the bill. An importer could be the landfill receiving the waste; a solid waste collector or transporter; or a broker. How importers are defined could have significant impacts on the resources needed to implement the permitting provisions of the bill and the permit fees generated.

E+NR

2/26/91

PRINTED ON RECYCLED PAPER

Attachment 12

Charles Konigsberg, Jr., M.D., M.P.H.,
Director of Health
(913) 296-1343

Director of Environment
(913) 296-1535

Lorne Phillips, Ph.D.,
Director of Information
Systems
(913) 296-1415

Roger Carlson, Ph.D.,
Director of the Kansas Health
and Environmental Laboratory
(913) 296-1620

One unintended side effect of House Bill 2410 would be to restrict recycling markets where recycling facilities rely on populations that cross state lines to provide sufficient quantities of solid waste to make recycling economically feasible. An existing resource recovery facility in Galena receives a substantial proportion of waste from nearby Missouri communities. KDHE's permit requirements for resource recovery facilities require that all hazardous wastes, even household quantities be removed during processing and disposed at a permitted hazardous waste facility. Consideration should be given to exempting such facilities from the requirements of the bill.

If the committee believes the protection afforded by this bill is needed, KDHE recommends similar provisions be included in a comprehensive revision to the Solid Waste Management Act.

Testimony presented by: Ronald F. Hammerschmidt, Ph.D.
Acting Director
Division of Environment
February 26, 1991



SIERRA CLUB

Kansas Chapter

Testimony to House Energy & Natural Resources

H.B. 2410 - Regulation of Imported Waste

I am Scott Andrews representing the Kansas Chapter of the Sierra Club. We are in favor of H.B. 2410 because we believe there is a critical need to regulate solid waste imported to Kansas. This need has been highlighted by the recent proposal to import waste from New Jersey to a landfill in McPherson County. This, however, is only the first such proposal and likely will not be the last. As many coastal states run out of landfill space (or the will to find such space) there is a growing effort to export it to some rural state further inland. It is a continuation of the mentality of simply sending waste away. Unfortunately there is no "away", and certainly Kansas should not act as such a place. While we can not legally ban out-of-state waste, we can require the producing state to be more responsible and the regulations in H.B. 2410 are a excellent step in that direction.

We believe that this bill could also benefit from a comprehensive package of solid waste legislation. One possible inclusion of such legislation is higher tipping fees for out-of-state waste. Provisions have been struck down in federal court where the difference in fees was too high as it constituted interference with interstate commerce. However, it is unclear how high is too high. It may be very useful for the State to set such differential tipping fees and see if they stand up in court. In any case this would serve as a signal that Kansas is not interested in becoming the nation's newest dumping ground.

The Sierra Club urges you to support H.B. 2410 for better control and regulation of waste imported into Kansas.

*E+NR
2/26/91
Attachment 13*

Kansas Natural Resource Council

February 26, 1991

Testimony before the House Energy & Natural Resources Committee

Re: HB2410 Concerning Importation of Solid Waste

From: Shaun McGrath, Program Director

My name is Shaun McGrath, and I represent the Kansas Natural Resource Council, a private, non-profit, organization which advocates sustainable resource policies for the state. Our membership is over 850 statewide.

KNRC supports HB2410 as a sensible piece of legislation which could better ensure that solid wastes generated outside of Kansas, and which are to be disposed of in Kansas, meet, at a minimum, the Kansas regulations for solid waste disposal. It will also make money available to KDHE to monitor out-of-state waste, and ensure that such waste does not include wastes which are not allowed to be landfilled in Kansas.

The laws in Kansas are made with the specific purpose of protecting Kansans and the Kansas environment. It does not make sense that persons outside of Kansas would be systematically exempted from this objective. We urge the committee to pass this bill.



 Printed on Recycled Paper

E+NR

2/26/91

Attachment 14



BROWNING-FERRIS INDUSTRIES

WASHINGTON, D.C.

INTEROFFICE CORRESPONDENCE

TO: Tom Vandervoort *Rich Goodstein*

FROM: Richard F. Goodstein, BFI Washington Counsel

DATE: February 22, 1991

RE: Kansas HB 2410

I have reviewed Kansas HB 2410, and the following represents my views with respect to the constitutional implications of the bill, as well as its practical effect.

Constitutional Implications

The bill has the laudable purpose of giving Kansas the ability to control its own destiny with respect to solid waste importation. Unfortunately, the U. S. Constitution does not give states authority to impede interstate commerce, even in the commerce of waste. Philadelphia v. New Jersey, 437 U.S. 617 (1977). Federal courts of appeal and district courts have been scrupulous since 1977 in striking down state and local efforts to discriminate against out-of-state waste.

Section 1(b), which requires that anyone importing waste needs to hold a valid permit, may not violate the commerce clause of the Constitution if (1) persons hauling waste solely within the state borders are similarly required to hold a valid permit, and (2) if the requirement that waste importers hold a valid permit is not implemented in a way so as to represent an unconstitutional burden on the waste importer.

Section 1(c), on the other hand, would clearly violate the commerce clause. A provision virtually indistinguishable from Section 1(c) was held unconstitutional in Hardage v. Atkins, 619 F.2d 871 (10th Cir. 1980) (striking down Oklahoma statute that banned importation of waste from states not having "substantially similar" standards for waste handling and disposal). By conditioning the granting of a waste importation permit on Section 1(c)(1), the bill would be quite unlikely to pass constitutional scrutiny if challenged in federal court.

Many state and local officials concerned about solid waste importation have turned to Congress for relief on this issue because they realize that the U.S. Constitution does not grant

E+NR
2/26/91
Attachment 15

authority to states to take unilateral action. Under the Constitution, Congress can give states that authority. Many bills have been introduced in Congress this year on the interstate waste issue, and resolution of the issue is expected by the end of the 102nd Congress.

Practical Implications

State legislation that impedes waste importation has many practical consequences. Facilities that depend on source separated materials for recycling processes often find that the inability to receive waste from out of state totally undermines the economic viability of recycling processing facilities. (For example, a facility that relies on waste paper to generate usable paper needs a given through-put of discarded paper; many facilities are situated in geographic areas that make them dependent on out-of-state waste for such through-put because the volume of through-put generated within the state is not sufficient to maintain the facility.)

States also recognize that they depend on cross-border movement of waste for everyday waste disposal. The movement of solid waste within "waste sheds," often within metropolitan areas that may cross state lines, has been occurring for decades. Traditionally, communities on both the importing and exporting sides of the interstate movement of solid waste within waste sheds have been comfortable with that situation. Indeed, Congressman Slattery and now-retired Congressman Whittaker raised questions at a Congressional hearing in the last Congress about why one would want to interfere with this interstate/within waste shed movement. Naturally, cutting out the interstate movement of waste within waste sheds inevitably drives up the cost of waste disposal to communities dependent on that local, but interstate, movement of waste.

I would be happy to answer any questions on HB 2410. I might suggest that you could also contact Bruce Parker, General Counsel of the National Solid Wastes Management Association, who has followed litigation and developments on the interstate waste issue for over a decade.

cc: John Peterson

Margaret J. Miller
6807 E. Bayley
Wichita KS 67207-2613

February 23, 1991

Rep. Ken Grotewiel, Chairman
Energy & Natural Resource Committee
House of Representatives
Topeka KS 66612

Dear Ken:

Below is the testimony I would like to present on House Bills 2389, 2027, 2410, 2262, and 2407.

I would prefer to present this testimony in person but find it difficult to come to Topeka. I hope the members of the Committee will read and consider this testimony before they vote on these bills.

HB 2389: I support control of light and energy pollution. When light fixtures are renovated, shields should be used to provide for darker night skies (valuable for astronomers) and to provide energy conservation. I have a telescope but am not able to use it much in Wichita because of city lights. I am also a strong supporter of energy conservation.

HB 2027: I have worked hard to promote recycling in Sedgwick County and Kansas. I am a founder of Citizens for Recycling in Wichita. I strongly support the legislature as it encourages or mandates recycling throughout the state. I'm not sure that the requirement of 60% of the cost of recycling being recouped is practical. Communities and counties should be encouraged to recycle, and the State should be working on providing markets for the recyclable materials. One way the State can do this through the purchase of materials made from collected recyclables. The State can also encourage new businesses which would process collected materials for reuse.

HB 2410: We do not want to become a dumping ground for other states' waste. If we cannot prevent this waste coming to Kansas, we should make it very expensive or impractical for other states to send waste here.

HB 2262: Yard waste is a large percentage of our waste stream, estimated to be from 15 to 30% of the waste stream. Since yard waste is organic material, easily degraded through composting, it should not be going to landfills. Preventing yard waste from being dumped in landfills saves space in those landfills and saves valuable organic materials which can be used in parks, on farms, and in gardens.

HB 2407: SB 310, passed in the 1990 session of the Legislature, started us on a good track by assessing 50 cents per new tire sold to help provide disposition of used tires in some useful manner. We should continue that method and not back off. Tires can be shredded and used in a variety of ways, thus conserving the material used to make the tires originally.

Margaret Miller E+NR
2/26/91
Attachment 16