

Approved

Ken Grotewiel
Date 2/24/92

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES

The meeting was called to order by Representative Ken Grotewiel at
Chairperson

3:33 ~~xxx~~/p.m. on February 18, 1992 in room 526-S of the Capitol.

All members were present except:

Representative Patrick, excused
Representative Stephens, excused

Committee staff present:

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

Conferees appearing before the committee:

Ron Hammerschmidt - Deputy Director, Division of Environment, KDHE
Claud Shelor - Coordinator, Waste Reduction, Recycling, and
Market Development, Department of Commerce
Jim Twigg - Special Projects Coordinator, City of Overland Park
Melissa Nowak - Silver Lake High School Student
Joyce Wolf - Kansas Audubon Council
Ron Hein - Kansas Soft Drink Association
Shaun McGrath - Kansas Natural Resource Council
Don Meeker - President, Central Fiber Corporation, Wellsville
Scott Andrews - Sierra Club
Peter Rombold - Hoover Law Firm
Joan Vibert - Lake Region Recycling
Ann Smith - Kansas Association of Counties
Joe Pajor - Natural Resources Director, City of Wichita
Terry Leatherman - KCCI

Chairperson Grotewiel opened the hearing on HB 2801.

HB 2801 - An act concerning solid waste management; relating to local solid waste management committees and plans; providing for the imposition of certain fees and the disposition of revenues therefrom; amending KSA 65-3402, 65-3405, 65-3406 and 65-3415 and KSA 1991 Supp. 65-3407 and 65-3419 and repealing the existing sections.

Ron Hammerschmidt, KDHE, testified in support of HB 2801, stating that it is time to review and update the Kansas Solid Waste Act. He said that the adoption of the federal Subtitle D regulations, changes in the technology of solid waste management and environmental needs require that we examine this act and make both minor and major amendments to the Solid Waste Act. Mr. Hammerschmidt reviewed a KDHE outline of the provisions of HB 2801, and responded to several Committee questions. (Attachment 1)

Claud Shelor, Department of Commerce, testified in support of HB 2801. He stated that he and the Kansas Commission on Waste Reduction, Recycling, and Market Development believe this bill contains many of the items addressed in their conclusions and recommendations report. (Attachment 2)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES,

room 526-S, Statehouse, at 3:33 ~~xxx~~ p.m. on February 18, 1992

Jim Twigg, Special Projects Coordinator, Overland Park, testified in support of HB 2801, stating that they favor imposition of tipping fees and support waste reduction and recycling. He requested that consideration be given to funding provisions, difficulties with volume reduction goals, and with household hazardous wastes, as shown on (Attachment 3).

Melissa Nowak, Silver Lake High School student, testified in support of HB 2801, stating that there are solid reasons for solving the solid waste problems. She also said that economic problems should not dictate the quality of life for the general population.

Joyce Wolf, Kansas Audubon Council, testified in support of HB 2801, stating that this bill contains several important provisions which will put Kansas into compliance with EPA's regulations governing solid waste. Ms. Wolf requested several amendments as shown on (Attachment 4).

Ron Hein, Kansas Soft Drink Association, testified in support of HB 2801, stating that it sets up a framework for appropriate management of solid waste and solid waste issues for years to come. Mr. Hein did urge caution with the language in Section 3 (p) at shown on (Attachment 5).

Shaun McGrath, Kansas Natural Resource Council, testified in support of HB 2801, stating that it will greatly improve the regulation and enforcement of solid waste management in the state. He requested that several provisions of the bill need to be strengthened, and outlined his recommendations as shown on (Attachment 6).

Don Meeker, Central Fiber Corporation, testified in support of HB 2801. He said that although the main thrust of this bill is environmental, his primary interest in this respect relates to recycling and the development of markets for recycled products. (Attachment 7)

Scott Andrews, Sierra Club, testified in support of HB 2801, stating that the state has long needed a comprehensive system for the management of solid waste. Mr. Andrews said that one area that needs more attention is that of special wastes, such as oil, batteries and appliances (especially those containing CFCs). (Attachment 8)

Peter Rombold, Hoover Law Firm, testified in support of HB 2801. He said that having been involved in litigation involving landfills, and now advising counties on how to comply with RCRA, assistance is needed now to move toward regionalizing facilities. (Attachment 9)

Joan Vibert, Lake Region Recycling, testified in support of HB 2801, stating that Kansas should encourage counties to reestablish solid waste management committees and revisit their solid waste management plans. She requested several amendments as shown on (Attachment 10).

Ann Smith, Kansas Association of Counties, testified on HB 2801, stating that this legislation is a good place to start, but recommended several changes as shown on (Attachment 11).

Joe Pajor, Natural Resources Director, City of Wichita, testified on HB 2801, stating that the City supports environmentally sound solid waste management that encourages conservation of resources and minimizes pollution of the environment, but they also have concerns as shown on (Attachment 12).

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES,
room 526-S Statehouse, at 3:33 a.m./p.m. on February 18, 1992.

Terry Leatherman, Kansas Chamber of Commerce and Industry, testified on HB 2801. He stated that the KCCI recognizes that the KDHE does not currently have the personnel or resources to carry out its increasing responsibilities to oversee solid waste processing and disposal facilities in Kansas. As a result, KCCI does not oppose the passage of HB 2801; however, they urge the Committee to carefully consider potential problems in three areas of the legislation as shown on his written testimony. (Attachment 13)

Written testimony in support of HB 2801 was submitted by Margaret Miller, Sedgwick County Citizens for Recycling. (Attachment 14)

Chairperson Grotewiel announced that the hearing on HB 2801 would be continued on February 18, 1992.

The meeting adjourned at 5:25 p.m.

Date: 2/18/92

GUEST REGISTER
HOUSE
COMMITTEE ON ENERGY AND NATURAL RESOURCES

NAME	ORGANIZATION	ADDRESS	PHONE
Chiquita Cornelius	Ks. B.I.R.P.	Topeka	273-6908
Joseph T. Pajda	City of Wichita	455IV. Main Wichita	268-4356
CLAUDE S. SREUR	Ks. DEPT OF COMMERCE	400 SW 8th Top	296 5483
Carl Daugherty	EMPIRE DISTRICT ELEC	P.O. BOX 78 - Columbus Ks	316 429 2375
Larry Ravenport	Kansas Motor Carrier Assn	TOPEKA, Ks	267-1641
Pat Casey	KDHE	"	286-6053
Charles Ophel	KDHE	topeka, Ks	296-1535
Donald W. Meeker	Central Fiber Corporation	Wellsville, Ks	883-4600
Joan Vibert	Lake Region Recycling	Ottawa, Ks	242-2073
Peter Rambold	Hoover Law, Junction City, Ks.	66441	238 3126
Shawn McGrath	KNRC	Topeka	233 6707
Joyce Wolf	Ks. Audubon Council	Lawrence	749-3203
Scott Andrews	Siora Club	Topeka	273-3217
Colly Roberts	Interim	Lawrence	832-0514
Robert Raiston	Rep. Carl Holmes	Lawrence	
Terry Leatherman	KCCI	Topeka	357-6321
Jim Twigg	City of Overland Park	6300 W. 87 ST Overland Park	381-5253
JOE REED	"	"	"
BOB PLEDGE	CITY OF OVERLAND PARK	8500 SANTA FE OP Ks	381-5252
Julie Hein	KSDA	Topeka	273-1441
Iraa Potter	Peoples Nat. Ins	"	235-5996
Ed Mosko	League of Ks Municipalities	Topeka	354 9565

Date: 2/18/92

GUEST REGISTER
HOUSE
COMMITTEE ON ENERGY AND NATURAL RESOURCES

NAME	ORGANIZATION	ADDRESS	PHONE
James A Hague	Dickinson County	Courthouse Abilene, KS.	913 263-3093
Dan Haas	KCPD	Overland Park	594-2375
Tom Whitaker	Ks Motor Carriers Assn	Topeka, Ks	
Duane Snapp	Duane Snapp & Co	Galena Ks	316 783-5366
Robert I. Hopkins	NATURE	1815 Lott St, Topeka, Ks	(913) 234-4947
Michael Schainos	Silver Lake High School	Silver Lake, KS	913 582-5128
Melissa Nawak	Silver Lake High School	Silver Lake, KS	582-4618
Pamela Pearson	TCU Lodge 427	Silver Lake, KS	582-4618
Clyde Meacham		Topeka	233-1742
Glenda Flowers	Communications System Washington University	Topeka	354-7080
Shawn Anderson	Ko. Tire Dealers Assn.	Topeka	233-9660
William Anderson	KDHE- Legal	Topeka	296-0088
Lisa Weiser		Lawrence	
Edward R. Moser	Ko. App Providers Ass	Topeka	235-1188
STEVE KEARNEY	PETE MECK KASCO.	'	233-4512
Carol O'Donnell	7Up Bottling of Topeka	Topeka	233-7471
Beverly Steinmeyer	KOO	Topeka	271-3232
Frances Kastner	Ks Food Dealers Assn	Topeka	232-3311
Anne Smith	Ks. Assoc of Counties	Topeka	233-2271
Russell L Fallis Jr	^{President} Ks Recyclers Assn INC	P.O. Box 152 Hutchinson	316 662-0551
John H. Fauverge	Vice Presid Kan-Recycle Assn	PO Box 402 Indy, Ks	316 331-1710
Ken Denderson	Ks Fiber Recovery	7015 Pueblo Wichita, Ks	316 943-1033



Department of Health and Environment
Azzie Young, Ph.D., Secretary

Reply to: 296-1535

Testimony presented to
House Energy and Natural Resources Committee
by
The Kansas Department of Health and Environment
HB 2801

I. Introduction

Good afternoon, members of the Committee on Energy and Natural Resources. My name is Ron Hammerschmidt. I am the Deputy Director of the Division of Environment for KDHE. I am here today to present testimony in support of House Bill 2801.

In the early 1970's Kansas took a very progressive step with the passage of the Solid Waste Act. This act established a process for local governments to use in planning for solid waste management. In addition, this act established authorities for the Secretary of Health and Environment to regulate solid waste management activities within the state. For its time this act has proven to be an effective law. The major shortcoming of the planning and regulatory process has been a lack of funding for support of the local planning efforts and the regulatory and technical assistance programs of the agency.

In recent years, the Environmental Protection Agency and surrounding states have re-discovered solid waste as an issue. Until the promulgation of the Federal Subtitle D regulations last fall, the EPA had little regulatory interest in solid waste management. Many states including Missouri, Iowa and Nebraska have passed new solid waste laws in recent years. These statutes have led to very intensive planning and regulatory activity in these states.

It is time to review and update the Kansas Solid Waste Act. The adoption of the federal Subtitle D regulations, changes in the technology of solid waste management and environmental needs require that we examine this act and make both minor and major amendments to the Solid Waste Act. House Bill 2801 is the vehicle for this examination and discussion. We have prepared an outline of the provisions of HB 2801 to facilitate your review of the bill.

2/18/92
House E+NR
Attachment 1

Before I go through this outline, I will describe the KDHE vision of the future of the solid waste program. We aspire to establish state of the art systems for the management of solid waste in Kansas which include reduction, recycling and material reuse in preference to land burial. The first task that we must accomplish is a revision, actually a total redrafting, of the state solid waste management plan. This document together with new or revised rules and regulations will serve as the guide for counties or regions in their planning efforts. Second, we view the counties and regions as the key players in the solid waste management process. In HB 2801 we have retained current responsibilities for Solid Waste Management and have established some new ones. We have however attempted to avoid any prescriptive language such as bans on yard waste in order that the counties or regions maintain a maximum amount of flexibility in developing and implementing effective solid waste management systems at the local level. Solid waste is generated at the local level. The responsibility for management should be at the same level. The counties and regions will have to review and revise their existing solid waste plans. In addition, we must begin to address the issue of enforcement, remediation and other environmental concerns. The adoption of the federal Subtitle D regulations will force many existing landfills out of business. There will be a need to either direct responsible parties in the performance of the necessary closure and possible remediation work or in limited cases for the state to perform remediation to protect the public health and the environment.

Finally, if recycling is to become an effective part of the waste management process, Kansas must initiate an market development and recycling program. The provisions of HB 2801 address these needs. This bill implements many of the recommendations of the Solid Waste Task Force for the improvement of solid waste management in the state.

House Bill 2801

SECTION ONE

Definitions:

- "Solid waste" definition modified to exclude hazardous waste as defined in K.S.A. 65-3430.
- "Solid waste processing facility" definition broadened to include recycling facility.
- "Person" definition modified with technical changes.
- "Closure" definition added. (Subtitle D)
- "Post closure" definition added. (Subtitle D)

SECTION TWO

- Cleanup of planning language.
- Allowance for regional planning through interlocal agreement.
- Removal of "opt out" provision for cities.
- Redefinition of solid waste management committee membership.

Current Statute

HB 2801

One County Commissioner
County engineer
County health officer
County planner

County Designees including
county engineer, county health
officer, county planner or any
other commission appointees.

One representative from
each city and township.

One representative of each
class of city.

Two representatives from
the public at large.

Representatives of the public,
citizens organizations,
private industry, private solid
waste industry, private scrap
dealer or recycler.

County recycling coordinator

- Responsibilities of solid waste management committee
 - Preparation of plan or plan revisions.
 - Annual review of plan.
 - Public hearing on plan at least every five years.

- County or regional responsibilities
Adoption and implementation of solid waste management plan.
Demonstrated communication with other counties or regions which may be affected by plan.
- Addition to plan requirements
Identification of public education components.
Waste reduction goals
25% 1997
50% 2002
Hierarchy for waste stream volume reduction.
- Amendments to section (i) and (j) give secretary the authority to compel revision of plan.

SECTION THREE

- New section (i) allows secretary to assist in developing regional plans.
- New section (l) is explicit language for permitting of solid waste disposal areas. (Subtitle D)
- New section (q) gives the secretary authority over transporters of solid waste.
- Amended section (r) extends post closure requirement from 10 to 30 years. (Subtitle D)
- New section (s) authorizes cooperative agreements between KDHE and Department of Commerce for recycling and market development.

SECTION FOUR

- Adds language that allows the secretary to include a review of the need for a facility which is consistent with the waste management plan in considering an application for a permit.
- Adds language for civil and criminal background investigations as part of the permit application review process.
- Establishes an application fee of up to \$10,000 for a new permit.
- Increases the annual renewal fee from \$50 to an amount up to \$5,000.
- Removes the local and state agency exemption from payment of permit.
- Adds mechanisms for financial assurance including trust fund, letter of credit, insurance or financial test. (Subtitle D)
- Extends requirements for coverage to include sudden occurrences.

- Adds requirement for financial assurance for "operational activities". (Subtitle D)
- Section (i) is amended to clarify that permits are not transferable.
- Section (i) is strengthened to include enforcement for threatened acts, failure to pay fees and continual acts. (Subtitle D)

SECTION FIVE

- Planning assistance grants for cities is revoked.
- Adds authority for secretary to grant up to 90% of funds needed to prepare regional solid waste plans.
- Grants to be made from solid waste management fund subject to legislative appropriations.

SECTION SIX

- Increases maximum civil penalty from \$500 to \$5,000. (Subtitle D)
- Eliminates language concerning appeals which is inconsistent with KAPA.
- Adds "threatened or actual violations" as a basis for administrative actions.
- Modifies the authorities for prosecution to include the attorney general, district or county attorney, and secretary of health and environment.

SECTION SEVEN

- Creates a dedicated solid waste management fund.
- Revenue into fund:
 - Solid waste tipping fee of up to \$5 per ton.
 - Application and renewal fees.
 - Gifts and non-federal grants.
- Expenditures from fund:
 - Planning grants to regions and counties.
 - Costs for plan reviews and technical assistance.
 - Environmental monitoring of sites.
 - Payment of post closure cleanup costs, i.e. erosion control, if substantial threat exists.
 - Emergency remediation of sites closed before effective date of act.
 - Emergency acts to protect public health and the environment.
 - Non-emergency corrective actions.
 - Payment of program costs.
- Section (d) creates a cost recovery mechanism for funds expended from the solid waste management fund.

Section Eight

- Establishes the authority for collection of a tipping fee of up to \$5 per ton.
- Establishes authority for regions to charge an out-of-region tipping fee.

III. Discussion

There are a number of controversial features of HB 2801.

This bill eliminates the ability of individual cities to opt out of the county planning process. It was our intent in drafting this proposal to move the state toward regional solid waste management planning with the county as the smallest unit. The design and operational requirements of federal Subtitle D will require the development of sophisticated solid waste management and disposal systems. The regional model appears to be the most effective and efficient.

A second controversial issue is the statewide tipping fee. House Bill 2801 limits this fee to less than \$5 per ton or equivalent volume. The actual fee will depend upon expenditures approved by the legislature through the appropriation process. The annual fiscal impact for this bill are:

1. Regulatory program (16 FTEs)	\$ 945,500
2. Planning grants to counties/ regions.	\$ 600,000
3. Remedial program	\$ 363,500
Cleanup contracts	\$ 850,000
4. Market Development	\$ 941,000
Estimated annual total	\$3,700,000

It is estimated that the amount of municipal solid waste generated in Kansas is 2.5 million tons per year. A tipping fee of \$1.50 would generate approximately \$3.75 million in revenue. The approximate distribution of a fee of \$1.50 per ton would be:

Regulatory program	\$ 0.38
Aid to counties/regions	0.24
Remedial program	0.15
Cleanup contracts	0.34
Market Development	0.38
Rounding factor	0.01
TOTAL	\$ 1.50

The cost for any program could be reduced through a reduction in the expectation for the program. If for instance, the budget process reduced the remedial contract expenditures from \$850,000 to \$250,000 the per ton cost would be reduced from \$0.34 per ton to \$0.10. The number and magnitude of remedial projects would be reduced.

The priorities of the agency for the program expenditures authorized in this bill in order of decreasing priority are

- Regulatory/Technical Assistance Program Development
- Planning Grants for Counties and Regions
- Remediation Oversight
- Remediation Contracts
- Recycling and Market Development

If I were in your position, my first question would be "Why ask for \$5 if you only need \$1.50?" The answer is fairly straightforward. First, we only have estimates of the volume of solid waste generated in Kansas. Although Kansas State University has performed a limited study of typical waste streams, we are not certain of the actual volume/weight of solid waste generated. Second, in any system which collects fees there are problems in the collection of revenues. In order to keep the fund on a positive cash flow basis, we may need a higher fee at first. Third, the funds requested by the counties and regions will sharply increase from FY 93 to FY 94 as the program matures. Since the fee schedule will be set through the rule and regulation process there will be opportunity for review and input on the setting of the fees established in this bill. Therefore, the agency requests some flexibility in setting this fee.

IV. Technical Modifications

After we submitted this bill for consideration by the legislature, we reviewed it with a number of groups. Several suggestions were made:

On page 8, line 8 the intent of this addition may be clarified by the addition of the phrase "or solid waste disposal area" after "facility" and before "in conjunction".

On page 8, line 25 replace "without" with "prior to" before "conducting".

On page 10, line 10 replace "without" with "prior to" before "conducting".

On page 16, line 21, after "be assessed on all" insert "such solid waste, as described in the first sentence of this subsection," before "entering the regional solid waste facility."

There is an issue which has not been addressed in HB 2801 which must be resolved. The federal Subtitle D regulations on financial assurance begin as follows: " 258.70(a) The requirements of this section apply to owners of all MSWLF units, except owners or operators who are State or Federal entities whose debts and liabilities are the debts and liabilities of a State or the United States." Current Kansas law exempts political subdivision, state agencies and the federal government from financial responsibility requirements. In order for Kansas to meet federal requirements in Subtitle D for approval of the state program, either this provision, page 10 line 18 to 23, must be stricken or amended, or the state can assume liability for operational, closure, and post-closure at all publically owned landfills in the state. We anticipate that the financial test used to demonstrate financial responsibility will be straightforward and reasonably simple for political subdivisions. Therefor we recommend that you resolve this issue by eliminating the exemption found on lines 18 through 23 on page 10 of HB 2801.

Finally, questions have been raised with the agency in recent days concerning the regulation of non-hazardous special solid wastes. These materials include items such as asbestos waste, slightly contaminated soils and industrial catalysts. The department has handled these materials under the general powers of the secretary in existing statute.

Testimony - HB 2801
Page Nine

Conclusion:

As I stated in my introductory remarks, we attempted to develop an approach in HB 2801 which sets guidelines for the counties and regions in preparing and implementing their solid waste management plans. The agency does not support the idea of prescriptive bans on certain portions of the solid waste stream such as yard waste. Rather we support the concept that county and regional solid waste management should address local issues in the manner that is the best for their locality. Therefore, we urge you to reject any suggestions that will impose statewide bans on designated materials or added more restrictive language to HB 2801.

Mr. Chairman, members of the committee, I realize that my testimony on HB 2801 has been rather lengthy. I hope that the intent of the agency and our plans for improving solid waste management in Kansas are evident. I will attempt to answer any questions that you may have.

Testimony presented by: Ronald F. Hammerschmidt, Ph.D.
Division of Environment
February 18, 1992



Joan Finney, *Governor*

KANSAS

DEPARTMENT OF COMMERCE
Industrial Development Division

Bill Thompson
Director

Laura E. Nicholl
Secretary

HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES

Chairperson: Ken Grotewiel
Vice Chairpersons: Betty Joe Charlton, John D. McClure
Members: Vernon W. Correll; Robert E. Krehbiel; Eloise Lynch; Ed McKechnie; Don M. Rezac; Stevi Stephens; Tom Thompson; Darrel M. Webb; Carl Dean Holmes; David R. Corbin; Fred Gatlin; Kent Glasscock; Walker A. Hendrix; Doug Lawrence; Steve Lloyd; Gayle Mollenkamp; Kerry Patrick; Eugene L. Shore.

HOUSE BILL 2801 CONCERNING SOLID WASTE MANAGEMENT

Presentation by Claud S. Shelor, Statewide Coordinator of Waste Reduction, Recycling and Market Development; representing the Kansas Commission on Waste Reduction, Recycling and Market Development.

The Recycling Commission reviewed House Bill No. 2801 on February 7, 1992 at their regularly scheduled monthly meeting. The final reports of the Commission and Coordinator to the Governor and Legislature are attached for the Committee members review.

It is the Coordinator and Commission's consensus that House Bill 2801, as presented, contains many of the items addressed in their conclusions and recommendations report.

The eleven member commission approved my appearance before you today in support of House Bill No. 2801.

2/18/92
House E+NR
Attachment 2

FINAL REPORT OF THE KANSAS COMMISSION ON WASTE REDUCTION, RECYCLING, AND MARKET DEVELOPMENT

Pursuant to 1990 Supp. 74-5088, the Kansas Commission on Waste Reduction, Recycling, and Market Development respectfully submits its *Final Report and Recommendations to the Governor and 1992 Legislature*. The following individuals serve or served on the Commission: Chairperson Walter Wulf, Jr., Executive Vice-President, Monarch Cement Company, Humboldt; Representative Joan Adam, Atchison; Ronald Champlin, Christensen Oil Company, Inc., Concordia; William Franklin, William Franklin and Associates, Prairie Village; former Representative Jeff Freeman, Burlington; Charles Jones, Director of the Division of Environment, Department of Health and Environment; Shaun McGrath, Executive Director, Kansas Natural Resource Council, Topeka; Senator Lana Oleen, Manhattan; Claud Shelor, Statewide Coordinator of Waste Reduction, Recycling, and Market Development, Topeka; John Shockley, Shawnee County Refuse Director, Topeka; and Joyce Wolf, Kansas Audubon Council, Lawrence. Representative Jeff Freeman was replaced by Representative Carl Holmes due to Representative Freeman's resignation from the Legislature.

A copy of the Recycling Coordinator's 1991 Report is attached to this Report.

BACKGROUND

During the 1990 Legislative Session, consideration and approval was given to S.B. 310. This legislation, among other things, created the 11-member Kansas Commission on Waste Reduction, Recycling, and Market Development and required the membership to consist of:

1. five members appointed by the Governor -- one representing counties, one experienced in solid waste processing or disposal facilities, one representing businesses and industries using recycled materials, one representing environmental groups, and one representing other businesses and industries;
2. four members, of whom one each is to be appointed by the Speaker and Minority Leader of the House and by the President and Minority Leader of the Senate;
3. the Secretary of the Department of Health and Environment (or a designee); and
4. the Statewide Coordinator of Waste Reduction, Recycling and Market Development (a new, unclassified position that was created by the legislation and appointed by the Secretary of Commerce).

The Commission was created for a two-year period (abolition date established for July 1, 1992) and was charged with evaluating and recommending specific actions with regard to the following:

1. reducing the volume of solid waste generated in the state and expanding markets for recyclable materials;
2. developing markets for recycled and recyclable products;

2. developing markets for recycled and recyclable products;
3. encouraging and assisting local units of government in establishing waste reduction and recycling programs;
4. changing state procurement practices to promote recycling; and
5. creating opportunities for recycling enterprises.

COMMISSION ACTIVITY

The Commission was required to submit two reports. One report was submitted at the start of the 1991 Session. All activities and recommendations of the Commission occurring prior to the 1991 Session are documented in the 1991 Report which is available in the Kansas Legislative Research Department. Activities and recommendations of the Commission after this period are documented in this final report of the Commission to the Governor and Legislature for consideration during the 1992 Session. Commission meetings occurring during 1991 were held on February 15, March 22, April 16, May 10, June 19, July 10, August 7, September 11, October 28, November 13, and December 4 of 1991. Additionally, the Commission met on January 8 and 9, 1992, to make final recommendations to the 1992 Legislature and Governor.

At the Commission's February meeting, it heard an update from the Procurement Subcommittee (the Commission had been broken down into two subcommittees for additional discussion), a review of the state's household hazardous waste program, and a presentation on a proposal to create a Kansas seal of responsible packaging. The Commission also discussed several of the bills that the Legislature was considering at the time. Also during February, the Commission Chairperson testified on behalf of the Commission before the Senate Energy and Natural Resources Committee, in support of S.B. 46, which would have required coding on plastic bottles and containers.

During the March meeting of the Commission, it heard a presentation on the issue of the use of acid-free paper and discussed several of the bills relating to solid waste and recycling that were being considered by the Legislature. Also during March, the Commission Chairperson testified before the House Energy and Natural Resources Committee, in support of S.B. 46, which would have required coding on plastic bottles and containers.

At the April Commission meeting, a presentation was given by a person from the Department of Revenue on the process used for retailers to register and pay the excise tax on tires. In addition, several individuals were called upon to update the Commission on the status of bills being considered by the Legislature. Among the bills discussed were Sub. for H.B. 2407 (waste tire legislation); H.B. 2354 (state procurement practices); H.B. 2410 (solid waste policy in Kansas); and S.B. 152 and H.B. 2471 (beverage container deposit proposals). Sub. H.B. 2407 was the only bill to receive final approval by the 1991 Legislature and Governor.

Two spokespersons from the Coca Cola Bottling Company of Wichita appeared before the Commission at its May meeting. They described the program of their company which currently involves the recycling of aluminum and glass and discussed future plans to recycle plastics and other items. The Commission also heard from a spokesperson from the Department of Commerce that reviewed the grants that are available for economic development in communities. The Commission was attempting to determine the type and kind of monies that might be available to communities or businesses that potentially would be involved in the effort to recycle or reduce waste deposited in landfills.

A spokesperson from the Lake Region Resource Conservation and Development Council appeared before the Commission in June to discuss local recycling programs. The spokesperson indicated that a similar

program could be established in many other communities throughout Kansas. Also at the June meeting, the Commission heard from a spokesperson from the Kansas Advisory Council on Environmental Education. This conferee indicated that the Council serves as a medium for exchange of information on environmental education; serves as an advisory group on environmental education to the State Department of Education; and assists in the development of programs to promote and encourage the teaching and appreciation of the environment and the wise use of resources.

The Natural Resources Director for the City of Wichita also appeared before the Commission at its June meeting. This person indicated that the City of Wichita has been working intensively on solid waste issues and is in the process of developing an integrated solid waste management plan. An additional conferee appeared who represented a private recycling company in Coffeyville.

At the July meeting of the Commission, a conferee from Central Fiber, a paper recycling company in Kansas, discussed the company's use of various types of paper in the manufacture of insulation products, groundcover mulch for use at construction sites, and lawn and garden products. The spokesperson also discussed the advantages of cellulose fiber products in insulation over those of fiberglass. As a result of testimony by the conferee from Central Fiber, the Commission voted to write to the Secretary of Transportation to encourage the use of the straw tack mulch, which is a means to sow grass seed and provide groundcover at a construction site. Later information indicated that the Department of Transportation will use this product on an experimental basis. At this same meeting, the Commission also heard from a spokesperson from Surplus Exchange in Kansas City. This nonprofit business acts as a clearinghouse for surplus products that would likely be disposed of in a landfill and distributes the surplus items to various charities in the Kansas City area. They exchange items such as computers, copying machines, typewriters, desks, chairs, and building supplies.

In addition, at the July meeting, the Commission heard a presentation on the program at the Training and Evaluation Center for the Handicapped (TECH) in Hutchinson. TECH processes all of the recyclables collected by the Dillon Corporation of Hutchinson. The spokesperson for TECH expressed concern for certain types of recycling programs that would potentially threaten the viability of the TECH program. TECH is a private, nonprofit, comprehensive rehabilitation center with the purpose of providing specialized services to the handicapped in Reno County.

At the August meeting of the Commission, Congressman Slattery appeared before the Commission and discussed various aspects of the Resource Conservation and Recovery Act amendments under current consideration in Congress. He also answered Commission members questions on various aspects of solid waste policy in this country. Also in August, the Commission heard a review of the recommendations made by the Kansas Solid Waste Advisory Task Force, which had published its report in February, 1990. The conferee suggested that the Commission members focus on the list of goals which were proposed earlier for the Commission by the Kansas Department of Health and Environment. The list of goals is outlined in the minutes of the Commission. Another conferee at the July meeting represented Tri-State Recycle and Transfer in Galena. This company has a full-scale material processing plant which daily extracts recyclables from the local waste stream.

At the September meeting of the Commission, it heard from a spokesperson from the Department of Commerce who reviewed the various mechanisms in the agency to encourage and establish recycling-related businesses. The Commission also discussed several potential pieces of legislation that will be before the 1992 Legislature.

The October meeting of the Commission was held in Hutchinson during the Governor's Conference on Waste Reduction, Recycling, and Market Development. One conferee reported on a Nebraska engineering study being prepared that includes economic implications regarding recyclable materials and their relationship to landfills. Another conferee reported on the status of the Phillips Plastic Plant under construction in Oklahoma, which expects to handle 20 million pounds annually of PET and HDPE post consumer plastic.

The November meeting of the Commission was devoted to discussing various aspects of recycling and waste reduction and to hearing from an elementary school teacher from Williamstown. The school teacher discussed

A more detailed summary of the Commission's activities is available in the Commission's minutes. Minutes are housed at Kansas Legislative Administrative Services.

COMMISSION CONCLUSIONS AND RECOMMENDATIONS

The Commission recommends that the state enact a tax measure which would permit businesses to claim a tax credit for the purchase of equipment and machinery used in connection with the manufacture of products composed of post-consumer waste.

Further, the Commission recommends that the state mandate a planning process for a statewide energy policy. Several other states have passed legislation that in one way or another imposes goals or requirements for energy conservation.

The Commission also recommends that a comprehensive solid waste management (SWM) bill be passed. The Commission, in making this recommendation, suggests the following as possible sources of revenue to fund the legislation:

1. a statewide tipping fee;
2. Economic Development Initiatives Fund monies;
3. an excise tax on certain types of packaging; and
4. advance disposal fees on certain items.

The Commission recommends that the following be included as components of this comprehensive legislation:

1. update the state SWM plan, taking the Environmental Protection Agency (EPA) regulations into consideration;
2. update SWM plans at the local level;
3. establish a dedicated fund for solid waste management that is adequate to provide:
 - a. additional personnel in KDHE to fully implement the rules and regulations that pertain to SWM, especially for investigating, monitoring, and siting of new, existing, and closed landfills;
 - b. additional staffing for updating the state SWM plan and for providing technical assistance to local entities (KDHE should develop model plans that local units of government can use as guidelines);
 - c. grants to local units of government to update SWM plans, perform waste audits, and assess landfill life expectancy (provide criteria to local units so they can evaluate their SWM and recycling plans);
 - d. incentives to promote regionalization in SWM planning;

- e. programs to educate all Kansans regarding waste reduction, recycling, and market development; and
- f. funding for a market development fund. (This money could be used with qualifying stipulations to assist companies processing, reprocessing, or using recycled materials; in addition, money could be provided to individuals or other entities that are involved with research in the use of recycled products or the development of products made of recyclables. These moneys would be distributed according to guidelines established by officials at the Department of Commerce with the advice of officials at KDHE.)

(The commission believes that local units of government should not be precluded from raising money for their local solid waste management programs in addition to any state money).

- 4. include in SWM plans the hierarchy of waste management, *i.e.*, emphasizes "reduce, reuse, recycle, compost," then landfill;
- 5. require waste audits, then sets goals, based on those findings, for volume reduction that at least reflects the goals developed by KDHE;
- 6. establish deadlines for meeting the goals by No. 5 above with penalties for noncompliance;
- 7. request the Department of Commerce and counties explore an initiative to develop and site construction materials recycling centers;
- 8. require that state and local SWM plans be updated and implemented under a schedule developed by the Secretary of KDHE (plans should be flexible enough to conform with any modifications to federal regulations and to the passage of state laws that would limit or ban the disposal of particular items);
- 9. increase the penalties for littering and impose higher penalties for illegal dumping by removing the current \$500 cap;
- 10. promote a mechanism that permits local units of government to control waste flow into their landfills;
- 11. requires counties in their solid waste management plans to develop and implement specific management programs which may include bans for certain special wastes including:
 - a. lead acid batteries;
 - b. household hazardous wastes;
 - c. small quantities of hazardous wastes;
 - d. white goods;
 - e. agricultural chemicals and chemical containers; and
 - f. motor oil;
- 12. recognize the need to protect all resources when siting a landfill;

13. encourage the Governor to utilize the appropriate agencies to implement a statewide education program on solid waste management emphasizing local participation of all age levels (including a "buy smart" concept that encourages waste reduction and purchase of nontoxic products);
14. require KDHE to prepare an annual report to the Legislature and Governor beginning in January, 1994 on the state of the SWM fund and program; and
15. reaffirm local communities' authority to impose restrictions on landfilling certain materials such as yard waste, beverage containers, disposable diapers, and other like items.

The Commission also recommends that the Legislature introduce and pass a concurrent resolution that recommends the federal government promote recycling and market development through an aggressive procurement program of purchasing products made from recycled materials.

The Commission commends the Kansas Department of Transportation for the use of reseeded supplies made from recycled products on an experimental basis and, if they find the products satisfactory, urges the Department to expand the use of those products.

The Commission encourages newspapers published in Kansas to use post-consumer paper in their newsprint. The Commission asks that legislation be introduced to require that newspapers in the state be required to publish the percentage of post-consumer paper in each edition of the paper.

The Commission recommends passage of S.B. 46, the plastic encoding bill; H.B. 2354, the state government procurement bill; H.B. 2471, the bottle deposit bill; and S.C.R. 1614, the acid-free paper resolution.

The Commission recommends that entities and individuals who contract with agencies of the State of Kansas be required to separate recyclables. (An example of this would be to recognize that whoever has the contract with KDOT to clean parks and state highway rest areas must separate recyclables from the other waste.)

The Commission believes that existing state programs established to promote economic development within Kansas should be utilized to promote recycling and to develop markets for recycled and recyclable products. Such programs and their use would include, but not be limited to:

1. the Secretary of the Kansas Department of Commerce by directing the Industrial Development Division and the Trade Development Division to make recycling a target industry for their respective programs; by making recycling and recycling industries suitable for Kansas a subject of study by the Economic Analysis and Research staff within the Administration Division by making recycling and recycling industries priority industries for Existing Industry Division programs such as Small Business Development, Venture/Seed Capital, Business Retention and Expansion, and Minority Business Development; and within the Community Development Division, by making recycling a component of applicable programs administered by the Division including the Small Cities Community Development Block Grants, Pride Program, Enterprise Zones, Kansas Partnership Fund, and Community Strategic Planning;
2. Kansas Inc., by making recycling markets a focus of its research, in order to determine in which recycling markets Kansas could readily compete, and how the state could further promote Kansas industries' competitiveness in these markets;
3. the Director of the Kansas Development Finance Authority by making Kansas' industries which manufacture products with recycled content, manufacture recyclable products, or collect and/or process recyclable materials, priority businesses for financial assistance such as low-interest loans or direct grants.

4. the Director of the Kansas Technology Enterprise Corporation, by making research and development within the field of recycling a priority for its programs; and
5. the Director of Purchasing of the Department of Administration, by developing recommendations to further promote state procurement of recycled and recyclable products.

The Commission further believes that the Kansas Legislature should pass a concurrent resolution that memorializes Congress to adopt federal legislation or regulation governing and setting standards for the uniform labeling of products and packaging for recyclability, reusability, and recycled content.

Finally, the Commission concludes that there is a need to develop a program to recognize organizations for their achievements in waste reduction, recycling, and market development on an annual basis. Nominations would come from KDHE and an ad hoc committee established by the Secretary of Commerce, from recommendations for consideration furnished by economic development organizations, county and municipal government agencies, environmental groups, or private citizens. The final selection(s) for recognition would rest with the Governor. Suggested categories for the organization of the awards are made in accordance with the following federal award guidelines:

partnership -- for cooperative approaches to environmental needs;

environmental quality management -- for pioneering organizations that incorporate environmental values into management;

education and communication -- for programs that raise the public's environmental awareness and literacy; and

innovation -- for novel technologies, programs, projects, or services.

The above could be used as a pattern for initiating a program on a statewide basis.

RECOMMENDATIONS TO GOVERNOR AND LEGISLATURE: REPORT OF
COORDINATOR OF WASTE REDUCTION, RECYCLING AND MARKET DEVELOPMENT
CLAUD S. SHELOR, P.E.

Upon assuming duties of the above position on April 1, 1991, the Citizens of Kansas, Marketing Agencies in Kansas and other States, along with businesses and industry in Kansas have averaged 5.5 telephone calls daily to the office of coordinator. The coordinator's log reveals an average of 3.3 calls returned daily and spoken to groups and travelled throughout Kansas an average of five times monthly. These are quoted only for statistical evidence of interest by the public at large in wastestream reduction and marketing in Kansas. The "ground-swell" recycling issue interest by the public must be recognized in social and political circles by city, county and state officials. This was in evidence at the Governor's Conference on Waste Reduction, Recycling and Market Development held in Hutchinson, Kansas, October 28 & 29, 1991.

Centralization and/or Regionalization of Recyclable Sites is absolutely necessary in Kansas. State borders must be crossed in Western Kansas with Oklahoma, Nebraska and Colorado to utilize sources of recyclables and establish markets. The Legislature must keep in mind "how will Kansas Legislation compliment existing or yet to be established markets?"

Means to assist programs that are in existence and providing markets in Kansas need support! Most states require or encourage recycling. Many are calling for National Standardization and

congress is providing this with RCRA. It is accepted that
recycling centers need to be a function of solid waste hauling or
landfill operations.

Municipalities are facing a tough battle raising monies for short term investments and providing bonding for markets. However, tough problems seldom stop determined community groups that have a vision!

COORDINATOR'S RECOMMENDATIONS:

LEGISLATIVE ACTION:

1. Revision of Kansas solid waste management statutes during the 1992 legislative session to conform with subtitle "D" RCRA, mandating action by state and local units of government to assure that Kansas becomes an approved state by EPA standards.

2. Pass appropriate legislation to encourage manufacturers, industry and local units of government to provide incentives to encourage recycling and develop markets. Funding should be provided at the local level with use of tipping fee surcharge to be incorporated into county budgets as an "Enterprise Fund" and used strictly for waste reduction, recycling and market development.

3. Establish funding to maintain a recyclable materials list subject to revision as technology and marketing changes. All Kansans are demanding accurate and current information.

4. Revise KSA 65-3405 to mandate boards of County Commissioners permanently responsible for landfills, wastestream reduction and providing locations for storage of recyclables prepared for marketing.

KDHE - ADMINISTRATIVE REGULATION:

Require all recycling centers to be registered with Statewide Coordinator to promulgate rules and regulations for registration to quantify monitoring of recycling and buy-back centers. There are existing market locations that are not conducive to clean health and environment. Some of these have been observed and logged by the office of Coordinator.

RECOMMENDATIONS TO GOVERNOR - IMPLEMENTATION BY EXECUTIVE ORDER:

- A. Establish a permanent combination, Keep America Beautiful (KAB) and Earth Day program through the coordinator office using monies from EDIF funds.
- B. Utilize educational facilities available to Kansans through Kansas Advisory Commission on Environmental Education (KACEE), Kansas State University Extension Services, K.U., Ft. Hays State and Pittsburg State Universities.
- C. Provide a position in Department of Commerce or KDHE working out of state coordinators office to organize, develop and monitor multi-county regional systems. Maintain periodic review and updating of solid waste management in Kansas, that involves wastestream reduction and recycling. Require communities to develop a recycling commission or task force of community leaders, with city and county working together with their Public Works Department in the implementation of integrated waste management systems.

D. Consider a resolution that decrees local units of government adopt recycling procedures requiring a separation of waste elements for collection and preparation of material for markets at landfills or predetermined regional locations. This decree would include, but not be limited to, curbside recycling, maintained drop-off locations, household preparation of recyclables and regionalized training centers for educational classes using audio-visual programs and other classroom techniques.

E. Decree that state agencies and local units of government give preference to procurement of products containing post consumer material vs. virgin materials. Require the state printer to install pilot programs to stimulate counties and cities to follow state examples in the paper field.

MARKETS:

Should be subsidized in an integrated waste market program to create opportunities for businesses to development. Statistical surveys reveal recycling is one of the eight most important issues in the eyes of the public.

WASTE MINIMIZATION:

Reduce, reuse and recycle to minimize solid waste can extend the life of existing landfills. Nearly 80% of the wastestream is recyclable. Composting the remaining can reduce the volume eight to one.

MATERIAL PROCESSING FACILITIES:

Should be tax exempt multifaceted operations to include a separation plant, buy-back center, transfer station and a potential flea market. The transfer center should include ability to compost the balance of wastestream for agricultural use. In urbanized areas a flea market could accept, sort and sell certain materials of value without processing.

PUBLIC EDUCATION:

Cannot be over stressed. Funding from EDIF should be assigned to the coordinators office to establish a library of printed materials, displays, models and video for audio-visual educational equipment to be made available to all community groups and institutions for education, particularly K thru 12.

LANDFILLS:

The ultimate objective for recycling is waste reduction. Subtitle "D" regulations of RCRA are being finalized on the state level to satisfy EPA regulations. Kansas and/or local communities could recommend that new landfills receive only Post Processed Residual Waste, this being items that cannot be recycled. Tipping fees or surcharges must be utilized until markets exist to support community based programs and public education.

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February 17, 1992

SUBJECT: Hearing before the House Energy and Natural Resources Committee regarding House Bill No. 2801, AN ACT concerning solid waste management, imposition of certain fees and the disposition of revenues therefrom.

Chairman Grotewiel and Members of the House Energy and Natural Resources Committee:

Mr. Chairman, members of the Committee: thank you for allowing me to testify before you this afternoon. My name is Jim Twigg. I am the Special Projects Coordinator for the City of Overland Park.

With regard to House Bill 2801, Overland Park strongly favors a comprehensive solid waste management strategy for the State of Kansas. We also favor the imposition of a landfill tip fee surcharge to generate revenue to be used in addressing solid waste issues. Overland Park strongly supports waste reduction and recycling, and in fact has recycled almost 12 million pounds of materials in the past year.

HB 2801 contains provisions important to improved monitoring and long term maintenance of solid waste disposal sites, as well as provisions for funding of emergency cleanup of those closed sites which pose a substantial risk to the public health and safety or to the environment.

HB 2801 further provides for development and maintenance of comprehensive solid waste management plans on both the county and state levels, and waste reduction goals of 25% by 1997 and 50% by 2002.

Although HB 2801 may accomplish its primary goal of helping Kansas become an approved state under the federal Resource Conservation and Recovery Act, we believe that to be in the best interests of Kansas consideration should be given to several critical issues.

1. No funding provision is made to help counties or cities attain the reductions in solid waste volumes. Funds will be needed to educate Kansans on solid waste issues, and the need for reducing the volume and toxicity of our wastes. In 1991 Overland Park spent \$85,000 for education about and collection of household hazardous wastes, and residents of Overland Park spent over \$350,000 in a voluntary recycling program.

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House E + NR
Attachment 3*

2. The volume reduction goals will be difficult to achieve without banning materials such as yardwaste from landfill. If these goals are to be met, it is preferable that some of them be addressed on a statewide basis.
3. Household hazardous wastes are currently being improperly disposed by a majority of Kansans, contributing to pollution of both surface and groundwater. County solid waste management plans should contain adequate planning for the collection and responsible disposal of these materials. Consideration should be given to allowing individual counties or regional solid waste planning groups to impose an additional landfill surcharge for funding of ongoing household hazardous waste collection programs for their residents.

As an additional concern, many cities in Kansas have already taken steps to responsibly manage yard waste and to reduce the amount of material going to landfill by waste reduction education and recycling. We ask that if this bill is passed these communities not be penalized by failing to take these efforts into account when setting their waste reduction goals. We further ask that the issue of interstate transportation of solid waste be considered in setting these goals, as neither a county or the state can control the volume of waste deposited into our landfills.

The City of Overland Park has been very active in recycling and household hazardous waste and we would be very happy to cooperate and assist this committee in revising HB 2801 to make it a bill that fully meets the needs of Kansas.



Kansas Audubon Council

February 18, 1992

Testimony on HB 2801 before the
House Energy and Natural Resources Committee

My name is Joyce Wolf and I am the legislative liaison for the Kansas Audubon Council (KAC). The Council is comprised of National Audubon Society members who reside in areas served by the ten chapters (Kansas City, Leavenworth, Lawrence, Topeka, Manhattan, Salina, Hutchinson, Emporia, Wichita, and Southeast Kansas) as well as others who live in areas not served by these chapters. Audubon members share a desire to promote a sustainable society through the conservation, protection, and wise use of the earth's natural resources.

KAC believes HB 2801 contains several important provisions which will put Kansas into compliance with EPA's regulations governing solid waste. Counties' responsibilities are addressed by Section 2, which requires each county or group of counties to submit updated solid waste management (swm) plans to the secretary of the Kansas Department of Health and Environment. Section 2 also sets criteria for how swm planning committees are to be constituted and enumerates a list of items that the planners must take into consideration, including a public education component.

KAC is particularly pleased that goals and a schedule for reduction of the waste volumes are set in Sec.2(e)(9). By establishing these broad guidelines, KDHE has recognized the dissimilarities in the waste stream from one community to another; nonetheless, the requirement of a 25% reduction of waste volume by 1997 and a 50% reduction by 2002 gives credence to the need to conserve our natural resources, including landfill space. Mr. William Franklin, speaking at the Governor's Conference on Waste Reduction, Recycling and Market Development, reminded attendees that "landfills are not closed because they weigh too much but because they run out of space!"

Within Section 2, the Kansas Audubon Council recommends the addition of another subsection under (e) which would require plans to contain specific management programs, which may include landfilling bans, for certain special wastes including: lead acid batteries; used motor oil; household hazard wastes; small quantities of hazardous wastes; agricultural chemicals and chemical containers; and white goods which contain chlorofluorocarbons (CFCs). Please note that we are not saying that the plans must contain landfill bans, but rather that each swm planning committee must examine the alternatives for proper disposal of these materials and, in the plan, account for its decision on how these materials will be handled within the planning area.

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Attachment 4

Please refer to the attached article from "HYDATA News and Views". I have highlighted a few key sentences which clearly point out the potential problems that improper disposal of these items can cause. Much like the the computer saying "Garbage in, garbage out," this article can be quickly summed up by saying "Toxics in, toxics out." With all we know today about the problems created by leaking landfills, it just does not make sense to continue the policy of burying hazardous materials.

Section 3 addresses the need for updating the state swm plan and the rules, regulations, standards, and procedures governing solid waste. KAC is particularly supportive of the sections which direct KDHE to: encourage regionalization of swm planning; require recycling; provide technical assistance to planning areas; establish criteria for siting and monitoring processing facilities and disposal areas; establish rules and regulations for transporters of solid waste; cooperate with the department of commerce in developing markets for recyclables; and increase the time an owner is responsible for a disposal site following closure.

KAC is enthusiastically supportive of Section 4, especially those paragraphs which require more stringent criteria for those seeking to operate a processing facility or disposal area. However, because recycling facility, as used in Section 1(c) is undefined, it appears that all of the requirements of Section 4 would apply to the entire spectrum of recycling facilities including: reverse vending machines, drop-off centers, and even interior programs which are ancillary to the primary activity of a business or organization (Dillon's). Narrowing the definition of recycling facility to exempt these kinds of operations will protect them from unnecessary costs and regulations while still permitting KDHE to regulate larger operations.

Section 6 significantly increases the penalty for illegal dumping. KAC believes this is important to include as a complement to the section which sets goals for waste stream reductions to act as a deterrent for inappropriate disposal of solid wastes.

Finally, KAC supports the establishment of a solid waste management fund and the provisions for its expenditures. If counties oppose the imposition of the tonnage fee to fund the swm fund, the Council would support the following alternative: the imposition of advanced disposal fees, similar to what is paid when purchasing new tires, on those items mentioned above as special or hazardous wastes. Ideally, funds raised from these advanced disposal fees should be used to provide for the collection and special disposal of these potential hazards. Any excess receipts could be credited to the swm fund.

We appreciate the committee's consideration of our comments and I would be happy to try to answer your questions.

HYDATA News & Views

A BI-MONTHLY PUBLICATION OF THE AMERICAN WATER RESOURCES ASSOCIATION

1991 . . . The Year of Manufacturer Responsibility?

A review of state recycling legislation by the National Solid Waste Management Association revealed that state laws are making manufacturers more responsible for the disposal of their products. In 1990, more than 140 recycle laws were enacted by 38 states. Since 1989, 48 states have enacted some type of recycling law. The two states without such laws have Bills pending in 1991. Thirty-three states have laws which require separation of recyclables

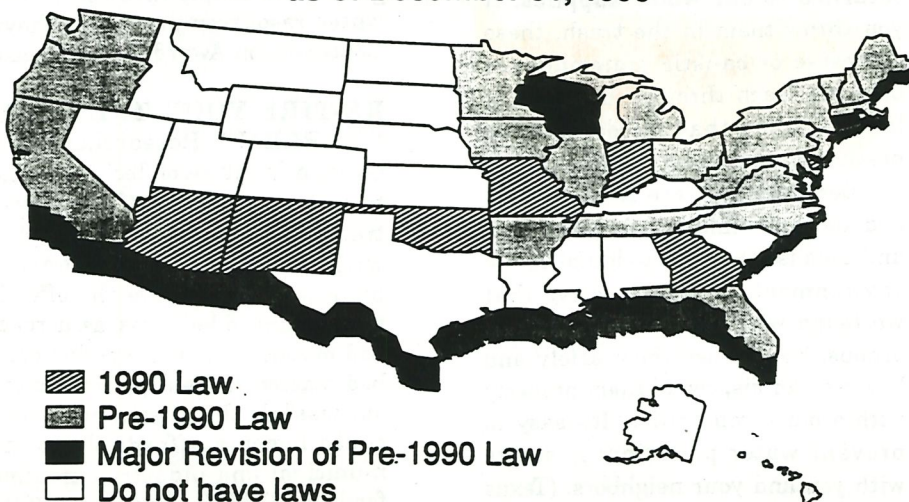
and contain one or more provisions to stimulate recycling. Twenty-seven states have banned certain products from solid waste disposal facilities. The laws usually target lead-acid batteries, used oil, yard waste, tires, and large appliances. In 1990, Wisconsin and Massachusetts enacted laws which will ban most common recyclables from disposal facilities. (NSWMA News Release)

Dispose of Properly

The term "hazardous waste" usually conjures up the image of men in "moon suits" probing around mysterious, closed-down industrial sites, trying to avoid contamination by exotic materials with long, long names. Do any of the ingredients in the products beneath your kitchen sink have long, long names? If any product in your home has written on its label the following words - TOXIC, CORROSIVE, FLAMMABLE, POISONOUS, CAUSTIC, DANGER - it is considered a hazardous material. A definite link exists between household hazardous waste and water pollution from rainfall runoff, and you can easily help break the chain.

How we use and dispose of the many common household, automotive, paint, and pesticide products that include hazardous ingredients has a corresponding effect on the world around us; you reap what you sow. Whenever we overuse these materials, or discard them on or in the ground, rainfall can wash them into the water supplies we depend on. Shelf life doesn't die in the water. "Dispose of Properly" is no longer a casual sentiment to which we can reply, "Yeah, yeah, sure." It is guidance for survival on a very populated planet.

Comprehensive Recycling Laws* as of December 31, 1990



- ▨ 1990 Law
- Pre-1990 Law
- Major Revision of Pre-1990 Law
- Do not have laws

* Comprehensive recycling laws require detailed statewide recycling plans and/or separation of recyclables, and contain one or more other provisions to stimulate recycling.

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PRINTED ON RECYCLED PAPER

The list can include all sorts of cleaners, polishes, batteries, petroleum and oil products, solvents, mineral spirits, rodent poisons, bug sprays, aerosol cans, etc. The hazardous qualities of each product may differ, and there are many brochures and pamphlets available that detail responsible use and disposal. Pick one up and read it carefully, or read the product label. Of course, the easiest way to get rid of potentially dangerous materials is to not acquire them in the first place. Buy no more than you need, or better, look for alternatives usually suggested in the aforementioned pamphlets and brochures. Save money and space by not amassing quantities under your sink, in your bathroom, or on shop or garage shelves that you would have to leave behind or throw away if you moved, or really got into spring cleaning.

Tossing these materials into the environment is unwise, yet it may be just as unwise to pour many of them down the drain. It has been estimated that residents in an average city of 100,000 pour nearly 3.5 tons of used motor oil *alone* down city sewer drains each month! Sewage treatment plants are not designed to treat motor oil or other hazardous ingredients, and many of them pass through the process untreated and are returned to our water supplies. If you throw them in the trash, these corrosive or caustic materials not only can leach through, but destroy landfill liners that are designed to prevent groundwater pollution.

Because there are so many hazardous materials in everyday use, and because they are so lethal to the environment, it is imperative that we learn which products are hazardous, how to use them safely and how we can dispose of them properly within our communities. It's easy to prevent water pollution: it starts with you and your neighbors. (Texas Water Commission, Sixth in a Series)

OLDER TREES DRINK DEEP-ER. In the hastiness of youth, small streamside trees use stream water, young trees growing more than 2 meters from perennial streams use recent precipitation. But, according to a recent note in *Groundwater Newsletter*, mature streamside trees use little or no surface stream water. Instead, the veterans seem to use water from deeper soil or bedrock. Possibly the strategy of using longer-team storage rather than immediate upper-soil-mantle water storage enables mature trees in semi-arid areas to avoid competition, and survive droughts. (The *Groundwater Newsletter* 20(8))

CHEVRON CONSERVATION AWARDS. The Chevron Conservation Awards this year reflect a change in the profile of American conservationists. Today's environmentalist is more likely to be involved in water resources projects than their predecessor, and there is an increasing chance that the activist will be a woman. A recent Roper pool found that more women (53 percent) than men were involved in environmental activities. The Chevron Conservation Awards program this year will recognize eight women. This is the second highest number of women honorees in the history of the program. The concern for water resources is reflected in the fact that 11 of the 25 awards will be granted to people involved in major water resources projects. (Chevron Conservation Award News Release)

RE-TIRE YOUR TREATMENT PROBLEMS. Researchers at the Georgia Institute of Technology hope to reduce the cost of wastewater treatment by replacing new plastic with old tires. Experiments are underway to evaluate the effectiveness of shredded tires as a reactor bed material in an anaerobic packed bed reactor. If the experiments prove successful, the treatment process could become affordable to more municipal and industrial treatment facilities. (WSTB Newsletter 8(2))

STREAM TRENDS. According to an article in *Water Newsletter*, some

4-4

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Ronald R. Hein
William F. Ebert
Eric S. Rosen

HOUSE ENERGY AND RESOURCE COMMITTEE
Testimony Re: Solid Waste Management
Presented by: Ronald R. Hein
on behalf of Kansas Soft Drink Association
February 18, 1992

Mr. Chairman, and Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Soft Drink Association.

For several years the Kansas Soft Drink Association has been promoting a comprehensive approach to dealing with the solid waste problems facing the state. Too often, problems are solved by reacting to specific situations, and promulgating specific responses. Less frequently, legislation is enacted which will provide a comprehensive, proactive solution to a comprehensive problem.

HB 2801, in our opinion, sets up a framework for appropriate management of solid waste and solid waste issues in the years to come.

Surveys indicate more than 50% of American adults support curbside recycling programs over other options. In Ohio, a 1990 survey showed 91% of the public supports curbside recycling. More than 1,200 new curbside collection programs were added in 1990 alone. Some estimate that there are as many as 10,000 such programs.

Using 1988 data, after materials and compost recovery, 34.2% of the municipal solid waste stream, in weight, is paper and paperboard, 19.9% is yard waste, and 8.5% is food wastes.

A comprehensive program can deal with these and other components of the waste stream much more effectively than other options.

We believe that it is important that there be a degree of control at the local level so that each community can deal with their own problems in their own ways. Yet HB 2801 also provides an overriding state policy in order to insure fairness, objectivity, and efficiency for those businesses or industries attempting to comply with the standards developed. We, therefore, support the role of the Secretary of the Kansas Department of Health and

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Environment in this effort, to help ensure that plans which are developed do not place an undue burden on business or commerce.

The KSDA supports the tipping fee funding methodology set out in HB 2801. The fee is established at a level which will permit appropriate funding of this important legislation, and yet not present an undue hardship on business and industry, or on the public.

We do not see any intent expressed in this legislation to do harm to business and industry. In fact, we see in this legislation the intent to work with business and industry in setting up recycling programs that will be beneficial for the public, the environment, and business and industry.

However, we would urge caution with the use of the language at Section 3 (p), which is set out at page 7, ll. 11-13. This section permits the Secretary to "adopt suitable measures, including rules and regulations if appropriate, to require recovery and recycling of solid waste for reuse." Although we do not specifically oppose this section, we are concerned about the deletion of the words "whenever feasible", which exist in that section under current law.

The potential is there to place great hardship upon business and industry, and to require recycling efforts which, although possibly helpful to the environment, could, nonetheless, be detrimental if not devastating to the business community. This section gives the Secretary the power to do a great deal of good for the environment, but implicit in its words is also the power to destroy businesses.

We would simply urge caution in its use by future administrations.

In closing, we support HB 2801, and urge its favorable passage by the committee.

Thank you very much for permitting me to testify, and I would be happy to yield for any questions.

Kansas Natural Resource Council

Testimony by the Kansas Natural Resource Council

To: House Energy and Natural Resources Committee
From: Shaun McGrath
Executive Director
Re: HB2801 - Comprehensive Solid Waste Management
Date: February 18, 1992

The Kansas Natural Resource Council is a private, non-profit organization devoted to the advocacy of sustainable energy and natural resource policies for the state of Kansas. Our statewide membership is 850.

KNRC commends KDHE for developing HB2801, which we believe will greatly improve the regulation and enforcement of solid waste management in the state. Historically, inadequate regulation both nationally and in Kansas, has resulted in dumps that contaminate groundwater and surface water. HB2801 addresses the need to cleanup and prevent contamination by our solid waste landfills, and also encourages planning that will lead people to reduce the amount of waste that they generate.

KNRC supports passage of HB2801.

We would like to point out to the Committee provisions of the bill which we feel need to be strengthened.

*** Local Solid Waste Management Plans (Sec. 2)**

1. - No deadline for establishing Solid Waste Management Committees
 - No deadline for SWM Committees to write plan
 - No deadline for approval of plans
 - No deadline for implementation of SWM plans

KNRC recommends that the bill be amended to establish deadlines for development and implementation of Solid Waste Management Plans.

2. - No authority is given to the Secretary to penalize counties for failure to implement plans

KNRC recommends that Sec.2 (j) [p.6, lines 3-6] be amended as follows:

"(j) The secretary ~~may~~ shall institute appropriate action to compel submission and implementation of plans or plan revisions in accordance with this act and the rules and regulations, standards and procedures of the secretary."

3. - the bill contains no requirement that programs/plans be included in the SWM plans which address specific waste streams

KNRC recommends an amendment, based on recommendation #11 by the State Commission on Waste Reduction, Recycling and Market Development, to read:

"Sec.2 (e)(10) Contain specific management programs, which may include base, for certain special wastes including:

- (A) lead acid batteries
- (B) household hazardous wastes
- (C) small quantities of hazardous wastes
- (D) white goods
- (E) ag chemicals and chemical containers, and
- (F) motor oil."

*** Solid Waste Management Fund (New Section 7)**

1. - Subsection (c) would allow money from the SWM fund to go to the cleanup of existing or closed facilities which pose a risk to the public health or safety or to the environment.

Although KNRC agrees that it is critical for the Department to have money available for these purposes, we believe that such money should come from the state Superfund. Otherwise, given the costs of remediation and the current number of dumps posing a risk to the environment, we might find ourselves in a situation where not enough money would be available to counties, or for other SWM programs in the bill.

2. - the bill does not authorize using the SWM fund for education programs, nor for implementation of county/regional SWM plans.

KNRC recommends that the SWM fund be used for education programs and to assist counties in the implementation of their SWM plans.

3. - Subsection (c)(9) "payment of costs for market development established under cooperative agreements with the secretary of commerce" is too vague and needs clarification.

Using language from the State Recycling Commission's recommendation #3(f), KNRC recommends: "payment of costs for market development to assist companies processing, reprocessing, or using recycled materials, and to entities involved with research in the use of recycled products or the development of products made of recyclable materials established under cooperative agreements with the secretary of commerce."

*** Tipping Fees (New Section 8)**

- the first sentence in subsection (e) appears to authorize discriminatory fees by a regional landfill for waste generated outside of the region. The third sentence, however, contradicts the first sentence:

"(e) An additional fee may be imposed by a group of counties engaged in regional solid waste management on solid waste generated outside the boundaries of the region....If imposed, this fee must be assessed on all solid waste entering the regional solid waste facility."

KNRC believes that discriminatory fees should be allowed, not only for regions, but also for counties if they so chose. We recommend that subsection (e) be amended to grant this authority.

In addition to these changes, KNRC recommends that HB2801 include provisions requiring an advance disposal fee on products considered as household hazardous wastes, and requiring a deposit on beverage containers. The State Recycling Commission suggested advance disposal fees as a possible source of revenue for the SWM fund, and also endorsed passage of HB2471, the beverage container deposit bill in this Committee.

KNRC appreciates the opportunity to speak on this bill.

THE KANSAS LEGISLATURE
KANSAS HOUSE OF REPRESENTATIVES
Committee
on
Energy and Natural Resources

HOUSE BILL No. 2801

Testimony

of

Donald W. Meeker
Central Fiber Corporation
Wellsville, Kansas

February 18, 1992

*2/18/92
House E + NR
Attachment 7*

I. THE COMPANY.

Central Fiber Corporation is located in Wellsville, Kansas, about forty miles southwest of Kansas City, Missouri. Central Fiber is a diversified manufacturer of various fiber products. Through its manufacturing processes, Central Fiber produces building materials and lawn and garden products. In addition, Central Fiber produces cellulose industrial fiber products which are used in numerous industrial processing applications. Certain of these industrial fibers are now being used where asbestos fibers were once used. The Company has plants in Wellsville and in North Canton, Ohio. The major thrust of our company and its products is energy conservation and the preservation of our environment.

The business was founded by John Pollock in 1980. In 1986, our Company had 20 employees. Today we have eighty employees.

The primary raw materials used by Central Fiber in its manufacturing processes are certain recyclable, post-consumer and post-industrial wastepaper, most of which consists of old newspapers, magazines, and corrugated containers.

During 1991, Central Fiber processed 35,000 tons, or 70 million pounds, of wastepaper that would have otherwise been placed in landfills in east central Kansas. The majority of this was old newspapers. In 1992, we anticipate processing about 40,000 tons of wastepaper.

We have an active research and development program to find new uses for cellulose fibers and other recyclable

materials and to further refine our existing products.

II. THE PROPOSED LEGISLATION.

The purpose of House Bill No. 2801 is to provide a framework for a comprehensive solid waste management program for the State of Kansas. The main thrust of this Bill is environmental, and our primary interest in this respect relates to recycling and the development of markets for recycled products. For if we don't develop markets for recycled products, then the recyclable materials will be discarded in landfills along with other waste materials.

III. MARKET DEVELOPMENT FOR RECYCLED PRODUCTS MANUFACTURED BY CENTRAL FIBER.

A. General .

K.S.A. 65-3406(s), as proposed, authorizes and directs the secretary of health and environment to "enter into cooperative agreements with the secretary of commerce for the development and implementation of statewide market development for recyclable materials." Moneys in the solid waste management fund will be used to pay the costs "for market development established under cooperative agreements with the secretary of commerce." (New Section 7(c)(9) of K.S.A. 1991 Supp. 65-3419).

As this Bill recognizes, the development of new products made from recycled materials solves only a part of the recy-

cling equation. The development of markets for products made from recycled materials is essential, and this often entails the expenditure of significant amounts of money. A major problem in the development of these markets is a general perception that products made from recycled materials are inferior. In order to overcome this perception, aggressive education and promotion programs must be implemented.

How this relates to certain of Central Fiber's recycled products is discussed below.

B. Insulation Products.

Central Fiber manufactures cellulose insulation products from recyclable materials. Construction is the major market for these thermal insulating materials, both new construction and retrofitting. Fiberglass is the dominant insulating material used in new construction, and cellulose insulation accounts for the next largest share in terms of volume of material installed.

The cellulose insulation industry is basically one of small businesses, most of whom do not have the financial strength to conduct extensive marketing programs to promote their recycled products. The fiberglass industry, on the other hand, is dominated by a few large companies whose sales are in the billions of dollars and who have extensive marketing and advertising campaigns to promote their products.

The majority of cellulose insulation sold is of the loose-fill type, and is usually blown into the attic of a

residence. Loose fill fiberglass is also installed in attics. In comparing the performance efficiencies of these insulation products, cellulose insulation is a superior product. It has a higher R-value per inch of insulation installed and does not experience convective heat loss when the attic temperature in a building drops below twenty degrees Fahrenheit.

The cellulose loose-fill insulation has a recycled content in excess of eighty percent. Fiberglass insulation has no recycled content.

There is a need for further market development for cellulose insulation products made from recyclable materials. Advertising and promotional programs should be implemented to educate the consuming public about the fact that cellulose insulation is a superior insulating material.

C. Mulch Products

Mulch products are primarily used in the hydroseeding of federal and state highway projects. The State of Kansas has traditionally required the use of straw as a mulch for the hydroseeding of right-of-ways adjacent to highway construction. Central Fiber is now working on a project with the Kansas Department of Transportation to establish test plots using Central Fiber mulch products with a high percentage of recycled paper and regenerated wood fiber. Once the Central Fiber mulches are approved, then a marketing program should be directed to the hydroseeding contractors in the State of

Kansas urging them to use these mulch products which contain a high percentage of recycled content.

D. Industrial Fiber Products.

For years, cold-applied asphalt roof coatings have contained asbestos fibers in the mixture. Because of a concern about workplace health hazards caused by asbestos and also because of the difficulty and expense in disposing of materials containing asbestos, the manufacturers of these roof coatings have begun using other fibers in lieu of asbestos. The major replacement fibers are cellulose industrial fibers, which are made primarily from post-consumer waste-paper. A market development program should be instituted to promote the use of asphalt roof coatings which contain industrial cellulose fibers rather than asbestos fibers.

IV. MANDATED USE OF RECYCLED PRODUCTS.

Although House Bill No. 2801 does not contain any mandated use of recycled products, this is an approach that might be made a part of this Bill or the subject of future legislation. We believe that legislation should be passed which would mandate the use of building materials, appropriate for the application, which contain the highest recycled content where a building is constructed or repaired and is wholly or partially funded with appropriations from the State of Kansas. The National Association of Homebuilders is currently building a Resource Recovery House at its Research

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Center near Washington, D.C. Nearly every material used in the house is made of recycled materials. These materials would be typical of alternate building materials which might be used in the construction of state-funded buildings.

V. PRODUCT DEVELOPMENT.

A. General

K.S.A. 65-3405(e)(9), as proposed, requires that every solid waste management plan must "establish a schedule for the reduction of the waste volumes with goals of 25% by 1997, and 50% by 2002 in consideration of the following:

- (A) Resource conservation;
- (B) reduction;
- (C) reuse and recycling;
- (D) processing treatment; and
- (E) land disposal.

In order to achieve these goals, it will be necessary to engage in product development in several of these categories. This will require the expenditure of research and development funds, which are not always readily available from traditional sources of financing. New Sec. 7(c) lists the purposes for which moneys from the solid waste management fund shall be expended. We suggest that a provision be added to Sec. 7(c) authorizing expenditures for approved product development projects which will help achieve the goals enumerated in K.S.A. 65-3405(e)(9).

7-7

B. Landfill Life Extension.

An example of such a project is the landfill life extension project which Central Fiber has pursued for over a year. We are in the final development stages of a greatly improved daily sanitary landfill cover which will extend the life of a landfill by about thirty percent. This landfill cover will contain a significant amount of recycled material. The costs of this project during the past year have been great, especially for a small company such as ours. During the development of the product, we have also worked to establish a marketing network to sell the product nationwide. The promotional and advertising expense will be major. Financial assistance from the solid waste management fund would help make an essential product such as this available in the marketplace in a much shorter period of time.

VI. CONCLUSION

We believe House Bill No. 2801 is most important, and we strongly support it. I am most appreciative for the opportunity to appear before this Committee and to present our views on this proposed legislation.

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SIERRA CLUB

Kansas Chapter

Scott Andrews 273-3217

Testimony to House Energy and Natural Resources

On HB 2801 - Solid Waste

The Kansas Chapter of the Sierra Club strongly supports passage of HB 2801. The state has long needed a comprehensive system for the management of solid waste. An added complication has been finding solutions that were applicable across the state from Overland Park to Elkhart. This bill provides the framework and guidelines for such a comprehensive system, but allows local governments to find the specific solutions that fit their situations.

Within this framework HB 2801 provides mechanisms for the financial and technical assistance for solid waste management. It encourages a regional approach, shaping a future with fewer, but state-of-the-art landfills. It includes the complete hierarchy of options -- waste reduction, re-use, recycling, processing and finally disposal.

The question of importation of out-of-state waste is addressed by encouraging regional management areas which may regulate waste from outside. This approach circumvents the ICC rulings on "interference with interstate commerce" which have thwarted other attempts to ban out-of-state trash. Tipping fees should also help make hauling trash to Kansas a little less attractive. Finally, those who would apply for landfill permits or haul trash into the state will be closely scrutinized including for criminal records. This scrutiny has discouraged certain questionable parties on the east coast from hauling to states with similar statutes.

One area that needs more attention is that of special wastes such as waste oil, batteries and appliances (especially those containing CFCs). To deal with the special problems these wastes can present, HB 2801 should at least require their management be specifically addressed in county/regional solid waste plans.

HB 2801 is an important bill that will give local governments the guidance and resources to deal with the problems of solid waste management in a way that works for them. The Kansas Chapter of the Sierra Club urges you to support passage of HB 2801.

2/18/92
House E + NR
Attachment 8

LAW OFFICES OF
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C. L. HOOVER (1909-1983)
R. A. SCHERMERHORN (1911-1975)

February 19, 1992

Rep. Ken Grotewiel, Chairman
Committee on Energy & Natural Resources
Room 426-E
State Capitol Bldg.
Topeka, KS 66612

RE: HB 2801

Dear Representative Grotewiel:

I take this opportunity to urge passage of HB 2801 as submitted to your committee on January 29, 1992. As an attorney active in solid waste management issues such as the Riley County Landfill and the McPherson City Landfill, I recognize that HB 2801 provides a means for local government to move into the post-RCRA regime for municipal solid waste facilities. Presently, just about every county has a small landfill which is used for the disposal of municipal solid waste. Very few, if any, of these facilities can comply with new regulations issued by the Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act which were published on October 9, 1991. The requirements of the new regulations are such that all but the largest counties in this state can no longer afford to maintain stand alone disposal facilities. There is an urgent need to move into regional facilities so as to obtain volumes which will allow unit costs to be spread out among the largest population base possible. If we can do this, disposal costs can probably be kept under \$35.00 per ton for any county participating in a regional system. If regional systems, however, cannot be put together, disposal costs could range from as low as \$60.00 per ton to \$80.00 per ton depending on the actual volume of trash generated. HB 2801 provides a means for revitalizing and supporting solid waste management committees as they go about the vitally important task of revising present solid waste management plans so as to come into compliance with RCRA criteria.

I would, however, suggest minor modifications of the language of section 4, subsection (i) (3). In that Section, the secretary is given the power to revoke a permit when a person who has violated K.S.A. 65-3437(c) has "partial control" of a permittee. If the phrase "partial control" is not an oxymoron, it is, at the very least, a term which will prove to be very difficult to accurately define, and enforce. The intent of this subsection is to avoid situations where the stock of a corporation which holds a permit is sold to

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February 19, 1992
Rep. Ken Grotewiel
Page 2

another individual corporation. In this way, another person or entity other than the entity which previously applied for the permit can enjoy the benefits of the permit without the permit itself actually being transferred. The secretary needs the power to look beyond the corporate veil when it determines whether or not the permittee is responsible and capable. Similar provisions are made in the definitional section of the bill, namely section 1 (e) where the definition of a "person" is expanded to include that of an individual or individuals having control or a majority interest in a corporation. I would suggest, therefore, that the language of section 4 (i) (3) be simplified as follows:

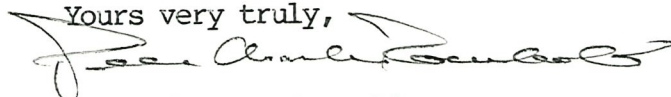
The secretary also may revoke, suspend or refuse to issue a permit when the secretary determines that past or continuing violations of provisions of paragraph (3) of subsection (c) of K.S.A. 65-3437, and amendments thereto, have been committed by any person holding an interest in such permit.

Such an amendment would bring the provisions of the definitional provisions of section 1 (e) into line with that of section 4 (i)(3) and avoid the definitional problems of "partial control."

Finally, I would urge the committee to adhere to the language of section 4 (k)(1) prohibiting permits to be issued to facilities within one-half mile of a navigable stream or one mile of any intake point of any public surface water supply system. Any modification of the language to that of "floodplain" may dilute the intent of this language to protect groundwater resources. In addition, I am somewhat concerned about the language of subsection 4 (k)(3) wherein a permit for lateral expansion of a facility within a half mile of a navigable stream is exempt from the prohibitions of subsection 4 (k)(1). My concern is that we would be expanding facilities so close to major waterways within our state. I would be less concerned if such an expansion is expressly conditioned upon full compliance with RCRA and KDHE design, construction, operation and maintenance standards. Otherwise I am afraid the language of subsection 4 (k)(3) will be construed as permissive.

Thank you for the opportunity to speak to this Bill.

Yours very truly,



Peter Charles Rombold

PCR:bb

Testimony before the House Committee on Energy and Natural Resources
HB2801
February 18, 1992

I am Joan Vibert, Recycling Coordinator for Lake Region Recycling, a six county rural recycling project based in Ottawa. I am pleased to see HB2801. The State of Kansas has needed to cause the counties to reestablish solid waste management committees and revisit their solid waste management plans for sometime now. I feel this is basically a good bill and am a strong proponent of it.

There are, however, some areas I would like to see strengthened:

The state solid waste tonnage fee should begin July 1, 1992 to enable the solid waste management fund to begin building. This fund creates the grants for counties or regions to begin updating plans. I also understood that this fund is necessary to satisfy two requirements in the effort for Kansas to become an approved state and avoid the necessity of having to follow EPA landfill design regulations. The two requirements being dedicated funding and additional manpower.

There should be deadlines imposed on the establishment of committees and the updating of plans. We recently began exploring the idea of putting together a Solid Waste Management Compact within our region and our first meeting was held two weeks ago with commissioners from all the counties. The Subtitle D regulations already had them worried and now with HB2801 introduced, they are beginning to seriously think about their solid waste problems. We have the momentum started but it will die without some muscle put into 2801. I feel the plans should be due by January 1, 1994, with KDHE approval and implementation to start by July 1, 1994.

On page 16, section (e), line 17, the word "all" contradicts the first sentence of the section. That sentence should read: "If imposed, this fee must be assessed on all solid waste generated outside the boundaries of the region entering the regional solid waste facility."

In closing, I think it is time that KDHE begins to take a proactive posture toward landfill management in this state. During a visit with a county commissioner recently, the remark was made that his biggest fear was that one of these days the older guys at KDHE will retire and some young guys fresh out of college will come in and begin enforcing all those laws.

2/18/92
House E + NR
Attachment 10



"Service to County Government"

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Geary County Commissioner
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Executive Director
John T. Torbert, CAE

Date: February 18, 1992
To: House Committee on Energy and Natural Resources
From: John T. Torbert, *presented by Ann Smith*
Executive Director
Subject: House Bill 2801

The Kansas Association of Counties appreciates the opportunity to testify with respect to HB 2801. As this committee is aware, counties are the unit of government that is charged with the day to day administration of the state's solid waste laws.

This proposal has made some significant progress in the right direction when compared with previous offerings that have been put forward by the Department of Health and Environment.

On the plus side, we have the following comments:

- 1) The bill encourages and recognizes multi-county approaches to solid waste management. With the newly implemented regulations that have been put in place by the federal EPA, I don't know that we have a choice and I think the legislation is wise in accepting and encouraging regional solid waste approaches.
- 2) Counties are given broad latitude in the establishment of the single or multi-county solid waste management committees. We believe that this is far preferable to committees with rigid statutorily imposed structures and memberships. We would urge you to resist efforts put forth by groups that want the law to guarantee their own particular interests or pet projects
- 3) There will be financial incentives established and available to counties going through the process of redrafting solid waste plans. The legislation awards 50% grants to counties that elect to go through the planning process as a single entity and 90% grants to those counties that develop regional plans.

*2/18/92
House E+NR
Attachment 11*

4) The legislation recognizes that it is imperative that statewide market development for recycled materials occur.

5) The legislation recognizes that counties are and should be the unit of government under which solid waste management takes place. We believe that cities should not be able to opt out of county solid waste plans. They currently have that authority but would not be able to do so under this legislation. This is with the caveat that cities are well represented on the solid waste committees. This legislation requires that representation.

On the down side, we would make the following comments:

1) The very first recommendation (out of a total of 48) that Kansas Solid Waste Advisory Task Force made in formulating their report over a two year period was that the "the legislature should mandate that KDHE complete a revised solid waste management plan by December 31, 1991 with the state providing funding." Although representatives of KDHE have informed me that this plan will be updated, it is not mentioned in this legislation. We believe that it should be. How can counties be expected to adopt plans with no direction from the state in terms of what its own policy is? We believe that language should be added to the bill that would mandate that this plan be updated before the counties have to proceed in updating ours.

2) It may sound like a good idea to establish waste reduction goals pegged to percentages. Such goals are meaningless however if you have no baseline against which to measure. You can't determine percentages if you don't know the volume of waste with which you started. Many counties do not have this information.

3) We do not believe that cities and counties should have to pay the annual solid waste processing or disposal permit fee. We are currently exempt from this fee. This bill ends that exemption. Why require one unit of government to pay a fee to another. Under this legislation, the money derived from the fees would go into the solid waste management fund. This is the fund under which counties receive their planning grants. We'd be sending money to the state so that we could turn around and ask for it back. We don't think that makes very good sense.

4) We applaud the creation and funding of a solid waste management fund. We question however if the fund is going to be too stretched by the demands that could potentially be made upon it. Under this bill, this fund not only is the source for grant funding to counties. It also must pay for postclosure cleanup, emergency cleanup costs, corrective actions etc. Those items can be very expensive and might stretch the fund severely or even deplete it. We believe that

the legislature should establish priorities for this money and that those priorities should emphasize program development and planning grants.

5) The positive benefits of this legislation aside, it is another in a long series of mandates imposed by the state upon local governments. The grants are planning grants and have nothing to do with new or ongoing administrative costs. This bill will result in more costs for local governments and those costs will have to be funded by property tax.

On balance, we think this legislation is a good place to start. With the changes we've recommended, it has the potential of being a very workable piece of legislation and we offer a qualified position of support based on that contingency.

We thank the committee for its time and would be happy to respond to questions.

tsjsolws

DEPARTMENT OF
PUBLIC WORKS
OFFICE OF THE DIRECTOR
CITY HALL — EIGHTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202

February 18, 1992

House Energy and Natural Resources Committee
Representative Ken Grotewiel, Chairman
State Capitol Building
Topeka, Kansas 66612

Dear Committee Members:

I am the Natural Resources Director for the City of Wichita. I would like to present to the Committee the City's position on House Bill 2801 regarding solid waste management.

The City is in strong support of the move to encourage require local units of government to update their solid waste plans. The City supports environmentally sound solid waste management that encourages the conservation of natural resources and seeks to minimize pollution of the environment.

The City has nearly completed a year long \$100,000 effort to develop an integrated solid waste management plan to do exactly that for the solid waste produced throughout Sedgwick County.

The City has, however, three major concerns regarding the proposed bill.

First, is the restriction on the siting of a landfill within one-half mile of a navigable stream. The City suggests that a more environmentally protective requirement is to prohibit siting anywhere within the 100-year flood plain. This approach would also be consistent with the new federal siting requirements contained in Subtitle D of the Resource Conservation and Recovery Act (RCRA). Current law would allow for an expansion of an existing landfill within the one-half mile distance. Future needs, however, might dictate the need to locate a new landfill within one-half mile of such a stream. If properly engineered to be out of the 100-year flood plain, such setting should not be prohibited by prescription as this bill would provide.

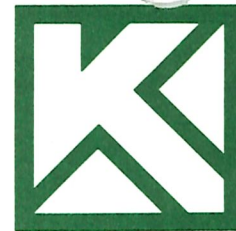
Our second concern regards the use of the proposed new state solid waste tonnage fee. Up to 50% of the funds collected each year could be appropriated for emergency cleanup in areas across the state. This provision, along with the lack of requirements for the allocation of funds between the counties, could result in much of the money collected in a given county being used in other parts of the state.

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House E+NR
Attachment 12

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry

500 Bank IV Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321



A consolidation of the
Kansas State Chamber
of Commerce,
Associated Industries
of Kansas,
Kansas Retail Council

HB 2801

February 18, 1992

KANSAS CHAMBER OF COMMERCE AND INDUSTRY
Testimony Before the
House Committee on Energy and Natural Resources
by
Terry Leatherman
Executive Director
Kansas Industrial Council

Mr. Chairman and members of the Committee:

I am Terry Leatherman. I am the Executive Director of the Kansas Industrial Council, a division of the Kansas Chamber of Commerce and Industry. Thank you for this opportunity to appear today during hearings over HB 2801.

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

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

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

The Kansas Chamber recognizes the Kansas Department of Health and Environment does not currently have the personnel or resources to carry out its increasing responsibilities

*House E+NR 2/18/92
Attachment B*

to oversee solid waste processing and disposal facilities in our state. As a result, KCCI does not oppose the passage of HB 2801. However, we would urge the committee to carefully consider potential problems in three areas of the legislation.

First, HB 2801 includes recycling facilities in the definition of a solid waste processing facility. This would expose recycling facilities to initial application fee charges of up to \$10,000 and annual fees of up to \$5,000. There are several potential effects from this definition change which I do not feel the authors of HB 2801 intended, but could happen.

Environmental concern, coupled with tangible benefits, have prompted many businesses in Kansas to introduce workplace recycling initiatives. Some examples include: an Overland Park landlord for 125 business tenants invested \$9,600 to purchase containers and educate tenants to participate in a paper recycling project which nets 5.5 tons of recycled paper a month; a plastics manufacturer which reprocesses up to 90% of in-house scrap into lawn furniture and trash bags; retailers who accept from customers recyclables, such as plastic and paper grocery bags, used oil, waste tires, coat hangers and poly dry cleaning bags; or, a manufacturer who saves and shreds waste fabric scrap from its operations and sells it to a Nebraska firm, which uses the material as stuffing in pillows and toys.

In some instances, these recycling initiatives from the business community are profitable. However, it is more often the case the projects are started in hopes of breaking even on cost. If businesses faced paying initial application fees and annual permit fees to undertake these projects, chances are few of these innovative projects would ever get off the ground.

While KCCI concedes the regulated community will need to pay for KDHE's increased regulatory efforts towards solid waste management, a second area of concern regarding HB 2801 is the authority it grants the Secretary of Health and Environment to impose fees. On page 15 of HB 2801, the Secretary is given authority to initiate up to a \$5 per ton tipping fee in Kansas. While the day may arrive when a \$5 per ton tipping fee is needed, this seems excessive for current needs. The Kansas Chamber would suggest the tipping fee

authority be limited to current needs, giving the Legislature, rather than the Secretary, the authority to determine when tipping fees need to be increased.

KCCI's final reservation regarding HB 2801 appears on page 7 of the bill. Does the new language regarding the Secretary's regulatory authority concerning solid waste recovery and recycling allow KDHE to establish recycling edicts, which have always been the province of the Legislature? If that is the case, KCCI would urge this Committee to strike this provision from HB 2801, and leave these public policy issues in the hands of the Kansas House and Senate.

Mr. Chairman, thank you for the opportunity to comment on the provisions in HB 2801. I would be happy to attempt to answer any questions.

13-3

TESTIMONY IN SUPPORT OF HB 2801

I am writing in support of HB 2801 which would establish management of solid waste in Kansas. Such management is very much needed for several reasons, such as the following:

The state has not taken action on the solid-waste problem facing our state and should do so immediately.

Several counties face the problem of closing or closed landfills. Siting new landfills will be expensive and difficult for other reasons, for instance, because of the "not in my backyard" problem.

One provision of the bill makes it possible for counties to establish fees for out-of-county—and hence out-of-state—trash. Several counties are already facing the problem of out-of-state trash and garbage and badly need a tool for dealing with it..

We are not taking advantage of opportunities to conserve resources and prevent pollution. We need to work on recycling and composting.

There are several aspects of the bill that are desirable, such as the following:

Public education on solid waste and landfill problems, but more detail is needed
Emphasis on rational steps to take before landfilling, such as resource conservation, reduction, reuse and recycling, and processing.

A plan for reduction of waste volumes of 25% by 1997 and 50% by 2002. At least two-thirds of most landfills consist of materials which are recyclable or compostable: paper, plastic, glass, wood, and yard waste.

A state tipping fee to help the Secretary of the Kansas Department of Health and Environment establish and monitor the program.

Providing for monitoring of landfill sites after it is closed.

There are improvements that can be made later with the management of solid waste in Kansas. But let's get started by passing HB 2801.

Thank you.

Margaret J. Miller

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PS: I attended the EPA 4-state recycling conference in Kansas City on February 10, 11 & 12. I am enclosing a program. One thing that caught my attention at that conference was how much Iowa and Missouri are doing to develop recycling industries. We need to close the loop—process recyclables and then buy the recycled product. We need this economic development. Can some of this go in the bill—or another bill?

2/18/92
House E+NR
Attachment 14