

Approved: Carl Dean Holmes
Date 3-17-93

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes at 3:30 p.m. on March 11, 1993 in Room 526-S of the Capitol.

All members were present except: All were present

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Mary Torrence, Revisor of Statutes
April Howell, Committee Secretary

Conferees appearing before the committee: Senator Lana Oleen
Chiquita Cornelius, Kansas Business & Industry Recycling Program
Ronald R. Hein, Kansas Soft Drink Association
Terry Leatherman, Kansas Industrial Council
Charles Jones, Kansas Department of Health & Environment
Michael Torre, Kansas Grain and Feed Association
Joe Lieber, Kansas Cooperative Council

Others attending: See attached list

Chairman Holmes called the meeting to order and opened the hearing on **SB 133**- Labeling of Plastic Containers. Senator Lana Oleen appeared in support of this legislation in that it would bring the State of Kansas in line with steps to help facilitate the future recycling of plastics. As a member on the Kansas Commission on Waste Reduction & Recycling, she believes that this Bill is necessary to help promote recycling of plastics, and to help consumers sort their products. ([Attachment 1](#))

Chiquita Cornelius, Executive Director of the Kansas Business and Industry Recycling Program, presented testimony in support of efforts to ensure that the national uniform system is used in Kansas and surrounding states, and that it will enhance efforts to expand plastic recycling throughout the state. ([Attachment 2](#))

Ron Hein, Legislative Counsel for the Kansas Soft Drink Association testified in support of the efforts to insure uniform coding of plastic containers so as to make recycling efforts easier to administer, and therefore, to make them more successful. ([Attachment 3](#))

Terry Leatherman with the Kansas Chamber of Commerce and Industry presented testimony supporting passage of **SB 133** to encourage recycling. This Bill would bring a uniform coding system to Kansas that was developed to meet the needs of the recycling industry. ([Attachment 4](#)) .

The Chair asked that a facsimile received from Dirk C. Bloemendaal, Counsel of Corporate Government Affairs of the Amway Corporation, be submitted in the minutes. ([Attachment 5](#))

After questions were asked by the Committee, the Chair closed the hearing on **SB 133** and opened the hearing on **SB 106**-Storage Tank Fund Sunset Extension.

Charles Jones of the KDHE presented testimony in support of this Bill which extends until 2004 the sunsetting the Petroleum Storage Tank Release Trust Funds. The funds reimburse to tank owners for approved costs of remedial action after payment of the appropriate deductible. Without this mechanism to comply with the insurance requirements, many UST owners would be forced out of business. ([Attachment 6](#)) He also presented background information on The Kansas Storage Tank Act. ([Attachment 7](#))

Michael Torre, Director of Legislative and Regulatory Affairs for the Kansas Grain and Feed Association testified in support of this act based upon the fact that the State of Kansas is in the process of initiating the clean-up of contaminated sites. ([Attachment 8](#))

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m. on March 11, 1993.

Joe Lieber, Executive Vice President of the Kansas Cooperative Council presented testimony in support of this legislation in that the funds created by the act have helped clean up the environment and have allowed rural stations that have had leaks to stay in business to provide petroleum products of their communities. (Attachment 9)

The Chair closed the hearing on **SB 106** and opened the floor for questions.

Representative Hayzlett offered an amendment to **SB 20** in relation to the one submitted by Senator Wisdom, but after discussion and deliberation, the amendment failed. Representative McKinney made a motion to strike "two" and insert "one" in reference to game permits in Line 3 of new Subsection (n), add "within the same management unit" where the application is made, at the end of new Subsection (n) (2) add expiration date of "July 1, 1995", and add "person exempt by law" at the end of sentence on Line 6. The motion was seconded by Representative Lloyd. The motion passed.

Representative McClure made a motion to amend the acres in SB 20 from 640 to 320 statewide. The motion was seconded by Representative Alldritt. The motion passed.

Representative Grotewiel made a motion to amend and add in reference to the one permit, "unless all resident permits applied for in such unit for such particular type for the proceeding deer season were issued". The motion was seconded by Representative Lynch. The motion passed.

Representative McClure made a motion to move amendment earlier submitted by Wildlife and Parks which strikes language on Page 3, (l) (4), Lines 32-35. The motion was seconded by Representative Lynch. The motion passed.

Representative Powers made a motion to pass the Bill favorably as amended. The motion was seconded by Representative McKinnney. Upon verbal vote, the motion passed. Representative Hayzlett will carry this Bill.

Representative Alldritt made a motion to favorably pass **SB 133**. The motion was seconded by Representative Lloyd. Upon verbal vote, the motion passed. Representative Kejr will carry this Bill.

Representative Shore made a motion to favorable pass **SB 106**. The motion was seconded by Representative Powers. The motion passed. Representative Lawrence will carry this Bill.

The meeting adjourned at 6:15 p.m.

The next meeting is scheduled for March 15, 1993.

Date:

GUEST REGISTER

HOUSE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

[illegible]

LANA OLEEN
SENATOR, 22ND DISTRICT
RILEY AND GEARY COUNTIES



TOPEKA

SENATE CHAMBER

LEGISLATIVE HOTLINE
1-800-432-3924

COMMITTEE ASSIGNMENTS

CHAIRMAN: GOVERNMENTAL ORGANIZATION
LEGISLATIVE EDUCATIONAL PLANNING
VICE-CHAIRMAN: CONFIRMATIONS
LABOR, INDUSTRY, SMALL BUS.
MEMBER: ASSESSMENT AND TAXATION
ECONOMIC DEVELOPMENT
JUDICIARY
ARTS/CULTURAL RESOURCES
COMMISSIONS: KANSAS SENTENCING
WASTE REDUCTION AND RECYCLING
DACOWITS—U.S. DEPT. OF DEFENSE

March 11, 1993

TESTIMONY ON SENATE BILL 133

Chairman Holmes and Members of the Committee:

I am pleased today to offer my support for SB 133 which comes before you for consideration.

For several years, we have tried to bring our state in line with steps to help facilitate the future recycling of plastics in Kansas.

As a member on the Kansas Commission on Waste Reduction & Recycling, we worked to garner support from industry, environmental groups and enforcement on the concept. We believe this bill meets the criteria of all groups. The bill passed the Senate on February 24 by a vote of 40-0. In recent sessions similar bills have passed the Senate and House of Representatives, yet a bill has not made it through the complete process in one session. So, this "recycled bill" comes before you today for your consideration.

SB 133 affords an international code common for 35+ states. The bill is necessary to help promote recycling of plastics, and to help consumers sort their products.

I support these amendments and urge your favorable consideration of Senate Bill 133. Thank you.

Senator Lana Oleen

HOME
1631 FAIRCHILD AVE.
MANHATTAN, KANSAS 66502
(913) 537-7718

STATE OFFICE
KANSAS CAPITOL, ROOM 143N
TOPEKA, KANSAS 66612
(913) 296-7360 [JAN-APRIL]

House E & NR
Attachment 1
3/11/93

Kansas Business and Industry Recycling Program, Inc.

2933 SW Woodside Dr., Suite C, Topeka, Kansas 66614-4181
(913) 273-6808 FAX (913) 273-2405



Testimony

March 11, 1993

House Energy and Natural Resources Committee

SB 133

Labeling of Plastic Containers

Mr. Chairman and Members of the Committee:

I am Chiquita Cornelius, Executive Director of the Kansas Business and Industry Recycling Program.

As you know, the Society of the Plastics Industry, Inc. (SPI) developed the voluntary coding system for plastic containers which identifies bottles and other containers by material type. The industry fostered the coding system to provide a uniform system for coding that meets the needs of the recycling industry, as defined by the recyclers and collectors themselves.

We support efforts to ensure that the national uniform system is used in Kansas and surrounding states, for we feel it will enhance our efforts to expand plastic recycling throughout Kansas. This bill, as amended by the Senate, follows the national model.

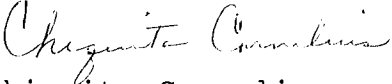
Kansas BIRP has incorporated information on the coding system in two editions of our Recycling Directory as early as 1990 so that we could start educating the public on how to identify plastic bottles by resin type.

We are proud of the programs our members have implemented to collect plastic containers in Kansas for recycling and are dedicated to increasing and expanding upon these programs.

House E & NR
Attachment 2
3/11/93

Attached to my testimony you will find a letter from the American Plastics Council that supports passage of SB 133 as amended and a list of the thirty-seven states that have endorsed the coding system developed by SPI.

Respectfully submitted,


Chiquita Cornelius

AMERICAN PLASTICS COUNCIL

(Formerly the Partnership for Plastics Progress)

February 12, 1993

Chiquita Cornelius
Executive Director
Kansas BIRP
2231 SW Wanamaker Road
Suite 200
Topeka, Kansas 66614

Dear Chiquita:

Thank you for sending me a copy of the Plastic Container Coding Legislation introduced in Kansas this session. After reviewing Senate Bill 133, I wanted to send you the following comments.


The American Plastics Council supports the voluntary use of the coding system and uniform enforcement. Senate bill 133 follows the national model except for the definition of "plastic bottle" on page one, line 20 (4)(C). The national model defines plastic bottle "with a capacity of 16 ounces or more but less than five gallons." We would very much like the definition to mirror the national model if possible. As of January 1, 1993, 37 states in the United States have passed the Plastic Container Coding Act.

Having a national model ensures a uniform system throughout the midwest and United States. We would appreciate any efforts on your part to bring the language currently in SB 133 in line with the national model.

I'm enclosing a listing of all the states which have adopted the SPI's plastic container coding system.

Thank you for alerting us to this legislation.

Sincerely,

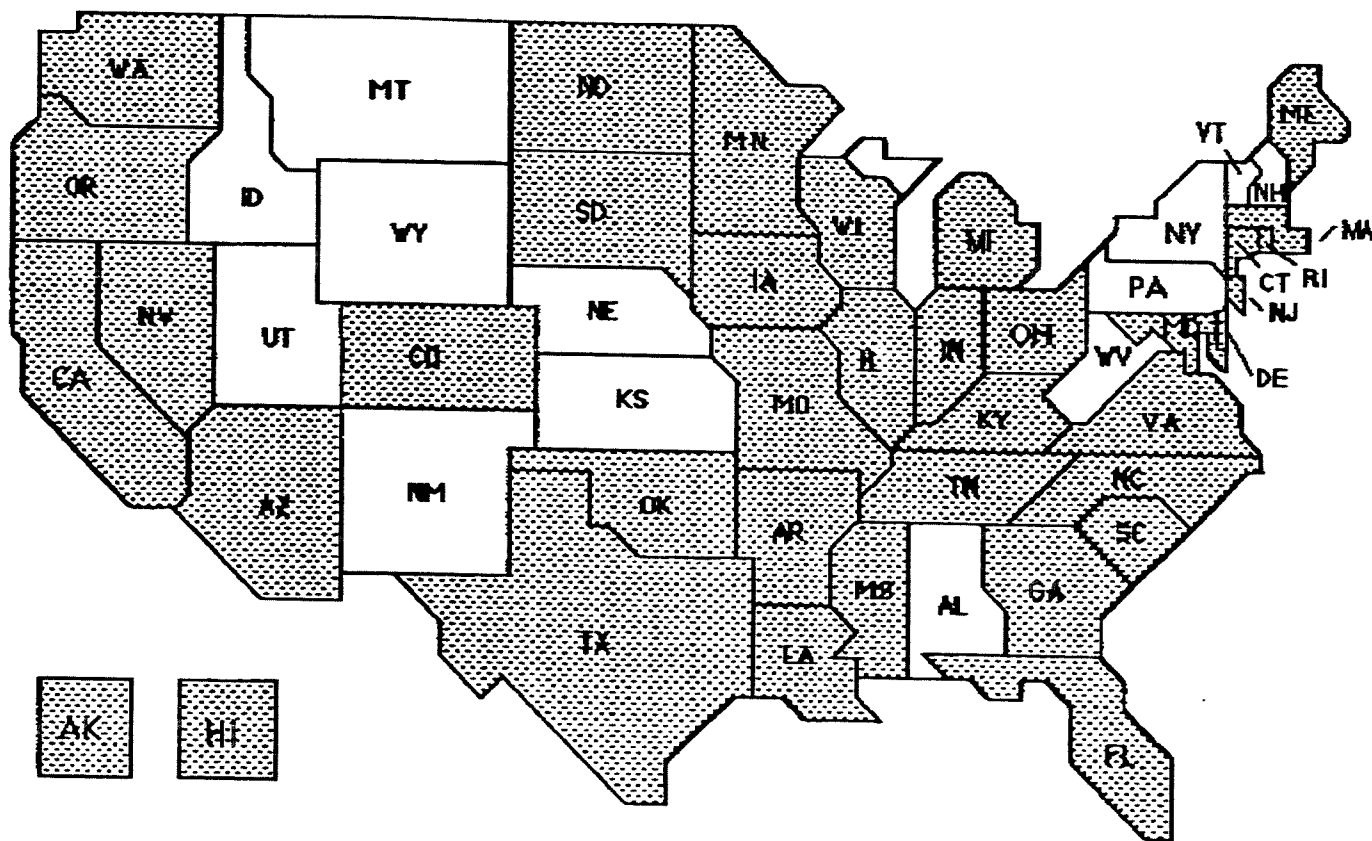


Francis M. Fitzgerald
Midwest Government Affairs Manager

House E's NR
Attn. 2-2
3/11/93

States Requiring Plastic Container Coding

American Plastics Council, November 12, 1992



The above 37 states require the coding of plastic bottles of 16 ounces or more and other rigid containers of 8 ounces or more following the Society of The Plastics Industry voluntary coding program.

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

HEIN, EBERT AND ROSEN, CHTL.

ATTORNEYS AT LAW

5845 SW 29th Street, Topeka, Kansas 66614

Telefax: (913) 273-9243

(913) 273-1441

Ronald R. Hein

William F. Ebert

Eric S. Rosen

Stephen P. Weir

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE

TESTIMONY RE: SB 133

Presented by Ronald R. Hein

on behalf of

Kansas Soft Drink Association

March 11, 1993

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Soft Drink Association (KSDA), which is composed of the soft drink bottling companies operating in Kansas.

The Kansas Soft Drink Association supports the effort to insure uniform coding of plastic containers so as to make recycling efforts easier to administer, and, therefore, to make them more successful.

As you are already probably aware, 37 states have enacted plastic coding legislation such as set out in SB 133. The KSDA supports such legislation wholeheartedly.

We would strongly urge your support for SB 133.

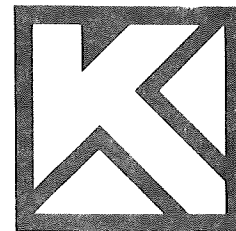
Thank you very much for permitting me to testify, and I will be happy to yield to questions.

House E & NR
Attachment 3
3/11/93

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

SB 133

March 10, 1993

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 with the Kansas Chamber of Commerce and Industry. Thank you for the opportunity to explain why KCCI supports passage of SB 133.

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.

In recent years, KCCI has supported legislation to require the labeling of plastic bottles and containers, as an economically responsible proposal to encourage recycling.

House E & NR
Attachment 4
3/11/93

As amended by the Kansas Senate Energy and Natural Resources Committee, SB 133 would make Kansas the 38th state to tap into a system developed by the Society of Plastics Industry. The SPI coding system is an industry-developed initiative to streamline the process of recycling plastic containers.

No one disputes the fact that reusing and recycling the wastes we produce is preferred to sending wastes to a landfill. Passage of SB 133 would assist by bringing a uniform coding system to Kansas that was developed to meet the needs of the recycling industry.

Thank you for the opportunity to explain why KCCI supports SB 133. I would be happy to attempt to answer any questions.

House E & NR
Att. 4-2
3/11/93



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

March 11, 1993

The Honorable Carl Holmes, Chairman
House Energy and Natural Resources Committee
State House, Room 115 S
Topeka, KS 66612

Subject: SB 133 / Plastic Container Coding System

Dear Chairman Holmes:

I understand Senate Bill 133, a bill proposing to create a uniform state plastic container coding system, will soon be heard by the Energy and Natural Resources Committee. On behalf of Amway Corporation, and its many independent Kansas distributors, we wish to express our **support** for this legislation.

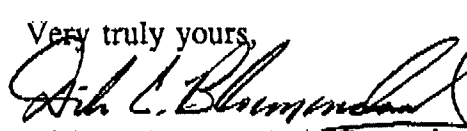
By way of brief background, Amway Corporation is a manufacturer and distributor of over 300 quality personal care and home care products sold by approximately 2 million independent distributors worldwide. As part of its total effort in meeting present and future environmental challenges, Amway has adopted the SPI Plastic Container Coding System, upon which SB 133 is based. The use of the voluntary seven-symbol container coding system encourages collection and recycling efforts by easily identifying bottles and other containers by resin composition for sorting purposes. Amway marks all of its 16-ounces and larger plastic bottles made on-site with SPI's Code. The coding encompasses all of Amway's liter, quart, gallon, 16-ounces and 2.5-gallon plastic bottles.

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

With South Dakota's 1992 adoption of the Code, at least 38 states have now enacted it. The adoption of the Code in Kansas would represent an important step towards developing viable markets for recycled plastics.

Therefore, Amway respectfully urges you **support** for SB 133. Thank you for your kind attention.

Very truly yours,


Dirk C. Bloemendaal, Counsel
Corporate Government Affairs

House E & NR
Attachment 5

3/11/93

aiu2283/9680

CC: Members of the Energy and Natural Resources Committee

Legal Fax (616) 676-9027 Bud Grant, Kansas Retail Council

Legal Int'l Fax (616) 676-7699



Department of Health and Environment

Robert C. Harder, Secretary

Reply to:

**Testimony Presented to
House Committee on Energy and Natural Resources**

by

**Kansas Department of Health and Environment
Senate Bill 106**

Introduction

My name is Charles Jones, Director of the Division of Environment, Kansas Department of Health and Environment. I am here today to urge your support of Senate Bill 106, which extends until 2004 the sunseting the Petroleum Storage Tank Release Trust Funds.

Summary/Background

The federal Environmental Protection Agency (EPA) passed regulations affecting USTs in December of 1988 including the requirement to obtain pollution liability insurance. The Kansas Storage Tank Act created the reimbursement funds for Underground and Aboveground storage tanks.

These funds reimburse to tank owners for approved costs of remedial action after payment of the appropriate deductible. Without this mechanism to comply with the insurance requirements many UST owners would be forced out of business.

There are about 700 sites which are now participating in the Underground fund with an average of 23 new sites being added each month. Current projections indicate the number of sites to continue to increase through December of 1998. After that date, a decrease in the number of sites is anticipated.

House Eⁿ NR
Attachment 6
3/11/93

Fiscal Impact

The funds for this assistance program are collected as a one cent per gallon fee on all petroleum products sold or consumed within the state. These fees collect up to \$18,000,000 per year from the consumers of the petroleum products. Without this assistance program, however, many of the small petroleum marketing facilities will be unable to remain in business. Although this program costs tax payers a penny per gallon at the pump, abolishing this program would ultimately cause consumers to pay higher gasoline prices at the pumps due to lack of competition. Additionally, extension of the sunset will save over \$100,000 per year in state general funds which would be needed to replace funds which currently being used to match a federal LUST grant.

In closing, KDHE urges support for S.B. 106.

House E&LR
Att. 6-2
3/11/93



Department of Health and Environment

Robert C. Harder, Secretary

Reply to: (913) 296-1678 / FAX (913) 296-6190

OVERVIEW OF THE PETROLEUM STORAGE TANK RELEASE TRUST FUNDS

Senate Bills 398 and 554, and House Bill 3153 were enacted by the Kansas Legislature in 1989, 1990, and 1992 respectively. Together the bills are known as The Kansas Storage Tank Act. The Act establishes two separate Trust Funds to assist owners and operators of storage tanks with the cost of remedial actions. Both funds are designed to provide financial assistance to owners and operators of facilities where contamination from petroleum storage tanks has occurred. The trust funds are financed from a \$.01 fee placed on each gallon of petroleum (except aviation fuel) product manufactured in or imported into the state. The funds will be abolished on July 1, 1994 by the sunset provision unless reenacted by the Legislature. Outlined below is a brief summary of the legislation.

Who Qualifies for Reimbursement from the State Trust Funds:

- Owners and operators of underground and aboveground storage tanks. Private businesses, local and state governments who own/operate petroleum storage tanks are eligible.
- To be eligible, the contamination at the site must have been discovered on or after December 22, 1988.
- Owners and operators of farm or residential tanks of 1,100 gallons or less and tanks used to store heating oil at the single family resident may qualify for reimbursement.

Who Does Not Qualify for Reimbursement:

- The federal government.
- Owners or operators who meet the federal criteria for self-insurance and whose leaking tank is located on a facility that is engaged in the refining or production of petroleum.
- Owner/Operators who knowingly allow a release of petroleum to occur or who does not cooperate in conducting the appropriate corrective action.
- Owners and operators of storage tank at pipeline facilities where releases have occurred.

House E&NR
Attachment 7
3/11/93

How to Obtain Reimbursement from the State Trust Funds:

- Submit an application for assistance from the appropriate fund.
- KDHE will prepare and provide the owner with a pre-approved corrective action plan at the time determined by the priority ranking system. The work-scope will be prepared to assist the owner or operator in obtaining the required competitive bids.
- Three bids for all work associated with the remedial action must be obtained and approved by KDHE prior to the work being conducted.
- KDHE offers a bid assistance program for those who prefer to have KDHE obtain bids for them.
- The applicant must sign a consent agreement with KDHE related to implementation of the corrective action under the applicable fund.

Compliance Requirements:

- To avoid potential fines, all regulated USTs must be registered with the KDHE and must be in compliance with inventory control, release detection, and with release reporting requirements. UST owners and operators who are not in compliance will be fined at the time they are approved for UST fund assistance.
- Owners of underground petroleum storage tanks who have not used the tanks shall not be required to register the tanks to be eligible for reimbursement.
- The owner/operator has paid the annual tank fee for all tanks owned, if required.

Petroleum Storage Tank Release Trust Fund Site Ranking System:

- Due to the overwhelming numbers of application for assistance from the funds, KDHE has developed a ranking system which evaluates the risk associated with each site. This ranking system takes into account several factors related to each site, to determine which sites pose the greatest risk to the public. Using the ranking system KDHE assigns a score to each site. This score will establish the order in which sites are investigated and remediated. By using this method KDHE can focus limited resources on resolving the greatest risks to the public.

Costs Covered by the State Trust Funds:

- Preparation of corrective action plan which addresses the extent of contamination.
- Investigation and assessment of the contamination or petroleum release.
- Disposal and treatment of contaminated soil, groundwater, and/or surface water.
- Removal of contaminants from soil, groundwater, and/or surface water.
- Monitoring of the soil, groundwater, and/or surface water and maintenance of the monitoring equipment.
- Restoration or replacement of public water supplies.

Costs Not Covered by the State Trust Funds:

- Repair, removal, replacement, or disposal of tanks, product in tanks, lines, or dispensers.
- Costs for the loss of business or costs for third party bodily injury or property damage.
- Work or costs not approved by KDHE prior to being conducted.

Deductibles:

- The deductible for each release is \$3,000 plus \$500 for each tank (above and below ground) located at the site of the release.

Financial Limitations of the Trust Funds:

- For each petroleum release: one million dollars less the deductible.
- Owners/operators who own less than 100 tanks; a total annual amount of \$1,000,000 for all sites owned or operated, less any deductibles.
- Owners/operators who own more than 100 tanks; a total annual amount of \$2,000,000 for all sites owned or operated, less any deductibles.
- Reimbursement will not be provided for costs covered by insurance policies, warranties, or other financial assistance.

Underground Storage Tank Third Party Liability Insurance (Financial Responsibility):

- Third Party Liability Insurance is available through your local insurance agent for USTs.
- Questions regarding the Third Party Liability Insurance can be answered by your local insurance agent or by contacting Woodsmall Risk Services at (800) 325-9154.

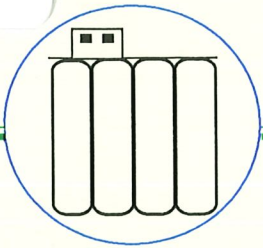
FOR FURTHER INFORMATION:

If you have questions or you need copies of the application form:

Kansas Department of Health and Environment
(KDHE)
Forbes Field, Building 740
Topeka, Kansas 66620-0001
(913) 296-1678

3/9/93

House ENR
Att. 7-3
3/11/93



KANSAS GRAIN AND FEED ASSOCIATION

STATEMENT OF THE
KANSAS GRAIN AND FEED ASSOCIATION
TO THE
HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE
REP. CARL HOLMES, CHAIRMAN
REGARDING S.B. 106
MARCH 11, 1993

Mr. Chairman and Members of the Committee, I am Michael Torrey, Director of Legislative and Regulatory Affairs for the Kansas Grain and Feed Association. Our Association's approximately 1,000 member locations are involved in the handling, storage and processing of grain. Some of our members also retail fuel. We appreciate the opportunity to comment today in support of S.B. 106.

This bill amends the Kansas Storage Tank Act, by extending the expiration date for the underground fund and the aboveground fund from July 1, 1994, to July 1, 2004. Essentially, our support for this act is based upon the fact that the state of Kansas is in the process of initiating the clean-up of contaminated sites. Conversations with our membership indicate that while a great deal of time has been spent on conducting site assessments, there is still much work to be done in the removal of these tanks. As the 1998 deadline for compliance with this act approaches, we believe there will be an increase in activity regarding tank removal and clean-up. In other words we have only begun to see the tip of the iceberg regarding underground and aboveground storage tank removal.

House E & NR
Attachment 8

We feel comfortable in our support for this legislation because there is a \$5 million lid on these funds. This lid provides a checks and balances so that the fund doesn't become exceedingly large.

I appreciate the opportunity to appear before you today and stand ready to answer any questions you may have.

House E & NR
Att. 8-2
3/11/93

Testimony on Senate Bill 106
House Energy and Natural Resources
March 11, 1993
Prepared by Joe Lieber
Kansas Cooperative Council

Mr. Chairman and members of the Committee: I'm Joe Lieber, Executive Vice President of the Kansas Cooperative Council. The Council has a membership of over 200 cooperatives. Of these 150 of them are local farm supply cooperatives.

The Council actively supported the original Kansas Storage Tank Act and above ground bill last year.

We feel that the funds created by the Act have helped clean up the environment and have allowed rural stations that have had leaks to stay in business to provide petroleum products for their communities.

The Council supports SB 106.

Thank you for your time. I would be happy to take questions.

House E & NR
Attachment 9
3/11/93