

OPPONENT'S TESTIMONY AGAINST SENATE BILL 493

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TO: Chair Renee Erickson and Members of the Senate Committee on Commerce

I have lived in Kansas all of my life. I am the owner of a small business. I am a hunter and fisherman, and I care deeply about my community and state. I am opposed to Senate Bill 493 for three reasons.

First, SB 493 violates the spirit of Home Rule guaranteed to cities and counties under the Kansas Constitution. Indeed, Article 12, Section 5(b) provides that "Cities are hereby empowered to determine their local affairs and government..." This applies to counties and unified governments as well. The only reason SB 493 is possibly not a violation of the Kansas Constitution is because it would govern all towns, cities and counties. Isn't the management of trash and garbage best handled at the local level? If there are 105 counties in Kansas, how many landfills or other trash disposal sites are there? Do you know how much it costs a city or county to manage a landfill? Do you know how many counties have had more than one landfill because a previous disposal site had filled? With over 397,000 residents, doesn't Wichita likely have trash disposal issues different from those of Stanton or Kiowa County? The answers to these questions are manifest. Home Rule should be preserved, especially since there is **no evidence of a need for uniform regulation of "auxiliary containers" except to avoid being declared unconstitutional.**

Second, SB 493 seeks to do **much more** than prohibit the management of plastic bag trash by cities. Section 1(a)(1) would prohibit the regulation by a city or county of any "auxiliary container" that is made of "cloth, paper, plastic, foamed plastic, expanded plastic, cardboard, corrugated material, aluminum, glass, postconsumer recycled material or similar coated or laminated material." Instead of violating Home Rule power because of possible local action concerning plastic bags, SB 493 vastly broadens the prohibition target. Where is the **evidence of a harm** that justifies such a broad description? SB 493 is using a cannon to kill a quail.

Third, the argument often made to support a proposal for statewide regulation is to avoid the "patchwork quilt" of inconsistent local laws. This argument was used, for example, to promote uniform state laws to protect a citizen's constitutionally-protected right to keep and bear arms. But the creation and disposal of trash by businesses is **not a constitutionally-protected** activity. Uniform statewide action is obviously needed in the areas of taxation, the establishment of a criminal code, and the judicial system. Why should disposal of "auxiliary containers" be elevated to this level of priority? Indeed, the answer to this question is a mystery.

