

Approved April 1, 1972
Date

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources.

The meeting was called to order by Senator Ross Doyen at
Chairperson

8:03 a.m./~~pm~~ on March 25, 1972 in room 423-S of the Capitol.

All members were present except: Quorum was present

Committee staff present:

Pat Mah, Legislative Research Department
Raney Gilliland, Legislative Research Department
Don Hayward, Revisor of Statutes
Lila McClaflin, Committee Secretary

Conferees appearing before the committee:

Terry Leatherman, Kansas Chamber of Commerce and Industry
Ned Webb, Northwest Kansas Planning and Development Commission, Hill
City, KS.
Russell Fallis Jr., Kansas Recyclers Association, Inc.
John Torbert, Kansas Association of Counties
Ernie Mosher, League of Kansas Municipalities
Don Seifert, City of Olathe
Scott Andrews, Sierra Club

The hearing on HB 2801 concerning solid waste management continued.
The Chairman called on Terry Leatherman.

Mr. Leatherman supported HB 2801 with some reservations especially
the \$25 a ton tipping fee on out-of-state waste (Attachment 1).

Ned Webb outlined three areas where the bill needed to be amended
to meet the needs of southwest Kansas (Attachment 2). Mr. Webb responded
to questions.

Russell L. Fallis, Jr., did not oppose the bill but support some amend-
ments to exclude recyclables from the solid waste legislation rather
than leave it up to interpretation (Attachment 3). Attached to his
testimony is a balloon of the bill pointing out his amendments.

John Torbert supported the legislation and recommended some amendments
(Attachment 4). Mr. Torbert responded to questions regarding his recom-
mendations.

Ernie Mosher appeared to support HB 2801, subject to the adoption
of a series of proposed amendments (Attachment 5). Mr. Mosher responded
to questions.

Donald R. Seifert supported the concept with a few clarifying amendments
(Attachment 6).

Scott Andrews pointed out two areas of concern and urged the Committee
to consider adding these aspects back into the bill and passage of the
bill (Attachment 7).

The Chair announced the hearing on HB 2801 would continue on March
26. The meeting adjourned at 8:59.

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Rep Clyde Hawks	Leavenworth	
Laura McClure	Shen Elder	Self
NED Webb	Hill City	Northwest Ks
Charles Jones	Topeka	KDHE
Shari L. Wilson	Topeka	KDHE
Ron Hammar schmidt	Topeka	KDHE
John Taylor	"	KAC
Terry Leatherman	Topeka	RCCT
ED SCHAUB	"	KPL
Chiquita Cornelius	"	Ks. B.I.R.P.
Edward R. Moses	"	KAPA
Bronck A. Silvers	"	KAPA
Scott Andrews	"	Siesta Club
STEVE KEARNEY	"	PETER GILL + ASSOCIATES
Pat Casey	"	KDHE
Wm. Yoder	Do	Sum. Kurr
EV Mosher		Barbara Ks Merriam
Don Sabat	Olark	City of Olark
WAYNE PROBASEO	Topeka	Ks Soft Drink Assn
Mike Beam	Topeka	Ks LUSTK Assn.
Jim Sullinger	Olathe	KCS + AT
Jim Ludwig	Topeka	KPL
Bob Hamm	Lawrence	Hamm Companies
Joel D. Grodberg, Mayor	Topeka	Deffenbaugh
	Leavenworth	City of Leavenworth

Mark Lentz
William Anderson
Claus S. Spera
Shawn McGrath
Don Aaron
Bill Fuller

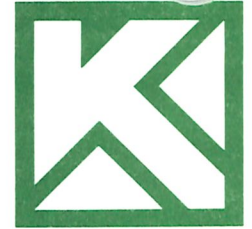
Leavenworth
Topeka
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Topeka
Leavenworth
Manhattan

City of Leavenworth
KDHE
Ks Dept Comm.
KWRG
County Commission
Kansas Farm Bureau

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

March 25, 1992

KANSAS CHAMBER OF COMMERCE AND INDUSTRY
Testimony Before the
Senate 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 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 to oversee solid waste processing and disposal facilities in our state. As a result, KCCI

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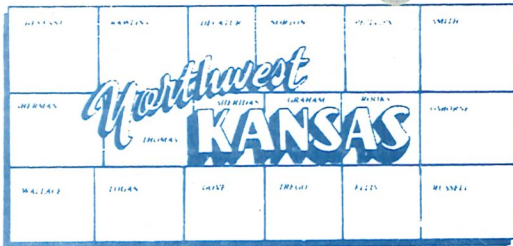
has not opposed HB 2801 during its journey towards legislative approval. In addition, most concerns KCCI had with the original draft of HB 2801 were addressed by the House Energy and Natural Resources Committee.

However, there remains one reservation with HB 2801, as amended by the House Committee, to call to your attention. Section 3 of the bill authorizes the Secretary of Health and Environment to develop regulations on a long list of issues. Number 16 on the list (page 7 of the bill) authorizes the Secretary to "adopt suitable measures to induce recovery and recycling of solid waste for reuse." This provision appears to permit KDHE to establish recycling policy which has always been the province of the Legislature. KCCI would urge this Committee to remove this provision and leave public policy issues concerning reuse and recycling in the hands of the Kansas Legislature.

The most controversial aspect of HB 2801 is an amendment to the bill during debate on the House floor to impose a \$25 a ton tipping fee on waste generated out of state and hauled into Kansas. The Kansas Chamber has no policy position on this issue. However, we encourage this Committee to carefully consider the ramifications of this proposal.

First, placing a financial disincentive to importing out-of-state waste could create significant challenges for disposal centers servicing communities in Kansas which border neighboring states. Second, if HB 2801 delivers on its mission to permit KDHE to properly oversee and manage Kansas landfills, out-of-state waste should not pose a threat to our state's environment. Finally, full scale recycling depends on a reliable flow of waste material. Since Kansas is not a large population state, out-of-state material might be needed to sustain a viable waste recovery operation.

Once again, thank you for considering the Kansas Chamber's position on HB 2801. I would be happy to attempt to answer any questions.



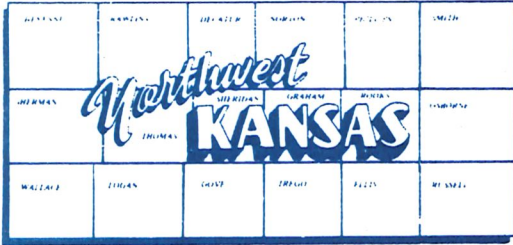
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TESTIMONY
FROM
NORTHWEST KANSAS
NED WEBB
MARCH 25, 1992

SUMMARY OF ACTIONS NEEDED

1. Include the specific language from the October 9, 1991 Federal Register for small solid waste landfill exemptions.
2. Define "financial test" to clarify that units of local government can meet the Subtitle D regulations through their ability to use their ad valorem taxing powers.
3. Confirm that Kansas will become an approved state and that the Department of Health and Environment can and will set reasonable site specific standards for landfill construction. A statement of Legislative intent or specific bill language is needed.

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attachment 2



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TESTIMONY
BEFORE THE
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
BY
NED WEBB
DIRECTOR
NORTHWEST KANSAS PLANNING AND DEVELOPMENT COMMISSION
IN REGARDS TO HOUSE BILL 2801

My name is Ned Webb and I am the Executive Director of the Northwest Kansas Planning and Development Commission located in Hill City, Kansas. Our organization is formed by and is responsible to the 18 counties that comprise northwest Kansas. These 18 counties cover slightly over 17,000 square miles and our population density is six people to the square mile. In 1990, northwest Kansas formed a 54 member regional Solid Waste Task Force to discuss and consider the then impending, and now published, Subtitle D regulations for solid waste landfills. House Bill 2801 is a good start but does not go far enough in addressing and site specific needs of many of the landfills in the State of Kansas.

I have three points I want to make about this bill. On page eight, lines five and six, includes the Federal small landfill exemptions by reference. For the sake of clarity, we would prefer that the specific language exemptions contained in the Subtitle D regulations be included in the state enabling legislation. We have included a highlighted copy of this section from the Federal Register on green paper attached to this testimony.

Small county landfills would be exempt from the most costly standards of the new Subtitle D regulations as a result of this provision. The October 9 Federal Register recognized that many of the new standards were beyond the capabilities of small landfills to meet so this provision grants exemption based on populations of less than 10,000 people. This part of the state would be exempt because they receive less than 20 tons of solid waste, because there is no practical alternative, and because the area receives less than 25 inches of rainfall per year. The map on gold paper shows the counties, based on our study, that meet the two primary requirements of this section. We think these important exemptions should be clear and well defined in the bill.

Our task force looked into the concept of single regional landfills. In short, it is the task force's conclusion that a single regional landfill, while desirable, is economically unfeasible because of time and distance travel considerations, the lack of a public or private collection system in many areas of this part of the state, the lack of an acceptable rural collection

system, and the lack of infrastructure such as bridges and county roads to serve heavy loads that would be delivered to such a regional site.

The second point deals with provisions on page 10, lines 13 to 21. It is our understanding that in the House discussions of this bill, a "financial test" for counties was discussed to meet the financial responsibility sections of Subtitle D. This test basically allows counties to comply if they have ad valorem taxing power available and are financially sound. The word financial test needs to be defined so that it is clear. Without this important provision, all landfills will have to close by October 9, 1993. This is because no one can meet the other financial requirements of surety bonds, insurance, and trust funds.

The third point I want to make today is the most important. The State Department of Health and Environment needs to become an approved state so our state can set site specific standards for construction or performance. The rigid construction standards of the Federal Subtitle D regulations would be automatically adopted unless Kansas becomes an approved permitting state. The October 9th regulations offer approved states the option "to consider site specific conditions in developing a design that must be approved by the state." The register further provides that the state design must meet the performance standard for underlying water quality in Section 258.40 of the law. The provision of this bill to include a \$1.50 tipping fee we presume is to provide staff for Health and

Environment so that Kansas can become an approved state with the Federal EPA. We are not aware that this has been indicated by Health and Environment, and we think that it is important that this point be clearly defined. A permitting state's adoption of performance standards would encourage the siting of landfills in areas where the dangers of possible water pollution were the least possible. A performance standard would allow siting where there is no water table, a condition that exists in many counties of western Kansas or where the water table is so deep that pollution of water is not a primary consideration in the construction of a safe landfill. A performance standard would allow the use of natural Kansas resources such as bentonite clay, instead of artificial liners, which is water impervious and is found in many Kansas counties. A performance standard would also allow construction of landfills that would take in site specific conditions such as lack of rainfall, contours, soil conditions, and permeability of the soil. Implementation of these types of standards would greatly reduce the fiscal impact on the tax payers of the state.

The Subtitle D construction regulations requiring liners and underdrains etc. are not designed to be this state's only alternative. These regulations are primarily developed for areas of the country where soil and water tables are in real and immediate danger when combined with solid waste landfills. Many of the areas of the south and the east coast experience water tables 10 to 20 feet below the surface. These construction standards are designed for those type of occurrences. Both small and large Kansas

landfill operators are concerned about the costs associated with such a blind construction standard.

As an example, the Rawlins County landfill was recently constructed and the four water monitor wells that surround the site are dry and yield only dust when sampled. This landfill was located at an area where the distance to water was some four to six hundred feet deep and because of its lack of solid waste volume and rainfall in the area, poses no threat to the integrity of the water tables of Rawlins County. This landfill is constructed without the expensive construction standards which would be imposed if Kansas were not to become a permitting state.

The intent of these Federal regulations, and I'm sure the state, is to encourage a reduction in the number of landfills. We have a number of the counties from our task force discussing some small scale cooperative efforts (two or three county landfills). Unreasonable construction regulations would in fact deter, if not fully prohibit, the consolidation of small landfills.

One of the main provisions of the small landfill exemption is the tonnage figures (20 tons per day) if two, three, or four small counties worked together to develop a common landfill site, that site would no longer receive less than 20 tons per day of solid waste refuse. Because of this, that landfill would be required to build to a Florida or New Jersey standard requiring liners,

underdrain leachate collection system, and a variety of monitoring expenses which would economically prohibit the consolidation of these landfills. Liquids have been prohibited for several years in our state landfills. If the only remaining moisture that could enter a landfill is from rainfall, and that rainfall is less than 25 inches a year, the need for an expensive liner and these Florida construction standards is diminished. The new standards increase the landfill operator's responsibility for daily cover and shaping of the land to control runoff. This greatly reduces the effects of the meager rainfall received at these landfills. The Federal regulations do allow approved states to adopt performance standards and we would strongly encourage the Senate to work to that end in this Legislation.

Subpart E—Ground-Water Monitoring and Corrective Action

Sec.

- 258.50 Applicability.
 258.51 Ground-water monitoring systems.
 258.52 [Reserved].
 258.53 Ground-water sampling and analysis requirements.
 258.54 Detection monitoring program.
 258.55 Assessment monitoring program.
 258.56 Assessment of corrective measures.
 258.57 Selection of remedy.
 258.58 Implementation of the corrective action program.
 258.59 [Reserved].

Subpart F—Closure and Post-closure Care

Sec.

- 258.60 Closure criteria.
 258.61 Post-closure care requirements.
 258.62–258.69 [Reserved].

Subpart G—Financial Assurance Criteria

- 258.70 Applicability and effective date.
 258.71 Financial assurance for closure.
 258.72 Financial assurance for post-closure care.

- 258.73 Financial assurance for corrective action.

- 258.74 Allowable mechanisms.

Appendix I to Part 258—Constituents for Detection Monitoring

Appendix II to Part 258—List of Hazardous and Organic Constituents

Authority: 42 U.S.C. 6907(a)(3), 6944(a) and 6949(c); 33 U.S.C. 1345 (d) and (e).

Subpart A—General

§ 258.1 Purpose, scope, and applicability.

(a) The purpose of this part is to establish minimum national criteria under the Resource Conservation and Recovery Act (RCRA or the Act), as amended, for all municipal solid waste landfill (MSWLF) units and under the Clean Water Act, as amended, for municipal solid waste landfills that are used to dispose of sewage sludge. These minimum national criteria ensure the protection of human health and the environment.

(b) These Criteria apply to owners and operators of new MSWLF units, existing MSWLF units, and lateral expansions, except as otherwise specifically provided in this part: all other solid waste disposal facilities and practices that are not regulated under Subtitle C of RCRA are subject to the criteria contained in part 257 of this chapter.

(c) These Criteria do not apply to municipal solid waste landfill units that do not receive waste after October 9, 1991.

(d) MSWLF units that receive waste after October 9, 1991 but stop receiving waste before October 9, 1993 are exempt from all the requirements of this part 258, except the final cover requirement specified in § 258.60(a). The final cover

must be installed within six months of last receipt of wastes. Owners or operators of MSWLF units described in this paragraph that fail to complete cover installation within this six month period will be subject to all the requirements of this part 258, unless otherwise specified.

(e) All MSWLF units that receive waste on or after October 9, 1993 must comply with all requirements of this part 258 unless otherwise specified.

(f)(1) Owners or operators of new MSWLF units, existing MSWLF units, and lateral expansions that dispose of less than twenty (20) tons of municipal solid waste daily, based on an annual average are exempt from subparts D and E of this part, so long as there is no evidence of existing ground-water contamination from the MSWLF unit, and the MSWLF unit serves:

(i) A community that experiences an annual interruption of at least three consecutive months of surface transportation that prevents access to a regional waste management facility, or

(ii) A community that has no practicable waste management alternative and the landfill unit is located in an area that annually receives less than or equal to 25 inches of precipitation.

(2) Owners or operators of new MSWLF units, existing MSWLF units, and lateral expansions that meet the criteria in paragraph (f)(1)(i) or (f)(1)(ii) of this section must place in the operating record information demonstrating this.

(3) If the owner or operator of a new MSWLF unit, existing MSWLF unit, or lateral expansion has knowledge of ground-water contamination resulting from the unit that has asserted the exemption in paragraph (f)(1)(i) or (f)(1)(ii) of this section, the owner or operator must notify the State Director of such contamination and, thereafter, comply with subparts D and E of this part.

(g) Municipal solid waste landfill units failing to satisfy these criteria are considered open dumps for purposes of State solid waste management planning under RCRA.

(h) Municipal solid waste landfill units failing to satisfy these criteria constitute open dumps, which are prohibited under section 4005 of RCRA.

(i) Municipal solid waste landfill units containing sewage sludge and failing to satisfy these Criteria violate sections 309 and 405(e) of the Clean Water Act.

(j) The effective date of this part is October 9, 1993, except subpart G of this part 258 is effective April 9, 1994.

§ 258.2 Definitions.

Unless otherwise noted, all terms contained in this part are defined by their plain meaning. This section contains definitions for terms that appear throughout this part; additional definitions appear in the specific sections to which they apply.

Active life means the period of operation beginning with the initial receipt of solid waste and ending at completion of closure activities in accordance with § 258.60 of this part.

Active portion means that part of a facility or unit that has received or is receiving wastes and that has not been closed in accordance with § 258.60 of this part.

Aquifer means a geological formation, group of formations, or portion of a formation capable of yielding significant quantities of ground water to wells or springs.

Commercial solid waste means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial wastes.

Director of an approved State means the chief administrative officer of a State agency responsible for implementing the State municipal solid waste permit program or other system of prior approval that is deemed to be adequate by EPA under regulations published pursuant to sections 2002 and 4005 of RCRA.

Existing MSWLF unit means any municipal solid waste landfill unit that is receiving solid waste as of the effective date of this part (October 9, 1993). Waste placement in existing units must be consistent with past operating practices or modified practices to ensure good management.

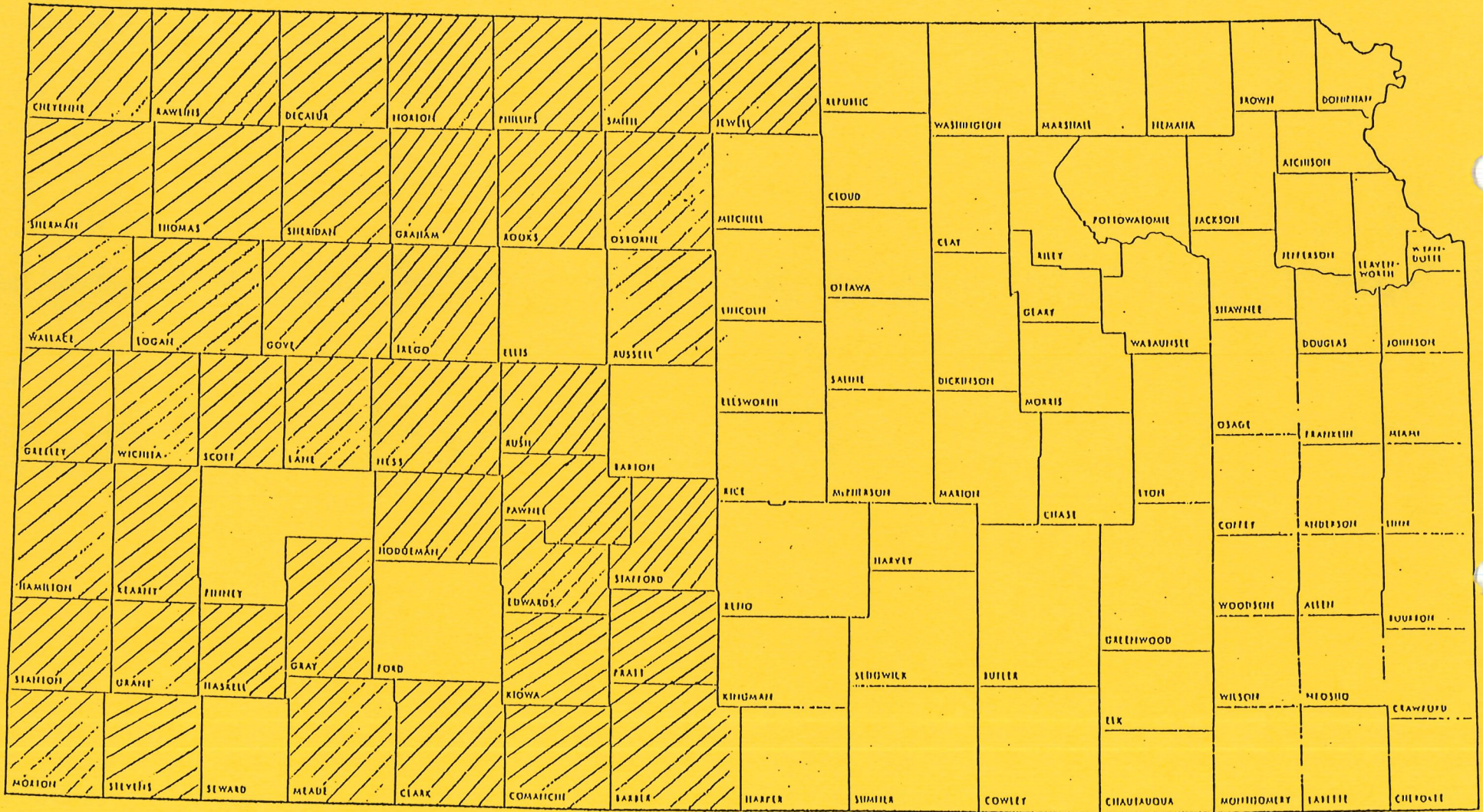
Facility means all contiguous land and structures, other appurtenances, and improvements on the land used for the disposal of solid waste.

Ground water means water below the land surface in a zone of saturation.

Household waste means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas).

Industrial solid waste means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under subtitle C of RCRA. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: Electric power

COUNTIES MEETING - SMALL LANDFILL EXEMPTIONS



2-9

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3/25/92

Chairman and members of the Senate Committee on Energy and Natural Resources, the Kansas Recyclers Association does not oppose House Bill 2801. We do however, support changes that are important to Kansas.

The private scrap recycling industry has always played an important role in Kansas history, long before earth day, long before curbside recycling, and long before anyone ever dreamed there would be a solid waste crisis.

The founders of what would become an important business to our environment were already hard at work conserving our natural resources, instead of digging ore from the ground or chopping down forests. Scrap recyclers find valuable material above ground and in urban forests. In our proud heritage you will find the original recyclers, who for over 100 years have been dedicated to an industry that conserves natural resources and reduces waste. We have made it our business to find ways to take what Kansas no longer wants or needs and turn it into a re-useable product.

We are the industry that invented recycling, but most of Kansas does not even know we exist, even though every day they pass by railroad cars and trucks loaded with scrap materials we have

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prevented from being landfilled. Recyclables, unlike trash, garbage or solid waste has a value such as farm equipment, trucks, cars, appliances, computers, cardboard boxes, paper, even material that is left over when new products are made. All this and more is valuable material that should be recycled rather than incinerated or landfilled. Scrap recyclers purchase, sort, process and market these materials to industries that can re-use them.

Different recyclables require different methods of collection, handling and processing. But no matter what type of materials scrap recyclers may handle, we all have one thing in common, large investments in plants, processing equipment, and environmental safeguards. A single shear can cost a million dollars, an auto shredder will cost three million dollars or more, balers which cost 50,000 dollars and upwards of half a million dollars, these are but a few of the many types of equipment used by our industry.

Iron is the most common recyclable collected and processed by our industry with 60 million tons per year recycled nationally. 9 to 10 million cars per year are processed, which is more cars than the domestic auto industry produced last year.

Today one third of all steel is produced in mini mills which use scrap iron as their in feed material. Recycling iron saves 70% of the energy used to produce these same products from iron ore which cannot be replenished.

Brass, copper, stainless steel, lead, zinc, paper, glass and plastic are delivered to mills, smelter refineries and foundries, which are the industrial consumers of these recyclables.

For over 100 years now, Kansas private scrap recycling industry has been doing its part to re-use and conserve natural resources, reduce solid waste, and save energy. All of Kansas can only benefit with favorable legislation and increased markets for recyclables. Unfortunately our industry cannot produce markets, this takes the buying public, state and local governments which must create the demand for recycled products by selective purchasing of products made from recycled material. This can take place by responsible legislation which recognizes that recyclables are not solid waste.

How can the general public understand the importance of conservation through re-use and recycling if our legislature terms everything headed to landfills or presently recycled, as solid waste. On page 7 lines 25 through 27 of HB2801, it states: Adopt suitable measures, including rules and regulations if appropriate, to induce recovery and recycling of solid waste for re-use. Why is there an insistence on confusing the general public? Can we not better educate the general public by letting them know that it is the goal of Kansas to remove recyclables from the solid waste stream, whether this is done by a solid waste processing facility or separation prior to entering the solid waste stream.

Missouri, Arkansas, Texas, Indiana and other states have passed legislation defining recyclables and recycling. Can recycling and recycling education possibly be any less important to Kansas?

We are asking this senate committee to exclude recyclables from this solid waste legislation rather than leave it up to interpretation, and define recycling. We offer recycling

definitions for your consideration and we offer to work with this committee or a sub committee at anytime on the language in House Bill 2801.

Recyclables: Are scrap materials that can be used as a replacement for virgin material in manufacturing (shall include but not be limited to ferrous metal, non-ferrous metal, scrap paper products, scrap plastics and scrap glass).

Scrap Material Recycler & Processor: Accepts, processes and markets recyclables that are used as replacement for virgin material in manufacturing (shall include but not be limited to ferrous metal, non-ferrous metal, scrap paper products, scrap plastics and scrap glass).

Scrap Material Recycler & Processing Facility: A fixed location that utilizes machinery and equipment for processing recyclables---including ferrous and non-ferrous metals, scrap paper products, scrap plastics and scrap glass into prepared grades ready for consumption as a raw material.

Shredder Fluff: If it is able to be used as daily cover by guidelines under environmental criteria, it shall not be considered solid waste.

Sincerely,



Russell L. Fallis Jr.



Photo by Monty Davis

Tony Gomez, left, and Matt Meyers separate plastic bags and newspapers from an assortment of material before feeding it into a large

sorting machine Wednesday morning at Midwest Iron and Metal.

The recycling crunch

Recycling is nothing new to Midwest Iron and Metal

By Alan Montgomery
The Hutchinson News

Ronald Galler was recycling before recycling was cool.

As president of Midwest Iron and Metal, 700 South Main, Galler has been buying and selling recyclable materials for more than 40 years.

"In Hutchinson, we are by far the oldest recyclers," Galler said. "This



Galler

(salvage) yard started in 1903, and until 1957 it bought glass, rags, tires, inner tubes and bones."

In the late '50s, the nation became more of a "throw-away society," he said, and people decided it was easier to throw things such as rags and old tires in their local dumps, instead of recycling them.

While the market for rags, tires and bones has disappeared, Midwest Iron and Metal still pays a penny a pound for glass, 2 cents for plastic, 5 cents for tin cans, 1 cent for iron and 28 cents a pound for aluminum.

They pay 32 cents a pound for

aluminum collected by civic, school or charitable groups. Midwest will buy glass, plastic and tin cans only in lots of 1,000 pounds or more from the general public; but it will buy the material in any size lots from charitable groups, according to Russell Fallis, Midwest vice-president.

The company processed 100 million pounds of old steel in 1991, which means it was chopped into slabs that can be handled by foundries, which convert it into new steel products.

Various grades of iron can be sold to Midwest, starting at a penny a

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Recycle

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pound for mixed iron, or 2.25 cents per pound for cast iron, such as that found in old engine blocks.

Midwest is a sprawling operation, with its materials processing area covering more than four full blocks around its location on South Main, in addition to a 40-acre site at 3006 East G and its new sorting and recycling center at 315 West Blanchard, South Hutchinson.

Mammoth hydraulic shears and other machines at the South Main sites are used daily to chop and shape scrap iron to prepare it for melting in foundry furnaces.

Perhaps the most impressive machine is a gigantic shredder, at 3006 East G, into which entire autos can be dropped. In a little over 30 seconds, the machine can reduce a car — body, engine and all — to chopped steel nuggets, each smaller than a man's fist.

A 30-ton rotor whirs inside the monster machine at 750 rpm. There are 14 bell-shaped, flattened, 250-pound hammers mounted on the rotor; it is these hardened steel hammers that, with a blasting roar, rip the cars

apart as they are fed into the mill, Fallis said.

While Midwest goes about the business of reclaiming materials, much of society seems intent on wasting it. Kansans buried 2.5 million tons of material in landfills in 1991, and much of it could have been recycled, he said.

Paper represents 34 percent of the buried waste; plastics, about 20 percent; metal, 12 percent; glass, 2 percent; and the rest is a mixture of yard waste, food waste and other trash, according to the Kansas Department of Health and Environment.

In another venture to divert recyclables from the trash stream, Midwest has invested about \$40,000 in equipment for a sorting and recycling center in South Hutchinson, where it receives hundreds of bags of recyclable materials from the city of Hutchinson's "Blue Bag" recycling program.

In that pilot program, 425 Hutchinson and South Hutchinson families are participating by rinsing and placing all their recyclables into blue bags, which are set at curbs and collected by designated refuse trucks for delivery

to the sorting center.

Using both mechanized and manual sorting, Midwest separates the glass, plastic, aluminum, tin and plastics, processes them and packages them for shipment to manufacturing centers.

Fallis had praise for people who make the effort to recycle.

"We can all try to care," he said. "The volunteerism that is going on in Kansas is tremendous."

The EPA one year ago suggested a national goal, to reduce by 25 percent the amount of trash going into landfills, he said.

It would be easy to reach that goal, simply by recycling the plastic, tin cans and glass going into landfills now, Fallis said.

"There just isn't any need to throw it away," he said. "People can rinse it out and throw it in another container. Seventy percent is recyclable."

Yard waste should be composted, not buried in landfills, and much of the paper being buried could be saved and used for some other purpose, whether that be recycled paper or as a component of compost or other products, he said.

HOUSE BILL No. 2801

By Committee on Energy and Natural Resources

1-29

11 AN ACT concerning solid waste management; relating to local solid
12 waste management committees and plans; providing for the im-
13 position of certain fees and the disposition of revenues therefrom;
14 amending K.S.A. 65-3402, 65-3405, 65-3406 and 65-3415 and
15 K.S.A. 1991 Supp. 65-3407 and 65-3419 and repealing the existing
16 sections.

17 *Be it enacted by the Legislature of the State of Kansas:*

18 Section 1. K.S.A. 65-3402 is hereby amended to read as follows:
19 65-3402. ~~The following words and phrases when used in this~~
20 ~~act shall, for the purpose of this act, have the meanings re-~~
21 ~~spectively ascribed to them in this section. As used in this act,~~
22 ~~unless the context otherwise requires:~~

23 (a) "Solid waste" means garbage, refuse and other discarded ma-
24 terials including, but not limited to, solid, semisolid, sludges, liquid
25 and contained gaseous waste materials resulting from industrial, com-
26 mercial, agricultural and domestic activities. ~~Such term shall Solid~~
27 ~~waste does not include hazardous wastes as defined by subsection~~
28 ~~(f) of K.S.A. 65-3430, and amendments thereto.~~ _____ and recyclables.

29 (b) "Solid waste management system" means the entire process
30 of storage, collection, transportation, processing, and disposal of solid
31 wastes by any person engaging in such process as a business, or by
32 any state agency, city, authority, county or any combination thereof.

33 (c) "Solid waste processing facility" means incinerator, compost
34 plant, transfer station, ~~recycling~~ *reclamation facility* or any other
35 location where solid wastes are consolidated, temporarily stored ~~or,~~
36 ~~salvaged or otherwise processed~~ prior to being transported to a final
37 disposal site.

38 (d) "Solid waste disposal area" means any area used for the dis-
39 posal of solid waste from more than one residential premise, or one
40 or more commercial, industrial, manufacturing, or municipal
41 operations.

42 (e) "Person" means individual, partnership, firm, trust, company,
43

Pg 3-8
Attachment B

1 association, corporation, *individual or individuals having controlling*
 2 *or majority interest in a corporation*, institution, political subdivision
 3 or, state agency or federal department or agency.

4 (f) "Waters of the state" means all streams and springs, and all
 5 bodies of surface or groundwater, whether natural or artificial, within
 6 the boundaries of the state.

7 (g) "Secretary" means the secretary of health and environment.

8 (h) "Department" means the Kansas department of health and
 9 environment.

10 (i) "Disposal" means the discharge, deposit, injection, dumping,
 11 spilling, leaking or placing of any solid waste into or on any land
 12 or water so that such solid waste or any constituent thereof may
 13 enter the environment or be emitted into the air or discharged into
 14 any water.

15 (j) "Open dumping" means the disposal of solid waste at any solid
 16 waste disposal area or facility which is not permitted by the secretary
 17 under the authority of K.S.A. 65-3407, and amendments thereto, or
 18 the disposal of solid waste contrary to rules and regulations adopted
 19 pursuant to K.S.A. 65-3406, and amendments thereto.

20 (k) "Generator" means any person who produces or brings into
 21 existence solid waste.

22 (l) "Monitoring" means all procedures used to (1) systematically
 23 inspect and collect data on the operational parameters of a facility,
 24 an area or a transporter, or (2) to systematically collect and analyze
 25 data on the quality of the air, groundwater, surface water or soils
 26 on or in the vicinity of a solid waste disposal facility or area.

27 (m) "Closure" means the permanent cessation of active disposal
 28 operations, abandonment of the disposal area, revocation of the
 29 permit or filling with waste of all areas and volume specified in the
 30 permit and preparing the area for the long-term care.

31 (n) "Post closure" means that period of time subsequent to closure
 32 of a solid waste disposal area when actions at the site must be
 33 performed.

34 (o) "Reclamation facility" means any location at which material
 35 containing a component defined as a hazardous substance pursuant
 36 to K.S.A. 65-3452a and amendments thereto is processed.

37 Sec. 2. K.S.A. 65-3405 is hereby amended to read as follows:
 38 65-3405. (a) ~~On or before January 1, 1971, each county shall~~
 39 ~~organize a solid waste management committee provided for in~~
 40 ~~subsection (b) of this section. On or before June 30, 1974, each~~
 41 ~~county with a population in excess of thirty thousand (30,000)~~
 42 ~~and each city located therein which elects pursuant to sub-~~
 43 ~~section (b) of this section to exclude such city from the county~~

(p) "Recyclables" are scrap materials that can be used as a replacement for virgin material in manufacturing (shall include but not be limited to ferrous metal, non-ferrous metal, scrap paper products, scrap plastics and scrap glass).

(q) "Scrap material Recycler & Processor" accepts, processes and market recyclables that are used as replacement for virgin material in manufacturing (shall include but not be limited to ferrous metal, non-ferrous metal, scrap paper products, scrap plastics and scrap glass).

(r) "Scrap Material Recycler & Processing Facility" means a fixed location that utilizes machinery and equipment for processing recyclables--including ferrous and non-ferrous metals, scrap paper products, scrap plastics and scrap glass into prepared grades ready for consumption as a raw material.

(s) "Shredder Fluff" if it is able to be used as daily cover by guidelines under environmental criteria, it shall not be considered solid waste.



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Executive Director
John T. Torbert, CAE

Date: March 23, 1992
To: Senate Committee on Energy and Natural Resources
From: John T. Torbert
Executive Director
Subject: House Bill 2801

The Kansas Association of Counties supports HB 2801 and appreciates the opportunity to provide testimony today. 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.

*E+NR
3-25-92
4-1
attachment 4*

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. Our position on this issue comes with the caveat that cities are well represented on the solid waste committees. This legislation requires that representation.

6) We applaud the creation and funding of a solid waste management fund. KAC has maintained for some time now that if the state is going to mandate new solid waste management plans, it should participate in the funding of them. We believe that the \$1.50 fee is appropriate and do not support any efforts to alter the amount of the fee.

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 stated publicly 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. We have drafted an amendment (attached) that accomplishes this.

2) We don't 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. We have drafted an amendment which restores our exemption from these fees.

3) New Section 8 of the bill on page 17 allows a group of counties to assess fees on solid waste generated outside the boundaries of the region. We believe that single county should also have this ability and have attached an amendment which would accomplish this goal.

4) We believe that counties should have a clearly stated authority to assess an override fee on solid waste, regardless of whether or not that county is directly involved in solid waste management. Even if a county contracts for its solid waste management, it can not delegate away the responsibility imposed upon it by this bill. That responsibility will involve cost which is the reason for this request. I've also attached an amendment which accomplishes this objective.

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 though, 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.

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

tsjsolws

1 The membership of the committee shall include: (1) At least one
 2 member representative of each class of city located within the county
 3 or counties; (2) representatives of the general public, citizen organ-
 4 izations, private industry, any private solid waste management in-
 5 dustry operating in the county or counties and any private recycling
 6 or scrap material processing industry operating in the county or
 7 counties; (3) the recycling coordinator, if any, of the county or
 8 counties; and (4) any other persons deemed appropriate by the
 9 county or counties including, but not limited to, county commis-
 10 sioners, county engineers, county health officers and county plan-
 11 ners. Members representing cities shall be selected by the mayors
 12 of the cities represented and the members of the public at large
 13 other members shall be selected by the board of county
 14 commissioners.

15 (c) The solid waste management committee shall: (1) Be respon-
 16 sible for the preparation of the solid waste management plan of the
 17 county or group of counties participating in the committee; (2) review
 18 the plan at least annually and submit to the secretary or the se-
 19 cretary's designee any recommendations for revision of the plan; and
 20 (3) at least every five years hold a public hearing on the plan and
 21 future goals of solid waste management in the county or group of
 22 counties.

23 (d) Each county or group of counties is required to adopt and
 24 implement a solid waste management plan pursuant to this section
 25 and is responsible for continued and ongoing planning for systematic
 26 solid waste management within the boundaries of such county or
 27 group of counties. Each county or group of counties shall demon-
 28 strate that its planning process includes regular communication with
 29 other counties or groups of counties and reflects consideration of
 30 planning and solid waste management practices that are ongoing in
 31 the state. The solid waste management plan submitted by of each
 32 county or group of counties shall provide for a solid waste manage-
 33 ment system plan to serve the residents of all townships and cities
 34 within the county or group of counties except for those cities
 35 which elect to be excluded from the county plan by resolution
 36 adopted by the city governing body thereof. *Provided*, That
 37 the county plan shall take reasonable cognizance of separately
 38 prepared plans developed by cities within such county.

39 (e) Every plan shall:
 40 (1) Delineate areas within the jurisdiction of the political sub-
 41 division where waste management systems are in existence and areas
 42 where the solid waste management systems are planned to be avail-
 43 able within a ten-year 10-year period.

44

ADD:
THE DEPARTMENT SHALL NOT REQUIRE
SOLID WASTE MANAGEMENT PLANS FROM
A COUNTY OR GROUP OF COUNTIES UNTIL AT
LEAST ONE (1) YEAR HAS ELAPSED SINCE THE
ADOPTION AND IMPLEMENTATION OF THE
SOLID WASTE MANAGEMENT PLAN FOR
THE STATE.

1 (1) The applicant currently holds, or in the past has held, a
2 permit under this section and ~~that~~ while the applicant held a permit
3 under this section the applicant violated a provision of subsection
4 (a) of K.S.A. ~~65-3441~~ 65-3409, and amendments thereto; or

5 (2) the applicant previously held a permit under this section and
6 that permit was revoked by the secretary; or

7 (3) the applicant failed or continues to fail to comply with any
8 of the provisions of the air, water or waste statutes, including rules
9 and regulations issued thereunder, relating to environmental pro-
10 tection or to the protection of public health in this or any other
11 state or the federal government of the United States, or any condition
12 of any permit or license issued by the secretary; or if the secretary
13 finds that the applicant has shown a lack of ability or intention to
14 comply with any provision of any law referred to in this subsection
15 or any rule and regulation or order or permit issued pursuant to
16 any such law as indicated by past or continuing violations; or

17 (4) the applicant is a corporation and any principal, shareholder,
18 or other person capable of exercising total or partial control of such
19 corporation could be determined ineligible to receive a permit pur-
20 suant to ~~subsections~~ subsection (c)(1), (2) or (3) above.

21 (d) Before reviewing any application for a permit, the secretary
22 may request that the attorney general perform a comprehensive
23 criminal background investigation of the applicant; or in the case
24 of a corporate applicant, any person who holds an interest in or
25 exercises total or partial control of the corporation. The secretary
26 may reject the application ~~without~~ prior to conducting an investi-
27 gation into the merits of the application if the secretary finds that
28 serious criminal violations have been committed by the applicant or
29 a principal of the corporation.

30 (e) (e) The ~~annual fee fees~~ for a solid waste processing or disposal
31 permit shall be, \$50 and ~~no~~ established by rules and regulations
32 adopted by the secretary. The ~~initial application fee shall not~~
33 ~~exceed \$10,000. The annual fee shall not exceed \$5,000~~ fee for
34 the application and original permit shall not exceed \$5,000. The
35 annual permit renewal fee shall not exceed \$2,000. No refund shall
36 be made in case of revocation. All fees shall be deposited in the
37 general fund in the state treasury and credited to the solid waste
38 management fund. A city, county, other political subdivision or
39 state agency shall be exempt from payment of the fee but shall
40 meet all other provisions of this act.

41 (f) Plans, designs and relevant data for the construction of
42 solid waste processing facilities and disposal sites shall be prepared
43 by a professional engineer licensed to practice in Kansas and shall

4-5
RESTORE LANGUAGE

H. G.

1 generated outside this state and disposed of at any solid waste
2 disposal area located in such county. Such fee shall be collected by
3 the county and deposited in a special fund in the county treasury,
4 to be used only for costs of closure and postclosure cleanup of solid
5 waste disposal areas in the county.

6 [(f) In addition to the fees provided for by subsections (a) and
7 (e), a fee] may be imposed by a group of counties engaged in regional
8 solid waste management on solid waste generated outside the bound-
9 aries of the region. The funds raised may be used to implement the
10 regional solid waste plan. If imposed, this fee must be assessed on
11 all solid waste entering that is generated outside the boundaries
12 of the region and enters the regional solid waste facility. This fee
13 will be collected by the county in which the regional solid waste
14 facility is located.

15 (i) The fee [fees] imposed by this section shall be in addition to
16 any other fees or tax imposed for solid waste disposal at a solid
17 waste disposal area.

18 [Sec. 9. If any provision of this act or its application to any
19 person or circumstance is held invalid, the remainder of the act
20 or the application of the provision to other persons or circumstances
21 is not affected.]

22 Sec. 9 [10]. K.S.A. 65-3402, 65-3405, 65-3406 and 65-3415 and
23 K.S.A. 1991 Supp. 65-3407 and 65-3419 are hereby repealed.

24 Sec. 10 [11]. This act shall take effect and be in force from and
25 after its publication in the statute book.

ADD:

COUNTY OR

COUNTY OR

COUNTY OR

(g) IN ADDITION TO THE FEES PROVIDED FOR
BY SUBSECTIONS (a), (e), AND (f), EACH
COUNTY OR GROUP OF COUNTIES MAY IMPOSE
A FEE ON SOLID WASTES BEING MANAGED
BY PRIVATE SECTOR FIRMS OR CORPORATIONS.
IF IMPOSED, THIS FEE SHALL BE USED
TO HELP DEFRAY COSTS TO THE COUNTY
OF SOLID WASTE PLANNING AND MANAGEMENT.



**THE LEAGUE
OF KANSAS
MUNICIPALITIES**

**Municipal
Legislative
Testimony**

AN INSTRUMENTALITY OF KANSAS CITIES 112 W. 7TH TOPEKA, KS 66603 (913) 354-9565 FAX (913) 354-4186

TO: Senate Committee on Energy and Environment
FROM: E.A. Mosher, Research Counsel, League of Kansas Municipalities
RE: HB 2801--Solid Waste Management
DATE: March 25, 1992

On behalf of the League and its member cities, I appear in support of HB 2801, subject to the adoption of a series of proposed amendments.

1. Interest of Cities. While the waste disposal function has increasingly become a private or county function, we estimate that over 85% of the solid waste deposited in landfill sites in Kansas is generated within cities, with much of the remaining 15% collected from urban fringe areas. Further, there are still some Kansas cities that operate disposal areas as a municipal function, notwithstanding the fact that HB 2801 fails to address this reality; the city-operated sites in Emporia, Olathe, Salina and Wichita alone serve a population area of over 550,000, exceeding the combined population of our 78 smallest counties. Finally, cities are often the contractual customers of disposal site operators; we know of at least 138 Kansas cities that levy fees for the collection of solid waste, which typically includes the cost of the disposal operation. Cities do have an interest in this issue!

2. Basic Policy Issues. It seems to us the fundamental policy issue before this Committee and the legislature is whether we should become "an approved state agency" for the purpose of administering the new EPA municipal solid waste landfill regulations. There are an increasing number of people across this state, and nation, that are now wondering whether they made a good deal when they agreed to assume enforcement and administration of a variety of EPA regulations in the past. We suspect this basic policy issue of state assumption has already been made. But we would suggest it is time to proceed cautiously, without agreeing to carry all the water of the feds--and to pay the piper even though the feds are calling the tune. For example, how much should KDHE staff up to in order for the state to be eligible to administer Subtitle D of the RCRA regulations? Do we need 16 full-time people, especially if we are going to see a decline in the number of landfill sites from the approximate 135 to perhaps 40 or 50? Our recommendation to proceed cautiously relates partly to the proposed tonnage tax, to be discussed later.

3. Delegation of Planning. HB 2801 eliminates the city planning option in the present law. We have no major objections to the countywide or regional approach of the bill, provided (a) recognition is given to site-operating cities in the committee membership, as discussed below, and (b) recognition is given to some of the local government realities that exist, such as in Sedgwick and Wyandotte counties. County boards may themselves want to delegate the planning process, in whole or in part, to one or more cities, and should not be prohibited from doing so. We suggest amendments be added similar to those developed by the KDHE staff and Kansas City-Wyandotte County officials, as follows:

Amendment A. Include, before line 37 on page 2, the following: "Designated city" means a city, or group of cities, which through interlocal agreement with the county in which they are located, is delegated the responsibility for preparation of the county solid waste management plan."

Include on line 3, page 3, prior to the word "shall" the following: "or designated city". *E4NR*
(Similar references to such designated cities appear necessary to reflect this objective.) *3-25-92*
5-1 attachment 5

Planning Committee Membership. The bill's provisions to the make-up of the planning committee, beginning at the top of page 4, requires membership from each of the three classes of cities. We recommend that those cities currently operating a disposal site (such as Olathe) be guaranteed a place on the Committee. We propose the following be inserted prior to the semicolon on line 3, page 4.

Amendment B. ", and at least one representative from each city with a permit to operate a disposal site within the county or counties;"

5. Date of Compliance; State Plan. While the bill requires each county or group of counties to prepare a solid waste management plan, it does not specify a fixed date for its completion, apparently delegating this discretionary power to the KDHE staff. This kind of legislative delegation of power, to our knowledge, is not common. However, we would be comfortable with this delegation provided a reasonable minimum time is established. We suggest the time for completion of county or regional plans should be at least one year following the completion of the "statewide solid waste management plan" that KDHE is now required by law to develop--see line 35 on page 6. This was the first recommendation of the KDHE--established "Kansas Solid Waste Advisory Task Force." The amendment we propose, to be inserted after the period in line 18, page 3, is as follows:

Amendment C. "The Secretary shall not require the submission of county or regional plans earlier than one year following completion and distribution of the statewide solid waste management plan provided for in K.S.A. 65-3406(a), as amended."

6. New Federal Regulations. Certainly one of the primary objectives of HB 2801 is to deal with the new federal regulations to the extent applicable to Kansas. This is true whether or not KDHE, by administrative rule, includes within its requirements the new EPA regulations. We suggest language similar to the following be added to lines 1:3, on page 5:

Amendment D. "(2) Reasonably conform to the rules and regulations, standards and procedures adopted by the secretary for implementation of this act and to the municipal solid waste landfill regulations issued by the U.S. Environmental Protection Agency, CFR Part 258, to the extent such federal regulations are binding on such areas or operations covered by the plan."

7. Waste Reduction Goals. The League supports the House amendments which deleted the waste reduction goals in Subsection (9), beginning on line 25 on page 5, and noted to the House Committee that a percentage reduction in waste volumes is mathematically impossible unless a fixed base amount is established. In the event this Committee has any inclination to restore the stricken language, we would suggest you consider adding the important factors of (a) public health benefits and (b) financial feasibility and cost impact on the general public. We are suggesting that our general environmental objectives in this area need to be focused on the public health benefits to derived from improved solid waste management practices, and that the cost of meeting state or local goals must be tempered with the fiscal realities of what the public can afford!

8. State Assistance. Subsection (9), at the top of page 7, directs KDHE to assist counties to jointly establish and implement regional approaches, implying that the agency may not provide assistance for a single county. We think this subsection should be amended, and propose the following:

Amendment E. "(9) Assist counties to jointly establish and implement regional solid waste planning and management."

9. Grants to Metropolitan Areas. Section 5 of the bill, beginning on page 11, provides for planning grants of up to 50% for development of individual county plans and up to 90% for the development of regional plans. Yet the cost and complexity of developing plans in metropolitan areas may be greater than for several rural counties. We suggest that KDHE be granted further discretion as to the

amount of planning grants by including metropolitan areas in the 90% provision. To accomplish this, the following amendment is proposed to subsection (b) beginning on line 3, page 12. ("Metropolitan area" is deliberately left undefined.)

Amendment F. "(b) The secretary is authorized to assist any county or counties developing a regional or metropolitan area plan by administering grants to pay up to 90% of the costs of preparing and revising official plans for solid waste management systems ... "

10. Fees to New Fund. Lines 10:11 on page 14 provides for the payment of "application fees" to the new fund. However, subsection (e), beginning on line 30, page 9, refers to an "application and original permit fee" and to an "annual permit renewal fee". As a result, we propose the following amendment to lines 10:11 on page 14:

Amendment G. "(2) Application and annual fees provided for by K.S.A. 65-3407, and amendments thereto;"

11. Funding of State Grants. Lines 10:13, on page 12, requires the grants to counties, or to two or more counties under a regional plan, to be financed only from moneys in the solid waste management fund. We propose this section be amended to remove any implication that direct general fund appropriations may not be made to fund such grants. We propose the following amendment to lines 10:13 on page 12:

Amendment H. "(C) All grants shall be made in accordance with appropriations acts from the state general fund or from moneys in the solid waste management fund created by section 7."

12. State Tonnage Tax. We have reservations about the advisability of the proposed state waste tonnage tax, called a "fee" in section 8, page 16. Some of our anxiety was lessened by the reduction from \$5.00 to \$1.50 per ton, and the elimination of the former KDHE discretion as to the amount of this tax. The bill before you is clearly a state mandate, admittedly triggered by a new federal mandate. While the tonnage tax will be used, in part, to fund this state mandate, local officials have difficulty in understanding how a "state grant" is really a "grant" when the money collected comes in large part from municipal and county solid waste operations, is then sent to Topeka, with the hope that some of it will be coming back. A city which sends \$100,000 in tonnage taxes to Topeka, with its county getting back a little in so-called "state planning grants", could reasonably be confused as to when a grant is a grant.

By actions of the League's Water and Environmental Policy Committee meeting last Thursday, we propose this tax be reduced from \$1.50 to \$1.00 per ton, and, as later explained, the authority of counties to levy direct charges on disposal operations to finance planning be clarified. This proposed reduction in the tonnage tax will obviously have fiscal repercussions. But we simply don't know whether KDHE needs 16 full-time equivalent positions, at an annual cost of \$945,500, to implement this program. We don't know whether \$1.5 million is needed for planning "grants", or \$1.2 million for remedial programs. We do suspect that some counties would rather fund the plan themselves, if it means sending lots of money to Topeka and getting only a few dollars back. We also suspect that the cost of complying with the new federal regulations, beginning October 9, 1993, is going to be costly enough without adding the tonnage tax. A \$1.00 tax would produce about \$2.5 million, compared to the estimated \$3.7 million from a \$1.50 tax.

Depending on appropriations acts, apparently to be made in the omnibus appropriations bill, it may be impossible for KDHE with \$2.5 million from a \$1.00 tax, plus permit fees, to (a) substantially increase its staff, (b) meet the maximum 50% or 90% planning grants provided for in the bill, and (c) provide money for remediation. This change may indirectly increase the local costs of planning (and probably reducing the amount of consultant fees), and thus provisions should be made for raising more of the costs locally, as noted in amendment J. We suggest the following amendment, beginning on line 19, page 16:

Amendment I. "There is hereby imposed a state solid waste tonnage fee of ~~\$1.50~~ \$1.00 for each ton or equivalent volume of solid waste disposed of at any solid waste disposal area in this state on or after January 1, 1993."

13. County Fees. In our judgment, new section 8 on page 16 is somewhat confusing, since it includes within the same section provisions as to the state tonnage tax as well as, beginning on line 6, page 17, provisions for multi-county levied and administered fees. We suggest the two subject matters be divided into two sections, with several amendments, as indicated below.

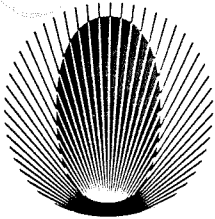
Under their home rule and statutory authority, counties may now have authority to levy fees on the operators of private disposal sites, as well as on solid waste generated outside the boundaries of the counties involved--the substance of the language beginning on page 6, but only where two or more counties operate a site. We suggest this language be broadened and clarified, providing counties, separately or jointly, with clear authority to raise revenue from operators to finance various solid waste activities. The amendment we suggest would strike all of lines 6 through 17 on page 17, and create a new section, as follows:

Amendment J. "Section 9. (a) Any county operating a solid waste disposal site, or group of counties jointly operating such a disposal site, may levy a special charge on solid waste generated outside such county or counties and deposited in such site, which may be higher than charges levied on solid waste generated within the county or counties. The revenue from such charges may be used by such county or group of counties for the development and implementation of its solid waste management plan.

(b) Any county, or group of counties operating jointly, may levy charges on solid waste generated within its jurisdiction that is deposited in privately-owned disposal sites located within or outside its jurisdiction. The revenue from such charges may be used by such county or counties to finance the development and implementation of its solid waste management plan.

(c) Any charges imposed by counties under this section shall be in addition to any other fees, charges, franchise payments or taxes imposed for solid waste disposal at a waste disposal area. The secretary of health and environment shall make available to counties information as to the amounts paid by the operators of solid waste disposal areas under the provisions of section 8 of this act.

14. Interstate Cooperation. Finally, we question whether the \$25 per ton tax on imported waste should be a part of HB 2801. Indeed, for some Kansas areas, a regional approach involving areas in adjacent states appears advisable for both environmental and cost reasons. We believe present state laws are now adequate to permit such interstate cooperation, but such approaches would be financially unrealistic with a \$25 per ton import tax.



City of Olathe

TO: Members of the Senate Energy and Natural Resources
Committee

FROM: Donald R. Seifert, Assistant Director, Administrative
Services *DRS*

SUBJECT: House Bill 2801 - Solid Waste Management

DATE: March 24, 1992

On behalf of the city of Olathe, thank you for the opportunity to appear today to express our views on HB 2801. We recognize that Kansas needs to update its solid waste law and provide additional funding for the Department of Health and Environment if the department is to serve as the administrative and enforcement agency for new EPA regulations. Our principal concern with this bill has been elimination of the role of cities in preparing and administering solid waste plans by centralizing this function at the county or regional level. However, with a few clarifying amendments, Olathe supports the concept of HB 2801.

The city of Olathe is a leader in solid waste management. For years, the city has collected solid waste from its residents, and is the only city in Johnson County that owns and operates a sanitary landfill. Our solid waste utility has approximately 21,000 customers, and disposes of 70,000 tons of waste annually. We have an approved solid waste management plan containing all the elements required under current law. The city has a good relationship with KDHE in solid waste matters.

In addition to providing outstanding service at reasonable rates to the community, in the last two years the city has also initiated local programs to deal with the emerging issues of yard waste and household hazardous waste. These new programs have been designed and implemented with the assistance of a citizens advisory task force appointed by the City Council. Both programs have been well received by the general public.

You have just received testimony from the League of Kansas Municipalities concerning suggested amendments to the bill. With the addition of these amendments, particularly those dealing with representation on the solid waste committee and clarification of authority for interlocal cooperation, we support HB 2801. We believe these amendments would allow Olathe to work cooperatively

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with Johnson County to address the important solid waste issues facing us in the future. Without these amendments, the city is concerned that our leadership, momentum, and flexibility in addressing solid waste issues could be reduced under the bill as currently written.

We urge the Committee to adopt the League's suggested amendments.

rc



SIERRA CLUB

Kansas Chapter

Testimony to Senate 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. 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 also encourages a regional approach, shaping a future with fewer, but state-of-the-art landfills. Regional management areas may also treat waste from outside their boundaries differently including options ranging from higher fees to bans. This gives them a tool to deal with out-of-state waste that circumvents the ICC rulings on "interference with interstate commerce". 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.

We have two areas of concern where the bill was weakened in the House.

- Target goals of percentage volume reduction of waste and the accompanying hierarchy were deleted (pg 5 lines 25-31). These are not mandates but give important guidance.

- Use of tipping fees for Market Development was cut. Currently the weak link in recycling is the market for recycled goods and market development efforts are needed. We believe funding for these efforts could appropriately come from either the tipping fee in this bill, or from Economic Development Funds.

We urge you to consider adding these aspects back into the bill and strongly urge your support for favorable passage of HB 2801.

*E&NR
Attachment 7
Pg 7-1
3-25-92*