

Approved April 1, 1992
Date

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources

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

8:00 a.m./~~p.m.~~ on March 26, 1992 in room 423-S of the Capitol.

All members were present except: All members were present.

Committee staff present:

Pat Mah, Legislative Research Department
Raney Gilliland, Legislative Research Department
Don Hayward, Revisor of Statutes

Conferees appearing before the committee:

William Mitchell, Kansas Recyclers Association, Inc.
Joyce Wolf, Kansas Audubon Council
Joel D. Grodberg, Mayor, City of Leavenworth, Ks.
Edward R. Moses "Woody" Moses, Kansas Aggregate Producers' Association
Ed Schaub, KPL Gas Services
Larry Knoche, Kansas Department of Health and Environment
Representative John McClure
Steve Kearney, Pete McGill & Associates, The Coastal Corporation

The Chairman continued the hearing on HB 2801 - solid waste management: relating to local solid waste management committees and plans. Providing for the imposition of certain fees and the disposition of revenue. He called on William Mitchell.

Mr. Mitchell stated the Kansas Recyclers Association, Inc., generally support the ideas contained in HB 2801. He suggested some terms they would like to see defined in the bill, and distributed a balloon copy of their proposed amendments (Attachment 1). For information purposes, some literature regarding the Institute of Scrap Recycling Industries, Inc. was provided for the Committee, and this information is on file in the Committee office.

Joyce Wolf stated in general they supported HB 2801 but suggested some changes (Attachment 2).

Joel D. Grodberg opposed the bill and suggested the bill be amended to allow municipalities with existing solid waste management programs and/or permitted landfills to continue those programs and landfill operations and deal with solid waste planning, management, and disposal issues at the municipal level (Attachment 3).

Edward "Woody" Moses said as a result of a new amendment attached imposing a mandatory \$25. per ton fee on waste generated outside the state they were opposing the legislation (Attachment 4).

Ed Schaub presented an amendment, and said if this amendment was adopted they could support the legislation (Attachment 5).

The hearing on HB 2801 was closed.

The hearing on HB 3153 - amending the underground storage tank trust fund law was opened. The Chairman called on Rep. McClure.

Rep McClure spoke in support of HB 3153, and suggested that it be amended to include above ground storage tanks (Attachment 6).

Larry Knoche presented written testimony on HB 3153 (Attachment 7).

Steve Kearney was concerned with the exclusion of their retail outlets

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources,
room 422-S Statehouse, at 8:00 a.m./~~p.m.~~ on March 26, _____, 1992

from participation in the fund, and suggested amendments that would include them (Attachment 8).

Senator Frahm moved to adopted the minutes of March 24, 1992. The motion was seconded by Senator Sallee. Motion carried.

The meeting adjourned at 9:00 a.m, and the next meeting will be on March 27, 1992.

19-91 SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Date 3/26/92

PLEASE PRINT GUEST LIST

NAME

REPRESENTING

William L. Mitchell	Hutchinson	Kansas Recyclers Assn.
Russell L. Fallis Jr	Hutchinson	Kansas Recyclers Assn.
Randell Scott	Topeka	Ks. Comm. on Vets. Affairs
Joe Luben	Topeka	Ks Co-op Council
Mark Pentz	Leavenworth	City of Leavenworth
Jeha Grodberg, Mayor	Leavenworth	City of Leavenworth
Tom Hammerschmidt	Topeka	KDHE
Charles Jones	Topeka	KDHE
Chris Steineger	KCKS	KCKS
Shari L. Wilson	" "	KDHE
Rep. Clyde Shafer Leavenworth		
ED. SCHAUB	TOPEKA	KPL
STEVE KEARNIC	TOPEKA	PETE MERIC ASSOCIATES
William Anderson	" "	KDHE
Ramy Knoch	" "	KDHE
Gary Blackburn	Topeka	KDHE
Shawn Harrelson	Topeka	KTDA - KOMA
Ami Wells	Topeka	Ks Co-op Council

19-91 SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Date 3-26-92

PLEASE PRINT

GUEST LIST

NAME

REPRESENTING

Lawea LEE

KDOT

D. Caruss

CITY LAWRENCE

Kristy Weiter

KNRC

TREVA POTTER

AMOCO OIL

Mike Beam

Ks LUSTIK ASSN.

JIM COOPER

QUICKTRIP

C. Nicolay

KOMA

BOB ANDERSON

KODIAK

Al Hedoux

SAFFERBROUGH
CKFO

ROD HAMM

HAMM COMPANIES

CLAUDE S. SANCHEZ

TOPEKA

DEPT COMMERCE

Chiquita Cornelius

TOPEKA

Ks. BZRP

TERRY LEATHERMAN

TOPEKA

KCCI

BRONDA A. SILVERS

TOPEKA

KAPA

DON AARON

HEAVENWORK

COMMISSION

AWAUNE PROBASCIO

TOPEKA

Ks SOFT PWRD ASSN.

STEVE HUST

TOPEKA

KWO

Mr. Chairman, Members of the Committee:

The Kansas Recyclers Association, Inc. is a trade association of over 15 scrap metal dealers, some of whom have been in business at their location for over 100 years. Some operate large industrial shredders which cost from \$2,000,000 to \$5,000,000 apiece and which produce shredder fluff, a substitute ground cover which is used by landfill operators.

The Kansas Recyclers Association, inc. (KRA) generally support the ideas contained in House bill 2801, particularly with the amendments placed on the original Bill by the House. Please note in the original bill the use of the term "RECYCLING FACILITY" on page 1 at line 35 which has now been deleted. "Reclamation Facility has been substituted for "Recycling Facility", and it has been defined on page 2, line 34-36.

Recyclers or scrap recyclers, the members of our association, do not operate landfills. We do, however, provide the marketing for recyclables which are generally:

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).

We therefore feel the bill needs to define "recyclables" and delineate it from solid waste or garbage or refuse or other discarded materials.

EHR
H
3-26-92
Attachment 1

It is our suggestion to the Committee that House Bill No. 2081 as amended by the House be further amended by inserting at page 1, line 29, after amendments thereto the words "and recyclables".

We also suggest that the following terms be defined as follows:

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 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).

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.

and inserted as additional definitions (p), (q), (r) and (s) on page 2 after line 36. See attached Bill.

Our Association and its members are very active in the Institute of Scrap Recycling Industries, Inc. and I am providing the Committee with some literature for your information.

The Bill, HB2801, provides for development of educational materials and programs--we offer our assistance on the planning committees at the local level and to this Committee and the Department.

We also provide, in many instances, the collection and marketing for many groups who collect recyclables as community projects.

Again, we are not landfill operators. We are the scrap metal or material processing industry.

Recyclables are not solid waste.

We would be happy to meet with you, serve on or advise any sub-committees, solid waste management committees proposed by the Bill or the Department as "Recyclers" or scrap metal processors.

We will also work with the Secretary of Commerce for the development and implementation of market development for "Recyclers". We have such expertise as we have been marketing "recyclables" for many, many years.

The Kansas Recycling Association, Inc. and its members do not want to be classified as landfill operators.

Please accept our amendments so we can assist all of us in the market development of recyclable materials.

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

See RECYCLE, Page 6

Recycle

Continued from Page 1

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.

As Amended by House Committee

Session of 1992

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

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

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

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

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

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

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

, recyclables, or the waste of domestic animals as described in K.S.A. 65-3409 (a) (1).

This term does not include a scrap material recycling and processing facility.

1-5

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) 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, or adoption, or
 implementation of the county solid waste plan.

(q) "Non-hazardous special waste" means any solid waste designated
 by the secretary as requiring extraordinary handling in a solid
 waste disposal area.

(r) "Recyclables" means any scrap materials that can be used as a
 replacement for virgin material in manufacturing including but
 not limited to ferrous metals, scrap paper products, scrap
 plastics, shredder fluff used as daily cover, and non-ferrous
 metals as defined by rule and regulation.

(s) "Scrap material processing industry" means any person who
 accepts, processes and markets recyclables.

(t) "Scrap material recycler and processing facility" means a
 fixed location that utilizes machinery and equipment for processing
 only recyclables.

9-1

1-7-

1 plan shall submit to the secretary a workable plan for the man-
 2 agement of solid waste within such county or city. On or before
 3 June 30, 1974, each county with a population of from fifteen
 4 thousand (15,000) to thirty thousand (30,000) and each city lo-
 5 cated therein which elects pursuant to subsection (b) of this
 6 section to exclude such city from the county plan shall submit
 7 to the secretary a workable plan for the management of solid
 8 waste within such county or city. On or before June 30, 1974,
 9 each county with a population of less than fifteen thousand
 10 (15,000) and each city located therein which elects pursuant to
 11 subsection (b) of this section to exclude such city from the
 12 county plan Each county of this state shall submit to the secretary _____ or a designated city,
 13 a workable plan for the management of solid waste in such county
 14 or city. The plan developed by each county or city shall be adopted _____ or designated city
 15 by the governing body of such county or city and. Two or more _____ or designated city if so authorized
 16 counties, by interlocal agreement entered into pursuant to K.S.A.
 17 12-2901 et seq., and amendments thereto, may develop and adopt
 18 a regional plan in lieu of separate county plans. County and regional
 19 plans shall be amended from time to time as changing conditions
 20 occur by the filing of revisions to said plan with the secretary.
 21 Nothing in this act shall be construed to supersede or oust the
 22 jurisdiction of any local solid waste control program in oper-
 23 ation on the effective date of this act: *Provided*, That within
 24 two (2) years from such date, any such program shall meet all
 25 the requirements of this act for a local solid waste control
 26 program. Any approval required shall be deemed granted un-
 27 less action is taken to the contrary *filing revisions with the*
 28 secretary.

29 (b) There is hereby created in each county of this state a
 30 solid waste management committee which shall include one
 31 (1) member of the board of county commissioners, the county
 32 engineer, the county health officer or his designated represen-
 33 tative, the director of planning if one exists, one representative
 34 from each city and township served by the county solid waste
 35 management plan, two members who shall be selected from
 36 the public at large. City members of the solid waste manage-
 37 ment planning committee shall be established in each county or
 38 group of counties cooperating in a regional plan a solid waste man-
 39 agement committee. Subject to the requirements of this section, the
 40 membership of the committee, the terms of committee members, the
 41 organization of the committee and selection of its officers shall be
 42 determined by the county or counties by interlocal agreement entered
 43 into pursuant to K.S.A. 12-2901 et seq., and amendments thereto.

_____ A county by interlocal agreement may designate a city as the solid waste management planning authority for the county.

21
22

43

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-~~ _____, and at least one representative from each city with a permit to
 5 ~~dustry operating in the county or counties and any private recycling~~ operate a disposal site within the county or counties.
 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-~~ _____ or designated city or designated cities
 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.~~ _____ or governing body of a designated city or designated cities.

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- _____ or designated city or designated cities
 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) (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~~ _____ or subdivisions
 42 ~~where the solid waste management systems are planned to be avail-~~
 43 ~~able within a ten-year 10-year period.~~

8-1

1 (2) Reasonably conform to the rules, *and* regulations, standards
2 and procedures adopted by the secretary for implementation of this
3 act.

4 (3) Provide for the orderly extension of solid waste management
5 systems in a manner consistent with the needs and plans of the
6 whole area, and in a manner which will not contribute to pollution
7 of the waters or air of the state, nor constitute a public nuisance
8 and shall otherwise provide for the safe and sanitary disposal of solid
9 waste.

10 (4) Take into consideration existing comprehensive plans, pop-
11 ulation trend projections, engineering and economics so as to delin-
12 eate with practicable precision those portions of the area which may
13 reasonably be expected to be served by a solid waste management
14 system within the next ~~ten~~ (10) 10 years.

15 (5) Take into consideration existing acts and regulations affecting
16 the development, use and protection of air, water or land resources.

17 (6) Establish a time schedule and revenue schedule for the de-
18 velopment, construction and operation of the planned solid waste
19 management systems, together with the estimated cost thereof.

21 20 (7) *Describe the elements of the plan which will require public*
22 *education and include a plan for delivering such education.*

23 (8) Include such other reasonable information as the secretary
24 shall require *requires*.

25 (9) *Establish a schedule for the reduction of the waste volumes*
26 *with goals of 25% by 1997, and 50% by 2002 in consideration*
27 *of the following:*

28 (A) *Resource conservation;*

29 (B) *reduction;*

30 (C) *reuse and recycling;*

31 (D) *processing treatment; and*

32 (E) *land disposal.*

33 (10) Take into consideration the development of specific man-
34 agement programs for certain wastes, including but not limited to
35 lead acid batteries, household hazardous wastes, small quantities
36 of hazardous waste, white goods containing chlorofluorocarbons,
37 agricultural chemicals and chemical containers, motor oil and yard
38 waste.

39 (d) (f) The plan *and any revision of the plan* shall be reviewed
40 by appropriate official planning agencies within the area covered by
41 the plan for consistency with programs of comprehensive planning
42 for the area, *and*. All such reviews shall be transmitted to the
43 secretary with the proposed plan *or revision*.

(e) (g) The secretary is hereby authorized to approve or disap-

taking in consideration the following:

(A) source reduction

(B) reuse, recycling, composting and;

(C) land disposal.

9-1

1-10-

1 prove plans for solid waste management systems, *or revisions of such*
2 *plans*, submitted in accordance with this act. ~~In the event any plan~~
3 *If a plan or revision* is disapproved, the secretary shall furnish any
4 and all reasons for such disapproval, and ~~any city, county or po-~~
5 ~~litical subdivision~~ *the county or group of counties* whose plan *or*
6 *revision* is disapproved may request a hearing before the secretary
7 in accordance with K.S.A. 65-3412, *and amendments thereto.*

8 ~~(f)~~ *(h)* The secretary is authorized to provide technical assistance
9 to ~~counties, municipalities and authorities~~ *counties* in coordinat-
10 ing plans for solid waste management systems required by this act,
11 including revisions of such plans. , or designated cities

12 ~~(g)~~ *(i)* The secretary may, ~~in appropriate cases, recommend~~
13 ~~the submission of joint plans~~ *require the adoption, submission*
14 *and implementation of a regional plan for two or more coun-*
15 *ties* recommend that two or more counties adopt, submit and im-
16 plement a regional plan rather than separate county plans.

17 ~~(h)~~ *(j)* The secretary may institute appropriate action under
18 K.S.A. 65-3414 to compel submission of plans *or plan revisions* in
19 accordance with this act and the rules, *and* regulations, standards
20 and procedures of the secretary.

21 Sec. 3. K.S.A. 65-3406 is hereby amended to read as follows:
22 65-3406. (a) The secretary is authorized and directed to:

23 ~~(a)~~ (1) Adopt such rules and regulations, standards and proce-
24 dures relative to solid waste management as ~~shall be~~ necessary to
25 protect the public health and environment, prevent public nuisances,
26 and enable the secretary to carry out the purposes and provisions
27 of this act.

28 ~~(b)~~ (2) Report to the legislature on further assistance needed to
29 administer the solid waste management program.

30 ~~(c)~~ (3) Administer the solid waste management program pursuant
31 to provisions of this act.

32 ~~(d)~~ (4) Cooperate with appropriate federal, state, interstate and
33 local units of government and with appropriate private organizations
34 in carrying out duties under this act.

35 ~~(e)~~ (5) Develop a statewide solid waste management plan.

36 ~~(f)~~ (6) Provide technical assistance, including the training of per-
37 sonnel to cities, counties and other political subdivisions.

38 ~~(g)~~ (7) Initiate, conduct and support research, demonstration pro-
39 jects, and investigations and coordinate all state agency research
40 programs with applicable federal programs pertaining to solid waste
41 management systems.

42 ~~(h)~~ (8) Establish policies for effective solid waste management
43 systems.

and regions

1 ~~(i)~~ (9) Assist counties ~~to jointly~~ establish and implement regional
2 solid waste planning and management.

3 ~~(j)~~ (10) Authorize issuance of such permits and orders and con-
4 duct such inspections as may be necessary to implement the pro-
5 visions of this act and the rules and regulations and standards adopted
6 pursuant to this act.

7 ~~(j)~~ ~~(k)~~ (11) Conduct and contract for research and investigations
8 in the overall area of solid waste storage, collection, transportation,
9 processing, treatment, recovery and disposal including, but not lim-
10 ited to, new and novel procedures.

11 ~~(l)~~ (12) Adopt rules and regulations for permitting of all solid
12 waste disposal areas, including those that are privately owned.

13 ~~(k)~~ ~~(m)~~ (13) Adopt rules and regulations establishing criteria for
14 the location of processing facilities and disposal areas for solid wastes.

15 ~~(l)~~ ~~(n)~~ (14) Adopt rules and regulations establishing appropriate
16 measures for monitoring solid waste disposal areas and processing
17 facilities, both during operation and after closure.

18 ~~(m)~~ ~~(o)~~ (15) Adopt rules and regulations requiring that, for such
19 period of time as the secretary shall specify, any assignment, sale,
20 conveyance or transfer of all or any part of the property upon which
21 a permitted disposal area for solid waste is or has been located shall
22 be subject to such terms and conditions as to the use of such property
23 as the secretary shall specify to protect human health and the
24 environment.

25 ~~(n)~~ ~~(p)~~ (16) Adopt suitable measures, including rules and regu-
26 lations if appropriate, to ~~encourage~~ ~~require~~ induce recovery and
27 recycling of solid waste for reuse whenever feasible.

28 ~~(q)~~ (17) Adopt rules and regulations establishing standards for
29 public and private transporters of solid waste.

30 ~~(o)~~ ~~(r)~~ (18) Adopt rules and regulations establishing minimum
31 standards for closing, termination, and long-term care of sites for
32 the land disposal of solid waste. In this subsection, "site" refers to
33 a site for the land disposal of solid waste which has a permit issued
34 under K.S.A. 65-3407 and amendments thereto. The owner of a site
35 shall be responsible for the long-term care of the site for ~~ten~~ (10)
36 30 years after the closing of the site, except the secretary may extend
37 the long-term care responsibility of a particular site or sites as the
38 secretary ~~may deem~~ ~~deems~~ deems necessary to protect the public health
39 and safety or the environment. Any person acquiring rights of own-
40 ership, possession, or operation in a permitted site or facility for the
41 land disposal of solid waste at any time after the site has begun to
42 accept waste and prior to closure shall be subject to all requirements
43 of the permit for the site or facility, including the requirements

1 relating to long-term care of the site or facility.

2 ~~(s) (19) Enter into cooperative agreements with the secretary of~~
3 ~~commerce for the development and implementation of statewide mar-~~
4 ~~ket development for recyclable materials.~~

5 (b) In adopting rules and regulations, the secretary shall allow
6 the exemption contained in subsection (f)(1) of 40 CFR 258.1.

7 Sec. 4. K.S.A. 1991 Supp. 65-3407 is hereby amended to read
8 as follows: 65-3407. (a) It shall be unlawful for any person to con-
9 struct, alter or operate a solid waste processing facility or a solid
10 waste disposal area of a solid waste management system without first
11 obtaining a permit from the secretary.

12 (b) Every person desiring to obtain a permit to construct, alter
13 or operate a solid waste storage, treatment or processing facility or
14 disposal area shall make application for such a permit on forms
15 provided for such purpose by the rules and regulations of the sec-
16 retary and shall provide the secretary with such information as nec-
17 essary to show that the facility or ~~service~~ area will comply with the
18 purpose of this act. Upon receipt of any application and payment of
19 the *application* fee, the secretary, with advice and counsel from the
20 local health authorities and the county commission, shall make an
21 investigation of the proposed solid waste processing facility or dis-
22 posal area and determine whether it complies with the provisions
23 of this act and any rules and regulations and standards adopted
24 thereunder. *The secretary also may consider the need for the facility*
25 *or area in conjunction with the county or regional solid waste man-*
26 *agement plan.* When the investigation reveals that the facility or
27 area does conform with the provisions of the act and the rules and
28 regulations and standards adopted thereunder the secretary shall
29 approve the application and shall issue a permit for the operation
30 of each solid waste processing or disposal facility or area set forth
31 in the application. In the event that the facility or area fails to meet
32 the rules and regulations and standards required by this act the
33 secretary shall issue a report to the applicant stating the deficiencies
34 in the application. The secretary may issue temporary permits con-
35 ditioned upon corrections of construction methods being completed
36 and implemented.

37 (c) *Before reviewing any application for permit, the secretary*
38 *shall conduct a background investigation of the applicant. The sec-*
39 *retary shall consider the financial, technical and management ca-*
40 *pacilities of the applicant as conditions for issuance of a permit.*
41 *The secretary may reject the application ~~without~~ prior to conducting*
42 *an investigation into the merits of the application if the secretary*
43 *finds that:*

(20) Adopt rules and regulations for the management of
non-hazardous special wastes.

1-12-

1-13.

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) (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

principal, shareholder or other
capable of exercising

Restore current language.

21
22

1 be submitted to the department for approval prior to the construc-
2 tion, alteration or operation of such facility or area. In adopting rules
3 and regulations, the secretary may specify sites, areas or facilities
4 where the environmental impact is minimal and may waive such
5 preparation requirements provided that a review of such plans is
6 conducted by a professional engineer licensed to practice in Kansas.

7 (e) (g) Each permit granted by the secretary, as provided in this
8 act, shall be subject to such conditions as the secretary deems nec-
9 essary to protect human health and the environment and to conserve
10 the sites. Such conditions shall include approval by the secretary of
11 the types and quantities of solid waste allowable for processing or
12 disposal at the permitted location.

13 (f) (h) As a condition of granting a permit to operate any proc-
14 essing facility or disposal area for solid waste, the secretary shall
15 require the permittee to provide *a trust fund, surety bond, cash*
16 *bond or, a secured trust fund, irrevocable letter of credit, insurance*
17 *or to meet a financial test established by the secretary for closure*
18 *and post-closure, and liability insurance, including coverage against*
19 *sudden and nonsudden occurrences, or any combination thereof, in*
20 *such amount as determined necessary by the secretary to insure the*
21 *financial responsibility of the permittee for any: (1) Operational ac-*
22 *tivities contemplated by the act, rules and regulations adopted pur-*
23 *suant thereto, and the permit; and (2) liability incurred in the*
24 *operation of the facility or area and to insure that, upon abandon-*
25 *ment, cessation or interruption of the operation of the facility or*
26 *area, all appropriate measures are taken to prevent present or future*
27 *damage to human health and the environment. Any such liability*
28 *insurance as may be required pursuant to this subsection or pursuant*
29 *to the rules and regulations of the secretary shall be issued by an*
30 *insurance company authorized to do business in Kansas or by a*
31 *licensed insurance agent operating under authority of K.S.A. 40-*
32 *246b, and amendments thereto, and shall be subject to the insurer's*
33 *policy provisions filed with and approved by the commissioner of*
34 *insurance pursuant to K.S.A. 40-216, and amendments thereto, ex-*
35 *cept as authorized by K.S.A. 40-246b, and amendments thereto.*
36 *Nothing contained in this subsection shall be deemed to apply to*
37 *any political subdivision, state agency, state agency or department*
38 *or agency of the federal government or to any independent con-*
39 *tractor operating a solid waste disposal area as a part of an*
40 *approved solid waste management plan for which equivalent*
41 *surety is provided to a political subdivision or federal or state*
42 *agency.*

43 (g) (i) Permits granted by the secretary, as provided in this act;

1-14

1-15-

1 (1) Shall not be transferable; and (2) shall be revocable or subject
 2 to suspension whenever the secretary shall determine that the solid
 3 waste processing or disposal facility or area is, or has been con-
 4 structed or ~~conducted~~ operated in violation of this act or the rules
 5 and regulations or standards adopted pursuant to the act, or is cre-
 6 ating or threatens to create a hazard to persons or property in the
 7 area or to the environment, or is creating or threatens to create a
 8 public nuisance, or upon the failure to make payment of any fee
 9 required under this act. The secretary also may revoke, suspend or
 10 refuse to issue a permit when the secretary determines that past or
 11 continuing violations of the provisions of ~~paragraph (3) of sub-~~
 12 ~~section (e) of K.S.A. 65-3437~~ subsection (c)(3) of K.S.A. 65-3407,
 13 and amendments thereto, have been committed by a permittee, or
 14 ~~any person holding an interest in or exercising partial or total control~~ _____, or any principal, shareholder
 15 over a permittee. _____ capable of

16 (h) (j) In case any permit is denied, suspended or revoked the
 17 person, city, county or other political subdivision or state agency
 18 may request a hearing before the secretary in accordance with K.S.A.
 19 65-3412, and amendments thereto.

20 (i) (k) (1) No permit to construct or operate a solid waste disposal
 21 area shall be issued on or after the effective date of this act if such
 22 area is located within 1/2 mile of a navigable stream used for interstate
 23 commerce or within one mile of an intake point for any public surface
 24 water supply system.

25 (2) Any permit, issued before the effective date of this act, to
 26 construct or operate a solid waste disposal area is hereby declared
 27 void if such area is not yet in operation and is located within 1/2
 28 mile of a navigable stream used for interstate commerce or within
 29 one mile of an intake point for any public surface water supply
 30 system.

31 (3) The provisions of this subsection (i) shall not be construed
 32 to prohibit: (A) Issuance of a permit for lateral expansion onto land
 33 contiguous to a permitted solid waste disposal area in operation on
 34 the effective date of this act; (B) issuance of a permit for a solid
 35 waste disposal area for disposal of a solid waste by-product produced
 36 on-site; or (C) renewal of an existing permit for a solid waste area
 37 in operation on the effective date of this act: _____, (D) activities which are regulated under K.S.A. 65-163
 38 through 65-165, or K.S.A. 65-171d.

39 Sec. 5. K.S.A. 65-3415 is hereby amended to read as follows:
 40 65-3415. (a) The secretary is authorized to assist counties, ~~muni-~~
 41 ~~cipalities and authorities~~ by administering grants to pay up to fifty
 42 percent ~~(50%)~~ 50% of the costs of preparing and revising official _____ or designated cities if so delegated
 43 plans for solid waste management systems in accordance with the
 requirements of this act and the rules, and regulations and standards

21
22

43

1 adopted pursuant to this act, and for carrying out related studies,
2 surveys, investigations, inquiries, research and analyses.

3 (b) *The secretary is authorized to assist counties developing a*
4 *regional plan by administering grants to pay up to 90% of the costs*
5 *of preparing and revising official plans for solid waste management*
6 *systems in accordance with the requirements of this act and the rules*
7 *and regulations and standards adopted pursuant to this act, and for*
8 *carrying out related studies, surveys, investigations, inquiries, re-*
9 *search and analyses.*

10 ~~(b)~~ (c) All grants shall be made from funds appropriated for
11 this purpose by the legislature in accordance with appropriations
12 acts from moneys in the solid waste management fund created by _____ the state general fund or from
13 section 7.

14 Sec. 6. K.S.A. 1991 Supp. 65-3419 is hereby amended to read
15 as follows: 65-3419. (a) Any person who violates any provision of
16 subsection (a) of K.S.A. 65-3409, and amendments thereto, shall
17 incur, in addition to any other penalty provided by law, a civil
18 penalty in an amount of up to ~~\$500~~ \$5,000 for every such violation
19 and, in the case of a continuing violation, every day such violation
20 continues shall be deemed a separate violation.

21 (b) The director of the division of environment, upon a finding
22 that a person has violated any provision of subsection (a) of K.S.A.
23 65-3409, and amendments thereto, may impose a penalty within the
24 limits provided in this section, which penalty shall constitute an
25 actual and substantial economic deterrent to the violation for which
26 it is assessed.

27 (c) No penalty shall be imposed pursuant to this section except
28 upon the written order of the director of the division of environment
29 to the person who committed the violation. Such order shall state
30 the violation, the penalty to be imposed and the right of such person
31 to appeal to a hearing before the secretary of health and environment.
32 Any such person may, within 15 days after service of the order,
33 make written request to the secretary for a hearing thereon. The
34 secretary shall hear such person within 30 days after receipt
35 of such request. Hearings under this subsection shall be conducted
36 in accordance with the provisions of the Kansas administrative pro-
37 cedure act.

38 (d) Any action of the secretary pursuant to subsection (c) is sub-
39 ject to review in accordance with the act for judicial review and civil
40 enforcement of agency actions.

41 (e) Notwithstanding any other provision of this act, the secretary,
42 upon receipt of information that the storage, transportation, *proc-*
43 *essing*, treatment, or disposal of any waste may present an imminent

1-16

1 and a substantial hazard to the health of persons or to the envi-
2 ronment or for a threatened or actual violation of this act or rules
3 and regulations adopted pursuant thereto, or any orders issued pur-
4 suant thereto, or any permit conditions required thereby, may take
5 such action as the secretary determines to be necessary to protect
6 the health of such persons or the environment. The action the sec-
7 retary may take shall include, but not be limited to:

8 (1) Issuing an order directing the *owner, generator, transporter*
9 *or the operator of the processing, treatment or disposal facility or*
10 *site, or the custodian of the waste, which constitutes such hazard*
11 *or threatened or actual violation, to take such steps as are necessary*
12 *to prevent the act or eliminate the practice which constitutes such*
13 *hazard. Such action may include, with respect to a facility or site,*
14 *permanent or temporary cessation of operation.*

15 (2) Requesting that the attorney general or appropriate dis-
16 trict attorney commence an action enjoining such acts or prac-
17 tices. Upon showing by the department that a person has
18 engaged in such acts or practices, a permanent or temporary
19 injunction, restraining order, or other order may be granted by
20 any court of competent jurisdiction.

21 (2) Commencing an action to enjoin acts or practices specified
22 in paragraph (1) or requesting that the attorney general or appro-
23 priate district or county attorney commence an action to enjoin those
24 acts or practices or threatened acts or practices. Upon a showing
25 by the secretary that a person has engaged in those acts or practices
26 or intends to engage in those acts or practices, a permanent or
27 temporary injunction, restraining order or other order may be
28 granted by any court of competent jurisdiction. An action for in-
29 junction under this paragraph (2) shall have precedence over other
30 cases in respect to order of trial.

31 (3) Applying to the district court in the county in which an order
32 of the secretary under paragraph (1) will take effect, in whole or
33 in part, for an order of that court directing compliance with the
34 order of the secretary. Failure to obey the court order shall be
35 punishable as contempt of the court issuing the order. The appli-
36 cation under this paragraph (3) for a court order shall have prec-
37 edence over other cases in respect to order of trial.

38 (f) In any civil action brought pursuant to this section in which
39 a temporary restraining order, preliminary injunction or permanent
40 injunction is sought, it shall not be necessary to allege or prove at
41 any stage of the proceeding that irreparable damage will occur should
42 the temporary restraining order, preliminary injunction or permanent
43 injunction not be issued or that the remedy at law is inadequate,

1-17-

1-78-

1 and the temporary restraining order, preliminary injunction or per-
2 manent injunction shall issue without such allegations and without
3 such proof.

4 New Sec. 7. (a) There is hereby created in the state treasury
5 the solid waste management fund.

6 (b) The secretary shall remit at least monthly to the state treas-
7 urer all moneys collected or received by the secretary from the
8 following sources:

9 (1) Solid waste tonnage fees imposed pursuant to section 8;

10 (2) application fees provided for by K.S.A. 65-3407, and amend-
11 ments thereto; _____ and annual

12 (3) gifts, grants, reimbursements or appropriations intended to
13 be used for the purposes of the fund, but excluding federal grants
14 and cooperative agreements; and

15 (4) any other moneys provided by law.

16 Upon receipt thereof, the state treasurer shall deposit in the state
17 treasury any amount remitted pursuant to this subsection and shall
18 credit the entire amount to the solid waste management fund.

19 (c) Moneys in the solid waste management fund shall be ex-
20 pended for the following purposes:

21 (1) Grants to counties or groups of counties, pursuant to K.S.A. _____ or designated city or designated cities
22 65-3415, and amendments thereto;

23 (2) monitoring and investigating solid waste management plans
24 of counties and groups of counties;

25 (3) payment of extraordinary costs related to monitoring permit-
26 ted solid waste processing facilities and disposal areas, both during
27 operation and after closure;

28 (4) payment of costs of postclosure cleanup of permitted solid
29 waste disposal areas which, as a result of a postclosure occurrence,
30 pose a substantial hazard to public health or safety or to the
31 environment;

32 (5) emergency payment for costs of cleanup of solid waste disposal
33 areas which were closed before the effective date of this act and
34 which pose a substantial risk to the public health or safety or to the
35 environment, but the total amount of such emergency payments
36 during a fiscal year shall not exceed an amount equal to 50% of all
37 amounts credited to the fund during the preceding fiscal year;

38 (6) to permit the secretary to take whatever emergency action is
39 necessary or appropriate to assure that the public health or safety
40 is not threatened whenever there is a release from a solid waste
41 processing facility or a solid waste disposal area;

42 (7) to permit the secretary to take corrective action where the
43 release presents actual or potential threat to human health or the

1 environment, if the owner or operator has not been identified or is
2 able or unwilling to perform corrective action;

3 (8) payment of the administrative, technical and legal costs in-
4 curred by the secretary in carrying out the provisions of K.S.A. 65-
5 3401 through 65-3423, and amendments thereto, including the cost
6 of any additional employees or increased general operating costs of
7 the department attributable therefor; and

8 (9) payment of costs for market development established un-
9 der cooperative agreements with the secretary of commerce
10 development of educational materials and programs for informing
11 the public about solid waste issues.

12 (d) If the secretary determines that expenditures from the solid
13 waste management fund are necessary, the person or persons re-
14 sponsible for the operation or long-term care of a disposal area whose
15 failure to comply with this act, rules and regulations promulgated
16 thereunder, or permit conditions resulted in such determination,
17 shall be responsible for the repayment of those amounts expended.
18 The secretary shall take appropriate action to enforce this provision
19 against any responsible person. The secretary shall remit to the state
20 treasurer any amounts recovered and collected in such action. The
21 state treasurer shall deposit all such amounts in the state treasury
22 and credit the same to the solid waste management fund.

23 (e) Expenditures from the solid waste management fund shall be
24 made in accordance with appropriations acts upon warrants of the
25 director of accounts and reports issued pursuant to vouchers ap-
26 proved by the secretary or a person designated by the secretary.

27 (f) On or before the 10th day of the month following the month
28 in which moneys are first credited to the solid waste management
29 fund, and monthly thereafter on or before the 10th day of the month,
30 the director of accounts and reports shall transfer from the state
31 general fund to the solid waste management fund the amount of
32 money certified by the pooled money investment board in accordance
33 with this subsection. Prior to the 10th day of the month following
34 the month in which moneys are first credited to the solid waste
35 management fund, and monthly thereafter prior to the 10th day of
36 the month, the pooled money investment board shall certify to the
37 director of accounts and reports the amount of money equal to the
38 proportionate amount of all the interest credited to the state general
39 fund for the preceding month, pursuant to K.S.A. 75-4210a, and
40 amendments thereto, that is attributable to moneys in the solid waste
41 management fund. Such amount of money shall be determined by
42 the pooled money investment board based on: (1) The average daily
balance of moneys in the solid waste management fund during the

1-19-

1 preceding month as certified to the board by the director of accounts
 2 and reports; and (2) the average interest rate on time deposit, open
 3 accounts for that period as determined under K.S.A. 75-4212, and
 4 amendments thereto. On or before the fifth day of the month fol-
 5 lowing the month in which moneys are first credited to the solid
 6 waste management fund, and monthly thereafter on or before the
 7 fifth day of the month, the director of accounts and reports shall
 8 certify to the pooled money investment board the average daily
 9 balance of moneys in the solid waste management fund during the
 10 preceding month.

11 (g) The solid waste management fund shall be used for the pur-
 12 poses set forth in this act and for no other governmental purposes.
 13 It is the intent of the legislature that the fund shall remain intact
 14 and inviolate for the purposes set forth in this act, and moneys in
 15 the fund shall not be subject to the provisions of K.S.A. 75-3722,
 16 75-3725a and 75-3726a, and amendments thereto.

17 New Section 8. (a) ~~The secretary of health and environment~~
 18 ~~shall establish by rules and regulations a state solid waste ton-~~
 19 ~~nage fee to be imposed There is hereby imposed a state solid~~
 20 ~~waste tonnage fee of \$1.50 for each ton or equivalent volume of~~
 21 ~~solid waste disposed of at any solid waste disposal area in this state~~
 22 ~~on or after January 1, 1993. No fee established pursuant to this~~
 23 ~~section shall exceed \$5 per ton or equivalent volume. The fee~~
 24 ~~may be adjusted annually.~~

25 (b) The operator of a solid waste disposal area shall pay the fee
 26 imposed by this section.

27 (c) The secretary of health and environment shall administer,
 28 enforce and collect the fee imposed by this section. Except as oth-
 29 erwise provided by subsection (b), all laws and rules and regulations
 30 of the secretary of revenue relating to the administration, enforce-
 31 ment and collection of the retailers' sales tax shall apply to such fee
 32 insofar as they can be made applicable, and the secretary of health
 33 and environment shall adopt such additional rules and regulations
 34 as necessary for the efficient and effective administration, enforce-
 35 ment and collection thereof.

36 (d) The secretary of health and environment shall remit daily to
 37 the state treasurer all moneys collected from fees imposed pursuant
 38 to ~~this section~~ [subsection (a)]. Upon receipt thereof, the state
 39 treasurer shall deposit the entire amount in the state treasury and
 40 credit it to the solid waste management fund created by section 7.

41 (e) ~~An additional fee~~ [Each county in this state shall impose,
 42 in addition to the fee provided for by subsection (a), a solid waste
 43 tonnage fee of \$25 for each ton or equivalent volume of solid waste,

This provision shall not apply to any solid waste by-product
 produced and disposed in or at a permitted solid waste disposal
 area located on the site of generation.

1-20

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 (f) 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 [11].
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 [12].
25 after its publication in the statute book.

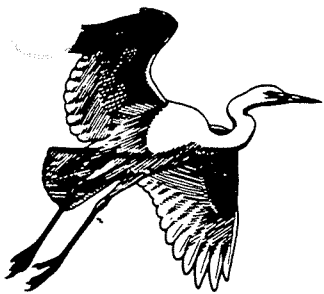
1-21

New "Section 10. (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.

1-22



Kansas Audubon Council

March 24, 1992

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

My name is Joyce Wolf and I am the legislative liaison for the Kansas Audubon Council (KAC) whose members share a desire to promote a sustainable society through the conservation, protection, and wise use of the earth's natural resources.

In general, KAC supports HB 2801 which essentially requires the state and counties to update their solid waste management (swm) plans, and it provides a means to help finance the development of those plans and other activities related to the management of municipal solid waste. Furthermore, we support the revisions made to the original version of HB 2801 with the following exceptions:

1) On page 5, Section 2(e)(9), we would prefer that the following language be inserted after line 24:

taking in consideration the following:

- (A) source reduction;
- (B) reuse, recycling, composting and;
- (C) land disposal.

Similar versions of this hierarchy of municipal solid waste management were recommended by both the Solid Waste Management Advisory Task Force and the State Commission on Waste Reduction, Recycling and Market Development. It mandates nothing, but merely offers a set of guidelines upon which to base both local and state swm plans. What this hierarchy does recognize is the finite availability of the earth's natural resources and the long-term need to conserve those resources, including space in our landfills.

2) On page 15, Section 7(b)(9), we would like to see this language restored. It seems likely that, as counties begin to form swm planning regions, there will be greater incentives to save on higher landfill costs, and on the increased costs of transporting wastes farther distances. For those reasons, KAC believes that recovery of recyclables from the waste stream will become an increasingly attractive alternative to landfilling. Thus, enhanced market development activities will be needed in those areas to help absorb the recyclables that have been diverted from the waste stream. While the same scenario will also be operating in more populous counties of the state, the greater volumes of materials generated there will tend to meet the demand of industry for a steady supply of materials to be reprocessed into new products.

3) Finally, while we support the intent of the new language added in Section 8(e) which addresses the question of importation of out-of-state wastes, we are concerned that it is seriously flawed. We believe that the language in Section 8(f) actually provides a similar mechanism to control not only out-of-state wastes, but also those from within the state but outside of the swm planning region as well.

We appreciate this opportunity to share these comments with the committee and would be willing to try to answer any questions.

CITY OF LEAVENWORTH, KS
Joel D. Grodberg, Mayor

Position on House Bill No. 2801
Before the Senate Committee on Energy and Natural Resources
Senator Ross O. Doyen, Chairperson

Like many communities throughout the state of Kansas and the United States, the City of Leavenworth is acutely aware of the new solid waste management regulations which will go into effect in October of 1993 under Subtitle D of the Resource Conservation and Recovery Act. The Kansas Department of Health and Environment and the Legislature are to be commended for taking the initiative to enact legislation and adopt regulations which will provide the structure for administering Subtitle D within the state of Kansas and provide for local solid waste planning and management.

Although House Bill 2801 encourages regional planning for solid waste management, the Bill identifies counties as the primary units of government for planning purposes. There is no provision in the bill to recognize the existence of municipal solid waste management programs. The 1970 Act, which House Bill 2801 would amend, acknowledged the existence of effective municipal solid waste management programs, even going so far as to state that "nothing in this Act shall be construed to supersede or oust the jurisdiction of any local solid waste control program in operation on the effective date of this Act." Also, the 1970 Act provided a mechanism for cities to develop their own solid waste management programs if counties were unable to take the initiative and develop programs that would meet the needs of municipalities.

*E+NR
3-26-92
attachment 3 3-1*

The City of Leavenworth has had a solid waste management program dating back to the 1950's, and since the mid-1960's has taken the responsibility to provide landfills for both city and county residents. The existing Leavenworth landfill has been permitted since 1973. Presently, the City has submitted a proposal to the Kansas Dept. of Health and Environment for a vertical expansion of its landfill that would extend the landfill's life by approximately 10 years. I am concerned that House Bill 2801 would strip the City of Leavenworth of its ability to plan and manage for solid waste collection and disposal, and shift that responsibility to Leavenworth County. The City of Leavenworth could very well find itself with the expense and liability of an operational landfill that is not part of the County-wide solid waste management plan.

Our concern is that history will repeat itself. In 1974 Leavenworth County submitted a solid waste management plan to the Kansas Dept. of Health and Environment as required by the 1970 Act. KDHE records show that this plan was approved. Leavenworth County's 1974 plan called for the use of the City of Leavenworth's landfill to meet County-wide solid waste disposal needs through the early 1980's. By 1983 Leavenworth County was to have assumed responsibility for solid waste disposal by acquiring and opening a new landfill. This was never done. In fact, the only governmental agency in Leavenworth County that has taken responsibility over the last 20 years for solid waste planning and disposal has been the City of Leavenworth.

House Bill 2801 assumes that counties are the best unit of local government to handle solid waste planning and management. History shows that this has not been the case in Leavenworth County. Sixty percent of the County's population resides within Leavenworth's corporate limits and 80% of the County's population resides within the County's six incorporated cities. Although Leavenworth County is currently attempting to update its 1974 solid waste management plan, it is interesting to note that only

one of the six municipalities within the County is supporting that effort, due to the County's inability to develop a plan that will meet the needs of its municipalities.

As presently drafted, House Bill 2801 does not even provide proportionate representation on county solid waste management committees. Over 60% of Leavenworth County's population lives within the City of Leavenworth, yet the Mayor of Leavenworth makes only one appointment to the committee. It is easy to see how a county-wide solid waste management plan might be developed that does not take into consideration the needs and requirements of the municipalities which are the population centers of the county. Also, the bill allows for county commissioners to serve on the solid waste management committee. Should county commissioners serve on a committee to draft a solid waste management plan which in turn the county commission must adopt? I do not feel that the individuals who must approve the plan should also serve on the advisory committee that develops and proposes the plan.

In closing, I would urge the Senate Committee on Energy and Natural Resources to amend House Bill 2801 so as to allow municipalities with existing solid waste management programs and/or permitted landfills to continue those programs and landfill operations and deal with solid waste planning, management, and disposal issues at the municipal level.

MEMORANDUM

TO: Representative Clyde Graeber

FROM: W. Mark Pentz *WMP* City Manager

RE: ADDITIONAL INFORMATION ON SOLID WASTE MANAGEMENT IN
LEAVENWORTH COUNTY

DATE: March 24, 1992

For the last 25 years the City of Leavenworth has been the governmental agency in Leavenworth County that has taken the responsibility for solid waste management and disposal. Although refuse has been collected by both private and municipal haulers, it has been the City of Leavenworth that has owned and operated the landfills which have provided a site for county-wide disposal of refuse.

In 1968 the City of Leavenworth opened and operated a small landfill at 3rd and Marion Streets and made this landfill available to all haulers, municipalities and individuals within the County. When this landfill reached capacity in the early 1970's, the City of Leavenworth purchased a new site on Gilman Road and began operating its current landfill that has served both City and County haulers and residents since 1973. This landfill has been continuously permitted by KDHE since that time.

With the adoption in 1970 of the State's Solid Waste Management Act, Leavenworth County was required to develop a solid waste management plan. Since the City of Leavenworth was already operating a permitted landfill, in November of 1973 the County Commission asked the City for permission to incorporate the City's landfill as the designated disposal site for the County's solid waste management plan which had to be completed by June of 1974. Since the City had historically provided landfill space for County residents and other municipalities, the City agreed to this request and allowed the County to incorporate Leavenworth's municipally-owned and operated landfill into the County's plan. The County's 1974 plan stated that when the City's landfill reached its design capacity in the early 1980's, the County would assume responsibility and have a new landfill sited and ready for operation. In fact, the County's 1974 plan estimated that the City's landfill would be at design capacity by 1983. The plan stated that the County would initiate planning efforts by the mid 1970's in order to have a new landfill operational by 1983.

Leavenworth County did not follow through with the commitment in its plan to site and develop a new landfill which would be ready for operation by the early 1980's. Since the County took no action to comply with its plan, prior to the City's landfill reaching its design capacity in 1985, the City requested and received a permit amendment from KDHE to open a new fill area that would extend the landfill's life by another 2 to 3 years.

In the spring of 1988, the City's landfill reached the design capacity as allowed through the 1985 permit amendment. Prior to this date, Leavenworth County still took no action to implement the requirements of its 1974 plan and provide for an alternate location in the County for solid waste disposal. In the spring of 1988 the City closed its landfill to commercial haulers. At the request of KDHE, and at considerable expense to the City, the landfill was kept open to City and County residents depositing refuse in vehicles no larger than pickup trucks. This was done as part of an effort to keep illegal dumping from occurring throughout the County. Also, by keeping the landfill open on a limited basis, the City was able to keep its landfill permit intact. Although the City, through discussions with KDHE staff members, knew that vertical expansion was a possibility which would extend the life of the City's landfill, the City had exhausted the available cover material at the site. Without a cheap source of cover material, it did not appear economical to pursue the vertical expansion alternative.

In the spring of 1988 the City of Leavenworth began hauling its refuse to the Deffenbaugh landfill in Johnson County. Other communities in the County and private haulers also had to find out-of-county disposal sites. The 40-mile round trip to the Johnson County landfill and the tipping fees at that landfill have dramatically increased the City's hauling costs. For example, in the spring of 1988 when the City first began hauling to the Johnson County landfill, tipping fees were \$10.50 per ton. At the present time, tipping fees are \$16.50 per ton, a 57% increase in 4 years. Assuming the same percentage increase over the next 4 years, we estimate that the tipping fee will increase to \$26.00 per ton by 1996. During the period that the City of Leavenworth has hauled to the Johnson County landfill, our own residential refuse rates have increased from \$5.25 per month to \$7.75 per month.

By January of 1991, the City of Leavenworth had identified a possible source of cheap cover material which could make the vertical expansion of its landfill feasible. KDHE staff had also reiterated their opinion that vertical expansion was a feasible alternative. The City of Leavenworth retained Black &

Veatch, Consulting Engineers to develop a vertical expansion plan. Black & Veatch recommended that a 20-foot vertical expansion would extend the life of the City's landfill by an estimated 10 years. Since EPA's Subtitle D regulations were in draft form, the vertical expansion plan took into consideration additional costs associated with complying to the new regulations. KDHE staff has stated that there is no engineering or technical reason as to why a vertical expansion of our existing landfill footprint would not work.

By expanding vertically, the Leavenworth staff has estimated that the annual savings to the City of Leavenworth and its taxpayers would be approximately \$200,000 annually in 1992 dollars. This savings is due to the reduced cost of hauling to an out-of-county landfill and the avoidance of skyrocketing tipping fees at the privately-owned Johnson County landfill. This would translate to a \$2 million savings in 1992 dollars over the 10-year estimated life of the vertical expansion. If one assumes that tipping fees of privately-owned landfills will continue to escalate, then the savings to Leavenworth citizens will probably be closer to \$4 million. By expanding the City-owned landfill vertically, the facility would continue to serve other municipalities within the County as well as rural residents and the private haulers operating in the area.

When the City of Leavenworth submitted its vertical expansion plan to KDHE for a permit amendment in July of 1991, the Leavenworth County Commission responded with a letter to the City opposing the vertical expansion. The County Commission stated that the County had other plans for the disposal of solid waste which do not include the vertical expansion of the City's landfill. The County Commission stated that,

"The plan for Leavenworth County will utilize the services of a private solid waste disposal company. This selected company will develop a central transfer station and satellite transfer stations within the County, with the transportation of solid waste to final disposal sites outside of Leavenworth County. Private and municipal solid waste haulers would not be affected by this plan except they would be required to haul their solid waste to the transfer stations when they are available."

In October of 1991, the County Commission proceeded to re-activate the County's Solid Waste Management Planning Committee to develop a new plan for solid waste disposal within Leavenworth County. The County Commission has also attempted to block KDHE's approval of the City's vertical expansion plan.

Between October, 1991 and March, 1992, the County's Solid Waste Management Planning Committee has been working on a new plan. As prophesied in the County's July 23, 1991 letter to the Leavenworth City Commission, the plan developed by this committee and approved by the County Commission does not include the continued use of the City of Leavenworth's landfill for solid waste disposal. The plan states that refuse should be hauled to out-of-county locations and recommends that in 1992 the County should "consider requests for proposals (RFP) for transfer station(s)." At the request of KDHE, on February 5, 1992 the City of Leavenworth did make a presentation to the committee on the alternative of the City expanding its landfill vertically. This recommendation from the City was not accepted by the committee and is not included as part of the committee's plan. It is interesting to note that only one of the County's six municipalities has either participated in and/or currently supports the solid waste management plan developed by the County.

Over the last 20 years, Leavenworth County has been incapable of dealing with solid waste planning and management. This is clearly demonstrated by the County's record of not adhering to and implementing its 1974 plan. The City of Leavenworth has taken responsibility for solid waste disposal. It has owned and operated the landfills serving the County since 1968. It has also assumed the liability associated with those landfills. After having assumed no responsibility for the past 20 years, the County's 11th hour effort to amend its solid waste management plan and prevent the City of Leavenworth's proposed vertical landfill expansion is deplorable.

KDHE argues that the smallest unit of government responsible for solid waste management planning should be the County. Although this may work in other parts of the state, the record shows that Leavenworth County has been unable to deal with this issue and develop a plan acceptable to the municipalities where over 60% of the County's population resides. The City of Leavenworth believes that HB 2801 should be amended so that cities retain the option of developing their own solid waste management plans. At a minimum, cities such as Leavenworth that currently operate permitted landfills should be allowed to continue landfill operations under KDHE's oversight and regulation.

CC: Senator Ed Reilly

WMP:ssb

COUNTY OF LEAVENWORTH

COURTHOUSE
4th & WALNUT
LEAVENWORTH, KANSAS 66048
Area Code (913) 684-0400



July 23, 1991

FROM THE OFFICE OF:

BOARD OF COUNTY COMMISSIONERS

Mayor Joel Grodberg
Members of the City Commission
City of Leavenworth
City Hall
Leavenworth, Kansas 66048

Honorable Mayor and City Commissioners:

The Board of County Commissioners is aware of your discussion of the possibility of re-opening your sanitary landfill. The Board of County Commissioners wish to inform you that Leavenworth County has definite plans regarding the disposal of solid waste that are about to be implemented. These plans do not include the re-opening of the City of Leavenworth landfill.

The plan for Leavenworth County will utilize the services of a private solid waste disposal company. This selected company will develop a central transfer station and satellite transfer facilities within the County, with the transportation of solid waste to final disposal sites outside of Leavenworth County. Private and municipal solid waste haulers would not be affected by this plan except they would be required to haul their solid waste to the transfer stations, when they are available.

As Leavenworth County is in the process of implementing this plan, we request that you withhold action to re-open your sanitary landfill.

BOARD OF COUNTY COMMISSIONERS
OF LEAVENWORTH COUNTY, KANSAS

Edward E. Powers

Edward E. Powers, Chairman

Kevin E. Reardon

Kevin E. Reardon, Member

Donald F. Aaron

Donald F. Aaron, Member

City-County Probation
684-0760

Council on Aging
684-0777

Emergency Medical Service
684-0788

Noxious Weeds
684-0494

Community Corrections
684-0775

County Infirmary
684-1010

Health Department
684-0730

Sheriff *J.S.*
682-5724



TESTIMONY

by

The Kansas Aggregate Producers' Association

Before the

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Regarding HB 2801 - Solid Waste

March 25, 1992

Good morning, Mr. Chairman and members of the committee. Thank you for the opportunity to appear before you today with our comments on House Bill 2801. My name is Edward R. Moses. I am the Managing Director of the Kansas Aggregate Producers' Association.

The Kansas Aggregate Producers' Association initially supported HB 2801 as amended by the House Energy and Natural Resources committee. As a result of a new amendment attached during floor debate in the House, we are now opposed to this measure.

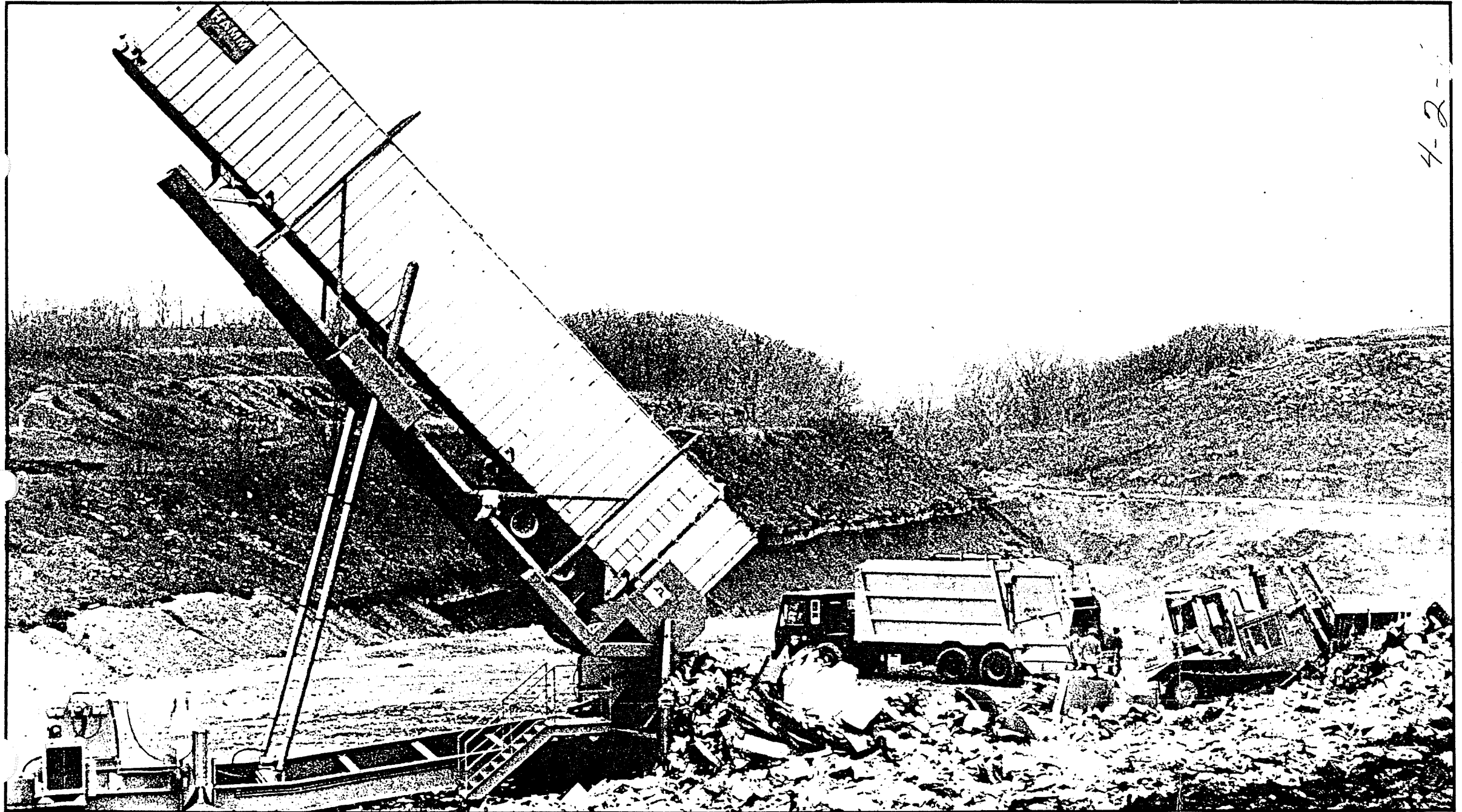
For many years members of our industry have sought innovative solutions to employ in the reclamation of quarry sites. Among the most promising technologies is the conversion of geographically suitable quarry sites for the disposal of solid waste. The Hamm Quarry/Landfill operating in Jefferson county is one of the best examples of such a conversion. These operations may last for several hundred years thereby providing long term solutions to solid waste management problems.

Because the planning, management, and financial timelines associated with such operations are long, these operations must be assured of a steady flow of solid waste. The imposition of a mandatory \$25 per ton fee on waste generated outside this state or outside a certain region could make current conversion operations economically unattractive and prohibit the future development of conversion operations. As such a fee, if enacted, could severely limit the sources of solid waste available to those operations. Especially since the location of geographically suitable sites is regulated by nature and cannot be relocated by political subdivision.

Since sources of solid waste generation vary now and will vary in the future according to demographic and economic needs it would seem unwise to adopt a public policy that would inhibit the future planing and implementation of professionally developed solid waste management operations. Consequently, we respectfully suggest the provisions of HB2801 requiring a \$25 per ton fee and mandating fees for sources generated outside a region be stricken from this bill.

The Kansas Aggregate Producers' support passage of the other provisions of this bill. I will be happy to answer any questions you may have at this time.

EUR
3-26-92
attachment 4
4-1



4-2-

At the Hamm quarry site, huge trash trucks are mechanically tilted and their loads of refuse dumped into former stone pits.

The Hamm quarry is a huge and environmentally favorable site for trash disposal

Joe Bathke
Staff Writer

The Hamm quarry near Lawrence is quite possibly the biggest hole in northeast Kansas.

That hole is slowly — very slowly — filling up with garbage as Hamm's trucks haul trash there from municipalities near and far.

Not the least of the quarry's customers is Riley County, which has been dumping at the quarry since the beginning of the year.

Riley County "discovered" the Hamm quarry just in time. Riley County faced a deadline to close its landfill last year because of groundwater contamination, and desperately needed a place to take its trash.

"Like we say in the Army, 'You have to do something, even if it's faint,'" said Riley County Commissioner Wilton Thomas.

The county searched for a new landfill site. But wherever it turned it rammed head on into the NIMBY syndrome (Not In My Back Yard) as potential sites gradually got shot down by angry residents and other problems arose.

Also, the county faced steep costs and possible environmental hazards if it developed its own landfill, said John Sjo, Riley County commissioner.

Hamm, meanwhile, learned about the county's landfill negotiations and wanted the business.

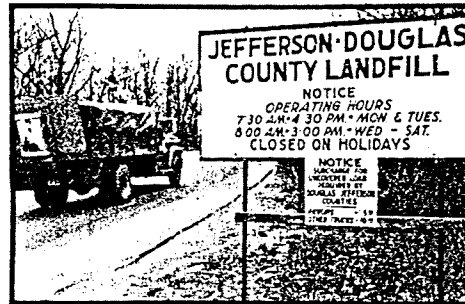
"We felt that our landfill would suit them better and give them a little more flexibility and also be a lot more economically beneficial to them," said Charlie Sedlock, general manager of Hamm.

Now the County Commission and Hamm both seem to be happy.

"If there's an ideal place for a landfill, this is it," said Sedlock.

Hamm seems to have found an ideal hiding place for a landfill, too. About five miles east of Hamm's headquarters in Perry, a road heading north from U.S. 24 rises out of the floodplain and emerges from the trees to reveal the giant gash in the earth.

Future Pit



The landfill covers 420 acres. It has been in operation 10 years and has about 400 years of life left, Sedlock said.

"We have quite a ways to go," he said.

Arriving trucks rumble onto a scale and rumble off to their dumping spot. A new scalehouse, which will be outfitted with computers that track where each load is going, will be completed in the spring.

Norman Hamm started the company in the 1930s as a wheat-harvesting company, and bought the company's first quarry in the 1950s.

Today, the company is run by Gary L. Hamm, Norman's son, and Rod Hamm, Gary E. Hamm and Brad Hamm, Norman's grandsons. Depending on construction projects at a given time, the company has from 130 to about 300 employ-

ees.

The company owns three quarries and operates 43 on a lease arrangement. The Perry quarry is the largest, and it's the only one used as a landfill.

"We do as much as we can to keep it clean around here," Sedlock said.

The geology of the site helps, too. There is 143 feet of shale under the landfill to prevent contaminants from getting into the groundwater. In addition, more shale is crushed, spread and packed into the landfill floor before dumping begins in a new area.

"It's true that all geology is not equal," Sedlock said. "Here we've been blessed with the best landfill geology."

Hamm also has done its homework on landfill operation. It has gotten a head start on implementing federal regulations that govern location, environmental precautions, record keeping, closure and other aspects of landfills.

Sedlock said the company saw these regulations coming, and will meet the October 1993 deadline for implementation. He predicted that regional landfills will be in demand across the country as cities and counties struggle to meet the requirements.

Dan Harden, Riley County public works director, said he was impressed with the company's preparation.

"They always say the company motto is 'Do it right the first time,' and I think that holds true," he said.

One of the requirements is a leachate collection system, which is designed to catch water and other fluids that collect in garbage. Hamm has a system of perforated pipes snaking under the landfill that catch the leachate. The leachate flows by gravity to a large tank at the west end of the landfill. Workers later spread the leachate over plants in the area to provide nourishment. Workers install the lines in sections. About 72,000 feet of leachate line — almost 14 miles — will be installed, Sedlock said.

Hamm employees have started filling the east side of the landfill and are working their way west. They work back and forth across the landfill, filling up a section, or "cell," before moving on.

Riley County accounts for about 125 of the 400 tons of trash dumped at the landfill every day except Sunday. The county ranks second behind Douglas County in amount of trash dumped.

About 100 "core customers" use the landfill, including Jefferson County.

Manhattan dumps five truckloads a day at the Hamm quarry. At 25 tons per truck at a cost of 22.50 per ton, Riley County pays about \$2800 a day to dump at the quarry.

4-3



4-4

As signs indicate, the quarry was established to serve the needs of residents of Jefferson and Douglas counties.

Once the trucks reach Hamm, they are driven onto a portable platform, where the trailers are lifted nearly perpendicular to the truck bed. Trash and grime have no problems oozing out of the Teflon-lined trailers.

No recycling is done at the quarry, Sedlock said. The market for recyclable goods does not make recycling a financially worthwhile venture, he said.

Nor is any hazardous waste accepted. The Environmental Protection Agency confirmed that the landfill could be used as a hazardous waste dumping site, but Hamm wants to keep the landfill as clean as possible.

"We're real picky about what we take," Sedlock said.

In about 400 years, when it's time to close the landfill, Hamm expects to have those costs taken care of. It has established a trust fund to take care of closure costs, which include covering the landfill, seeding it with grass and monitoring it for methane production. The landfill could possibly be used as a park or a golf course after it's closed.

Riley County's contract with the landfill runs for two years with an option for a third year. After that, a new contract can be drawn. Sjo said he's not sure how much longer the county will dump at Hamm or what else the county might do. But he added that "it will be awfully hard for us to match the cost to the county."

Photos by John LaBarge

1 preceding month as certified to the board by the director of accounts
 2 and reports; and (2) the average interest rate on time deposit, open
 3 accounts for that period as determined under K.S.A. 75-4212, and
 4 amendments thereto. On or before the fifth day of the month fol-
 5 lowing the month in which moneys are first credited to the solid
 6 waste management fund, and monthly thereafter on or before the
 7 fifth day of the month, the director of accounts and reports shall
 8 certify to the pooled money investment board the average daily
 9 balance of moneys in the solid waste management fund during the
 10 preceding month.

11 (g) The solid waste management fund shall be used for the pur-
 12 poses set forth in this act and for no other governmental purposes.
 13 It is the intent of the legislature that the fund shall remain intact
 14 and inviolate for the purposes set forth in this act, and moneys in
 15 the fund shall not be subject to the provisions of K.S.A. 75-3722,
 16 75-3725a and 75-3726a, and amendments thereto.

17 New Section 8. (a) ~~The secretary of health and environment~~
 18 ~~shall establish by rules and regulations a state solid waste ton-~~
 19 ~~nage fee to be imposed~~ There is hereby imposed a state solid
 20 waste tonnage fee of \$1.50 for each ton or equivalent volume of
 21 solid waste disposed of at any solid waste disposal area in this state
 22 on or after January 1, 1993. ~~No fee established pursuant to this~~
 23 ~~section shall exceed \$5 per ton or equivalent volume. The fee~~
 24 ~~may be adjusted annually.~~

25 (b) The operator of a solid waste disposal area shall pay the fee
 26 imposed by this section.

27 (c) The secretary of health and environment shall administer,
 28 enforce and collect the fee imposed by this section. Except as oth-
 29 erwise provided by subsection (b), all laws and rules and regulations
 30 of the secretary of revenue relating to the administration, enforce-
 31 ment and collection of the retailers' sales tax shall apply to such fee
 32 insofar as they can be made applicable, and the secretary of health
 33 and environment shall adopt such additional rules and regulations
 34 as necessary for the efficient and effective administration, enforce-
 35 ment and collection thereof.

36 (d) The secretary of health and environment shall remit daily to
 37 the state treasurer all moneys collected from fees imposed pursuant
 38 to this section [subsection (a)]. Upon receipt thereof, the state
 39 treasurer shall deposit the entire amount in the state treasury and
 40 credit it to the solid waste management fund created by section 7.

41 (e) ~~An additional fee~~ [Each county in this state shall impose,
 42 in addition to the fee provided for by subsection (a), a solid waste
 43 tonnage fee of \$25 for each ton or equivalent volume of solid waste,

Ed Schaub
E4 WR
3-26-92
pg 1
attachment 5-1

New Section 8. (a) There is hereby imposed a state solid waste tonnage fee of \$1.50 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. This provision shall not apply to any solid waste by-product produced and disposed of in or at a solid waste disposal area located on site.



TOPEKA

HOUSE OF
REPRESENTATIVES

JOHN D. McCLURE
REPRESENTATIVE, 119TH DISTRICT
RT 1 BOX 124
GLEN ELDER, KANSAS 67446
(913) 545-3592

COMMITTEE ASSIGNMENTS
VICE-CHAIRMAN: ENERGY AND
NATURAL RESOURCES
MEMBER: GOVERNMENTAL ORGANIZATION
TRANSPORTATION

TESTIMONY ON HB 3153

Mr. Chairman, members of the Senate Energy and Natural Resources Committee, thank you for the opportunity to speak to HB 3153.

HB 3153 amends the underground storage tank trust fund law to open a window to allow people who owned a storage tank before December 23, 1988, and never used the tank, to access the trust fund without meeting a deductible requirement. This window generally benefits small business owners and retirees who would have a difficult time meeting even a limited deductible. Program officials at KDHE have indicated that the limited number of sites this provision applies to, wouldn't threaten the trust fund's integrity.

The bill also amends the deductible section of the current law. It replaces the existing deductible formula with a per occurrence deductible of \$3,000 plus \$500 for each tank owned or operated. For example, under existing law an eligible owner with 5 tanks would pay a per occurrence deductible of \$10,000. With the changes proposed in HB 3153, this same tank owner operator would pay that \$3,000 base amount plus \$500 per tank for a total of \$5,500 for each occurrence. The deductible is capped at \$100,000 just like current law. Without this cap the deductible for operators with more than 194 tanks would exceed the current maximum.

The bill also allows owners or operators of tanks who have applied to the trust fund for reimbursement on or after April 1, 1990 up to the July 1, 1992 effective date of the act, to choose which deductible will apply. If the new deductible is lower they may apply to the secretary for a refund.

Questions were asked in the House Committee about this refund if the owner or operator who paid the original deductible wasn't available. A committee amendment was approved that allows the person who currently owns the property to apply for the refund. I discovered that this amendment conflicts with the way KDHE tracks storage tanks. They track the tanks by who they are registered to, not the specific property. This language would also be a problem in cases where the operator of the tank isn't the owner of the property. I've worked with KDHE, the revisors office and Senator Lee to develop language to make it clear that only the person who paid the

FYUR

3-26-92

Attachment 6

original deductible is eligible to apply for and receive a refund.

This proposed change in the deductible was intended to benefit owners or operators of small service stations and other small businesses with less than 30 tanks. However, there are other benefits from adopting this proposal.

Concerns were raised about tank owners or operators with only a few tanks but meet the financial test of a self insured, being able to access the trust fund with a much lower deductible than the current \$100,000 they would pay. What I found was that a great majority of the self insured were not big oil companies. The largest number are actually state agencies and local units of Government. (See attachment Self Insured UST Owners) An example of this is the Kansas Soldier's Home. The home has one heating oil storage tank. \$18,600 of SGF has already been spent to clean up this tank and projections are that the total clean up may exceed \$100,000.

Another benefit of the new deductible formula is it lessens the likelihood that the program will be challenged in court for arbitrarily excluding anyone from participating. Because the deductible formula in HB 3153 is tied strictly to the number of tanks, a clear argument can be made that it reflects the risk of a release. More tanks, more risk. Avoiding this kind of suit will let KDHE focus it's resources on cleaning up leaking tanks instead of tying them up in a court battle.

I want to inform the committee that one of my interests in this issue is to establish a comparable trust fund for above ground storage tanks. Currently the operators of above ground tanks must collect the .01¢ per gallon, yet they are unable to access the trust fund if a release occurs. KDHE statistics indicate there are 36 above ground tanks*. While this is a much smaller number than the UST's in the state, the environmental damage from a release is the same, regardless of which kind of tank it came from.

I wasn't able to get the details worked out on an above ground fund amendment in time to get it adopted in the House. Senator Lee will be offering a substitute bill to accomplish this.

The substitute bill will incorporate the provisions of HB 3153 with language to create a separate above ground tank fund. The major provisions of the above ground amendments are as follows:

1. Establishes a separate above ground tank trust fund with a provision to shift the .01¢ per gallon assessment to the above ground tank fund when the UST fund fills up. The above

- ground fund will build to \$5,000,000, same as the UST fund.
2. Provides for the same deductible established in HB 3153. A \$3,000 base plus \$500 per tank.
 3. Excludes tanks at pipeline terminals from participating in the fund.
 4. Excludes petroleum producers and refiners (same as UST program)
 5. Exempts farm tanks under 1100 gallons from registration, but allows them to participate in the fund. (same as farm UST's)
 6. Exempts all above ground tanks under 660 gallons from registration but allows them to access the fund.

Thank you for your consideration.

SELF-INSURED UST OWNERS

<u>COMPANY TYPE</u>	<u>NUMBER WITH REGISTER USTS</u>	<u>NUMBER OF APPLICATIONS</u>
<u>Non-marketer</u>		
Trucking/shipping	4	3
Railroads	3	0
Utilities	6	0
other	22	13
<u>Marketers</u>		
<u>School Districts</u>	9	6
<u>State Agencies</u>	12	1
<u>State Agencies</u>	24	5
<u>Municipal Government</u>	47	5
Estimated totals	127	33

The company type information represents the companies main revenue source.

Post-It™ brand fax transmittal memo 7671 # of pages > 1

To <i>Larry Kucke</i>	From <i>Carolyn</i>
Co. <i>LSOB</i>	Co. <i>PER</i>
Dept. <i>Personnel Office</i>	Phone # <i>1660</i>
Fax #	Fax #

Call me when you receive this



Department of Health and Environment

Azzie Young, Ph.D., Secretary

Reply to:

Testimony Presented to

Senate Committee on Energy and Natural Resources

by

Kansas Department of Health and Environment

House Bill 3153

My name is Larry Knoche, Bureau Director for the Bureau of Environmental Remediation of the Kansas Department of Health and Environment. I am here this morning to testify on House Bill 3153 which amends the Kansas Storage Tank Act.

House Bill 3153 changes the existing law by eliminating the distinctions between marketing, non-marketing, and self-insured facilities regarding the deductible liability of owners/operators of underground petroleum storage tanks for costs of corrective action taken in response to a release. Amended House Bill 3153 was drafted to address the deficiencies outlined in Attorney General's Opinion No. 91-121, which challenged the constitutionality of the Trust Fund deductible system. The amended bill, as proposed, requires a deductible of \$3,000 plus \$500 for each underground storage tank owned or operated in Kansas. This deductible scheme satisfies the challenges raised in the Attorney General's Opinion.

Changing the deductible liability limits will effect the deductible in proportion to the number of tanks owned or operated. According to our registration records, approximately 26 owners would be adversely affected by the proposed changes, while over 3,000 owners would realize a reduction in their deductible. The provisions of this bill would not increase any owner's deductible for sites where an application has already been submitted for reimbursement from the Petroleum Storage Tank Release Trust Fund.

The agency estimates the maximum fiscal impact of implementing the proposed new deductible rates would be \$3,281,000.00 for the 361 sites which have made application to the Trust Fund. This amount is based on calculating the difference between the existing and proposed deductible amounts. Most of the fiscal impact is because many self-insured owners presently in the Trust Fund do not own or operate large numbers of petroleum storage tanks.

EJR
3-26-92

This bill also re-opens a zero (\$0) deductible which allows many non-user tank owners and property owners to address tank problems without paying a deductible. The department has documented 48 sites which would presently be eligible for the zero deductible if House Bill 3153 is enacted. The cost to the fund will be approximately \$249,000.00. This estimate represents 2.4 eligible sites being reported each month.

The bill as passed by the House changes the deductibles to address inequities between marketing, non-marketing, and self-insured facilities as described in the Attorney General's Opinion; however, it does not address inequities regarding aggregate reimbursements for the life of the Trust Fund, nor the different treatment of owners and operators who can self-insure, cooperatives, and those engaged in the production or refining of petroleum products.

New subsection (g) provides that persons who own property where an underground petroleum storage tank is located may receive reimbursement from the Trust Fund without paying a deductible if they have never used the tanks, and: 1) they have submitted a corrective action plan prior to July 1, 1990; 2) acquired the tank before December 22, 1988; or 3) inherited the property. This would allow a person who leased their property to a petroleum marketer to be eligible for a zero deductible.

New subsection (h) will allow those owners and operators who have conducted corrective action on or after April 1, 1990, to be reimbursed the difference between their deductible under current law and that proposed by House Bill 3153, provided they still own the property on July 1, 1992. If the property has been sold before July 1, 1992, the subsequent property owner can apply for the refund. Enactment of this section creates a statutory construction problem since the Trust Fund is limited statutorily to reimbursing only the owner or operator who incurs the corrective action costs. There are no provisions which would allow Trust Fund money to be reimbursed to an individual who does not bear these expenses. Further, there are no provisions for reimbursing the deductible differential to owners and operators who took corrective action between December 22, 1988, and April 1, 1990, or operators who do not own the property.

The Department is of the opinion that this legislation resolves those problems associated with the present trust fund deductibles as described in the Attorney General's Opinion.

Testimony - HB 3153
Page 3

The House amendments to House Bill 3153 inadvertently removed the retroactive clause which allowed owners/operators to file a request for reimbursement with the Trust Fund for releases occurring between December 22, 1988, (the date of enactment of the Federal law) and April 1, 1990, (the date of enactment of the Kansas Storage Tank Act). We have attached a technical amendment which addresses this oversight. The Department supports the passage of House Bill 3153 with the technical amendment.

Testimony presented by: Larry Knoche
 Director
 Bureau of Environmental Remediation
 March 26, 1992

HOUSE BILL No. 3153

By Committee on Energy and Natural Resources

2-26

9 AN ACT amending the Kansas storage tank act; amending K.S.A.
10 1991 Supp. 65-34,119 and 65-34,120 and repealing the existing
11 sections; also repealing K.S.A. 1991 Supp. 65-34,119a.
12

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

14 Section 1. K.S.A. 1991 Supp. 65-34,119 is hereby amended to
15 read as follows: 65-34,119. (a) *Subject to the provisions of subsection*
16 *(b), an owner or operator of an underground petroleum storage tank,*
17 ~~either than~~ *is entitled to reimbursement of reasonable corrective*
18 *action costs from the fund if:*

19 (1) *The owner or operator is not the United States government*
20 *or any of its agencies, who;*

21 (2) *the owner or operator is in substantial compliance, as pro-*
22 *vided in subsections (d) and (e), and who (e) and (f); and*

23 (3) *the owner or operator undertakes corrective action, either*
24 *through personnel of the owner or operator or through response*
25 *action contractors or subcontractors; is entitled to reimbursement*
26 *of reasonable corrective action costs from the fund.) **

27 (b) *Reimbursement pursuant to subsection (a) is subject to the*
28 *following provisions:*

29 (1) *Except as provided in subsection (a)(5), an owner or op-*
30 *erator who is not a petroleum marketer and who owns or op-*
31 *erates not more than four underground petroleum storage tanks*
32 *shall be liable for the first \$5,000 of costs of corrective action*
33 *taken in response to a release from any such petroleum storage*
34 *tank, provided all petroleum or petroleum products are not*
35 *stored for purposes of resale;*

36 (2) *Except as otherwise provided by subsections (a)(1) and*
37 *(a)(5), the owner or operator of not more than 12 underground*
38 *petroleum storage tanks shall be liable for the first \$10,000 of*
39 *costs of corrective action taken in response to a release from*
40 *any such petroleum storage tank;*

41 (3) *except as provided by subsection (a)(5), the owner or*
42 *operator of at least 13 and not more than 99 underground pe-*
43 *troleum storage tanks shall be liable for the first \$20,000 of*

PROPOSED TECHNICAL AMENDMENT

for a release discovered on or after
December 22, 1988.

7-4

Chairman Doyen and Committee Members:

Thank you for taking the time to review our comments concerning HB 3153 which amends the Kansas Storage Tank Act. Currently the Coastal Corporation employs 3213 employees in Kansas through its convenience stores, refining and other operations. Our total payroll to Kansas citizens is \$34,152,000 which results in \$1,018,000 in employee taxes and \$327,000 dollars in unemployment tax to the state of Kansas. Additionally, our C-Mart operation remits to the state of Kansas \$662,913 dollars in property tax annually. We are proud of our presence as a corporate citizen in Kansas and the opportunities we have to provide employment and service to the Kansas community.

We are concerned that HB 3153 in its current form impacts adversely on our operations in Kansas. Through our C-Mart retail outlets we collected and submitted \$909,148 to the Underground Storage Tank Petroleum Release fund during its first year of operation from April 1, 1990 to April 1, 1991. Even though we collected a significant amount of the fund that caps at \$5,000,000, we were excluded from participation in the fund and continue to be, pursuant to the language contained in HB 3153. We are excluded because we are engaged in refining operations, despite the fact that we are one of the largest contributors to the fund.

Excluding Coastal from participation in the fund because we are engaged in the refining of petroleum products is not consistent with the rationale of protecting the environment and ensuring clean up of underground petroleum releases. Both current law and HB 3153 contain this exclusion.

The exclusion of our retail outlets from participation in the fund because we refine in other locations should be addressed when considering this legislation. We have attached to this testimony an amendment that will allow our facilities that are not engaged in production or refining to participate in the fund.

The deductible language contained in HB 3153 further exacerbates our situation by creating a deductible of \$100,000 per release from any tank by using a multiplier of \$500 per tank for every tank owned in the state of Kansas. Even if the refining exclusion is addressed, the deductible language in HB 3153 would still have the practical effect of excluding our participation. We recommend that the committee adopt language that restricts the \$500 per tank multiplier to the site where the release occurs. We have attached an amendment to accomplish this request.

Thank you for taking the time to review our concerns regarding HB 3153. We would be happy to provide any further information you might require.

E+NR
3-26-92
-8-1

attachment 8

8-2-

1 costs of corrective action taken in response to a release from
2 any such petroleum storage tank;

3 (4) except as provided by subsection (a)(5), the owner or
4 operator of more than 99 underground petroleum storage tanks
5 shall be liable for the first \$60,000 of costs of corrective action
6 taken in response to a release from any such petroleum storage
7 tank;

8 (5) an owner or operator who complies with the provisions
9 of subsection (a)(16)(B) shall be liable for the first \$100,000 of
10 costs of corrective action taken at any one location of one or
11 more underground petroleum storage tanks unless the owner
12 or operator submits to the secretary proof, satisfactory to the
13 secretary, that: (A) Such owner or operator is an association
14 organized under the cooperative marketing act (K.S.A. 17-1601
15 et seq. and amendments thereto); (B) all businesses in which
16 such association's underground petroleum storage tanks are
17 used are owned and operated by such association; and (C) such
18 association is not engaged in production or refining of petro-
19 leum products subsections (g) and (h), the owner or operator of
20 an underground petroleum storage tank shall be liable for the first
21 costs of corrective action taken in response to a release from any
22 such tank in an amount equal to the first \$3,000 plus \$500 for each
23 such tank in Kansas owned or operated by the owner or operator
24 or \$100,000, whichever is less;

at the site of the release

25 (6) (2) the owner or operator shall be liable for all costs of
26 corrective action related to a release if the secretary determines that
27 such owner or operator allowed, failed to report or failed to take
28 corrective action in response to such release, knowing or having
29 reason to know of such release;

30 (7) (3) the owner or operator must submit to and receive from
31 the secretary approval of the proposed corrective action plan, to-
32 gether with projected costs of the corrective action;

33 (8) (4) the secretary may, in the secretary's discretion, determine
34 those costs which are allowable as corrective action costs and those
35 which are attributable or ancillary to removal, replacement or re-
36 trofitting of underground storage tanks;

37 (9) (5) the owner or operator or any agents thereof shall keep
38 and preserve suitable records demonstrating compliance with the
39 approved corrective action plan and all invoices and financial records
40 associated with costs for which reimbursement will be requested;

41 (10) (6) within 30 days of receipt of a complete corrective action
42 or as soon as practicable thereafter, the secretary shall make
43 determination and provide written notice as to whether the owner

8-8

or operator responsible for corrective action is eligible or ineligible for reimbursement of corrective action costs, and should the secretary determine the owner or operator is ineligible, the secretary shall include in the written notice an explanation setting forth in detail the reasons for the determination;

(11) (7) the owner or operator shall submit to the secretary a written notice that corrective action has been completed within 30 days of completing corrective action;

(12) (8) no later than 30 days from the submission of the notice as required by subsection (a)(11) (b)(7), the owner or operator must submit an application for reimbursement of corrective action costs in accordance with criteria established by the secretary, and the application for reimbursement must include the total amount of the corrective action costs and the amount of reimbursement sought. In no case shall the total amount of reimbursement exceed the lesser of the actual costs of the corrective action or the amount of the lowest bid submitted pursuant to K.S.A. 1989 1991 Supp. 65-34,118 and amendments thereto less the appropriate deductible amount;

(13) (9) interim payments shall be made to an owner or operator in accordance with the plan approved by the secretary pursuant to K.S.A. 1989 1991 Supp. 65-34,118 and amendments thereto, except that the secretary, for good cause shown, may refuse to make interim payments or withhold the final payment until completion of the corrective action;

(14) (10) the owner or operator shall be fully responsible for removal, replacement or retrofitting of underground petroleum storage tanks and the cost thereof, and costs attributable or ancillary thereto, shall not be reimbursable from the fund;

(15) (11) the owner or operator shall provide evidence satisfactory to the secretary that corrective action costs equal to the appropriate deductible amount have been paid by the owner or operator, and such costs shall not be reimbursed to the owner or operator;

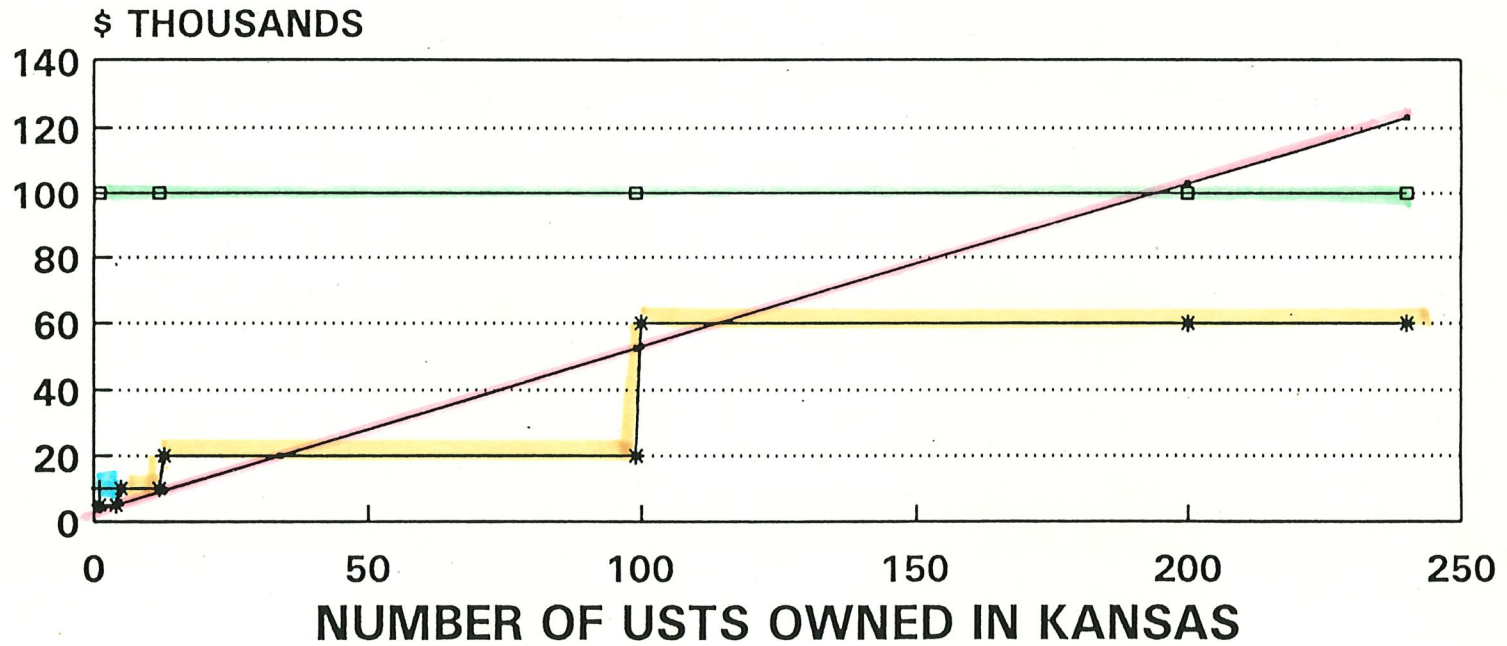
(16) (12) the owner or operator submits to the secretary proof, satisfactory to the secretary, that: (A) Such owner or operator is unable to satisfy the criteria for self-insurance under the federal act; or (B) such owner or operator is able to satisfy the criteria for self-insurance under the federal act but is not engaged in production or refining of petroleum products; and

(17) (13) the owner or operator shall be liable for all costs which are paid by or for which the owner or operator is entitled to reimbursement from insurance coverage, warranty coverage or any other source.

(b) (c) For the purpose of determining an owner's or operator's

the release is from an underground storage tank not located at a facility

PETROLEUM STORAGE TANK RELEASE TRUST FUND DEDUCTIBLES



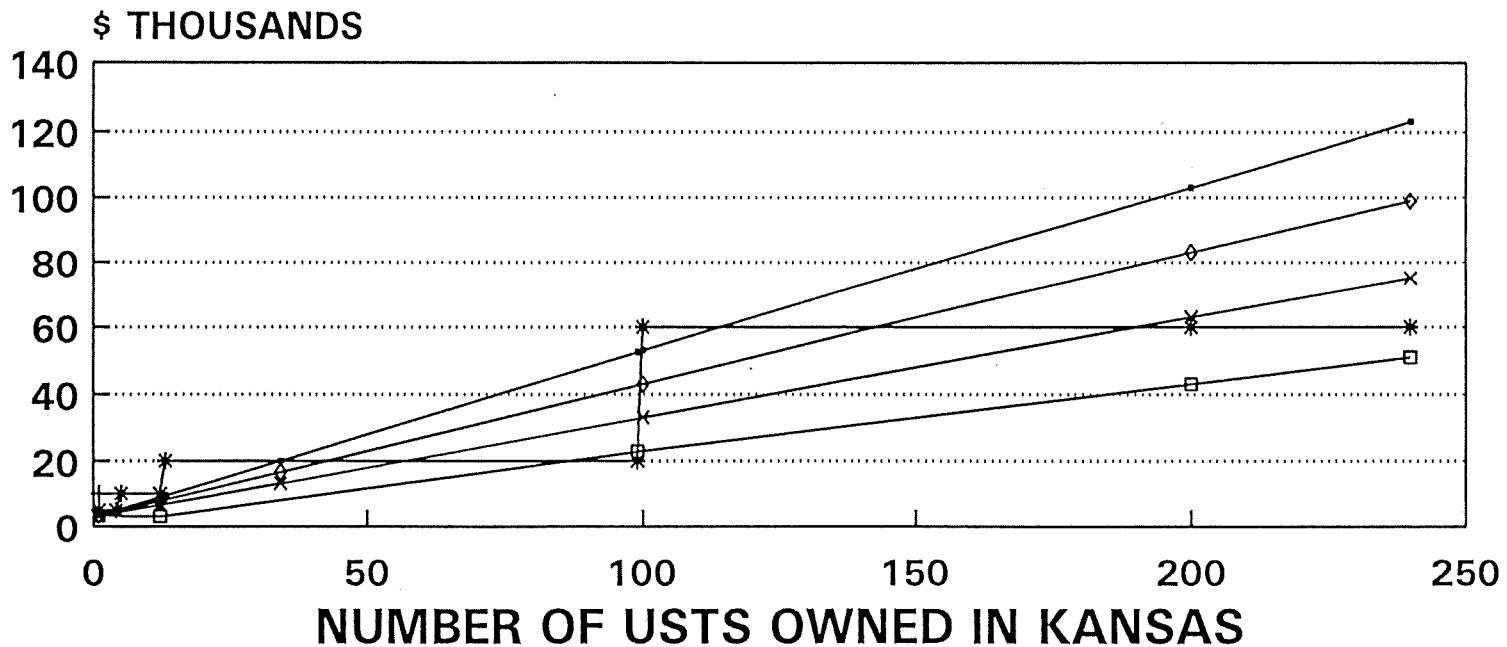
OWNER TYPE

—●— PROPOSAL NO.1
 —*— NON-MARKETERS

—+— MARKETERS
 —□— SELF-INSURED

8-4.

PETROLEUM STORAGE TANK RELEASE TRUST FUND DEDUCTIBLES



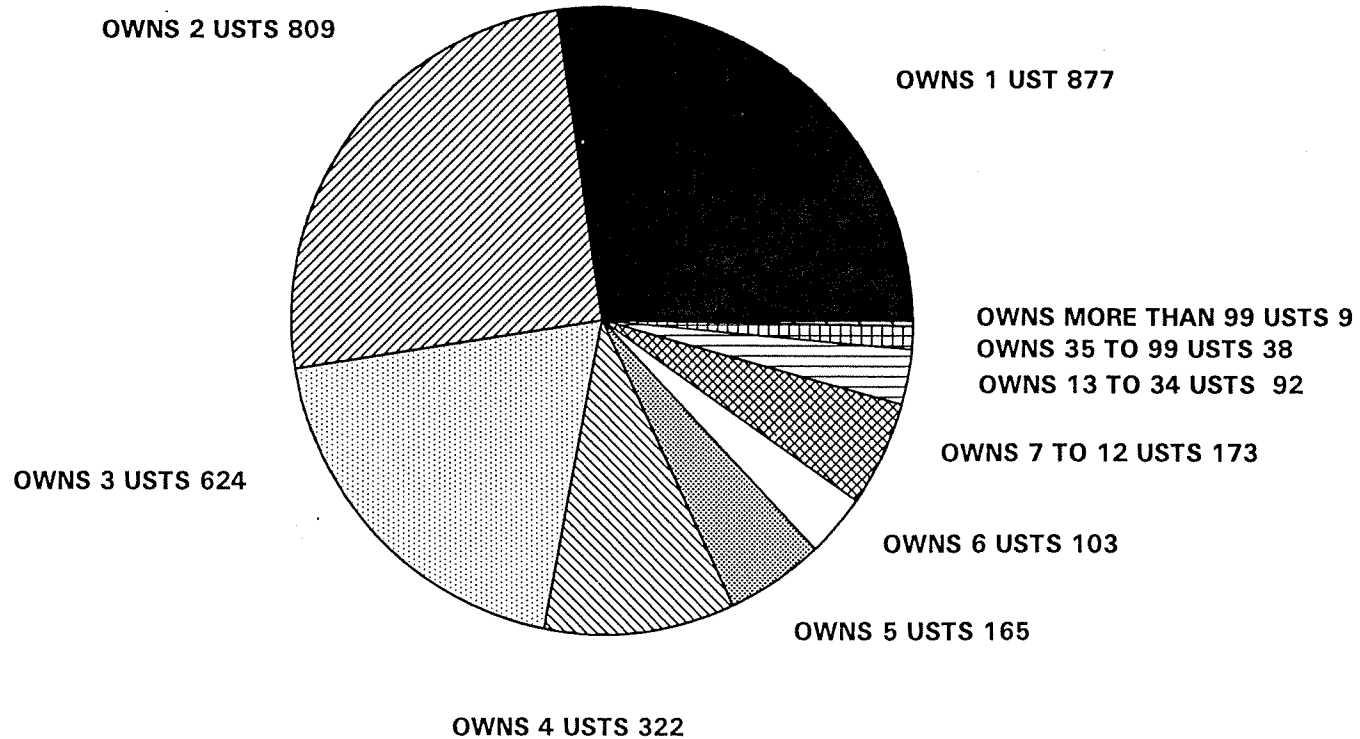
OWNER TYPE

- | | | |
|----------------------------|----------------------------|----------------------------|
| —●— \$3000 plus \$500/tank | —+— MARKETERS | —*— NON-MARKETERS |
| —□— \$3000 plus \$200/tank | —x— \$3000 plus \$300/tank | —◇— \$3000 plus \$400/tank |

8-5

UST OWNER DISTRIBUTION

NUMBERS OF TANKS OWNED



TOTAL NUMBER OF OWNERS IS 3212

8-8
9-6

IMPACT OF THE \$0 DEDUCTIBLE PROVISION

The \$0 deductible, which was allowed by the original bill, had expired before many property owners had been able to take advantage of this provision of the fund. For this reason, a provision was made to reinstate this provision. Since the original provision expired in July 1, 1990, the department has become aware of 48 sites which would be eligible for a \$0 deductible. The 48 sites have been encountered over a 20 month period, with an estimated cost to the fund of \$249,000.

An estimate of the future cost to the program could be made by dividing the number of sites and the cost, by the time which has passed. These figures would represent an average of 2.4 sites and \$12,450 per month in cost to the fund.

The department would recommend that this provision be included as proposed, to allow property owners who discover USTs on there property in the future the benefit of a \$0 deductible.

SELF-INSURED UST OWNERS

<u>COMPANY TYPE</u>	<u>NUMBER WITH REGISTER USTs</u>	<u>NUMBER OF APPLICATIONS</u>
<u>Non-marketer</u>		
Trucking/shipping	4	3
Railroads	3	0
Utilities	6	0
other	22	13
 <u>Marketers</u>		
<u>School Districts</u>	12	1
<u>State Agencies</u>	24	5
<u>Municipal Government</u>	47	5
Estimated totals	127	33

The company type information represents the companies main revenue source.