

Approved _____ Date _____

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources

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

8:04 a.m./~~p.m.~~ on March 27, 1992 in room 423-S of the Capitol.

All members were present except: Quorum was present

Committee staff present:

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

Conferees appearing before the committee:

Jim Cooper, Quiktrip Corporation
Charles Nicolay, Kansas Oil Marketers Association
Bill Fuller, Kansas Farm Bureau
Joe Lieber, Kansas Coop Council
Chris Wilson, Kansas Grain and Feed Association
Ron Hammerschmidt, Kansas Department of Health and Environment

The Chairman opened the hearing on HB 3153 - amending the Kansas storage tank act. Mr. Cooper was called on to testify.

Mr. Cooper addressed the issue of the UST Trust Fund deductible. They believe that they collect and pay into the fund, therefore they should be eligible for reimbursement money from the fund (Attachment 1).

Charles Nicolay stated in their opinion the degree of risk should be determined by per site or location and not by the total number of tanks within the boundaries of the state of Kansas. He urged that the Legislature establish a trust fund for aboveground tanks (Attachment 2). Mr. Nicolay responded to questions.

Bill Fuller urged the adoption of the amendments to expand the Kansas Storage Tank Trust Fund to include above ground tanks (Attachment 3).

Joe Lieber read, Edward Long, manager of the Kensington Cooperative Association, testimony, which requested that HB 3153 be amended to include above ground fuel tanks (Attachment 4). Mr. Lieber said his organization would support such an amendment (Attachment 5).

Chris Wilson supported amendments which would allow above ground tank owners to access the fund, and that the deductible should be assessed on a per site basis (Attachment 6). Ms. Wilson also offered an amendment on HB 2801 to change the language in the bill from "agricultural chemicals and chemical containers", to "pesticides and pesticide containers" a copy of her amendment is included in her (Attachment 6).

The hearing on HB 3153 was closed and the Chair called for Committee discussion on the bill.

Ron Hammerschmidt distributed a balloon copy of the proposed amendments on HB 2801 (Attachment 7), and a memorandum regarding those amendments (Attachment 8).

Senator Frahm distributed copies of a purposed amendment (Attachment 9).

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Energy and Natural Resources,
room 423-S, Statehouse, at 8:04 a.m./~~p.m.~~^{XX} on March 27, 1992

Senator Martin distributed copies of a purposed amendment (Attachment 10), and moved the amendment be adopted. Senator Yost seconded the motion. The motion carried.

Senator Frahm moved that her amendment be adopted as presented. Senator Lee seconded the motion. Motion carried.

Senator Hayden moved to adopt the amendments presented by the Department, and to include the amendment to strike agricultural "chemicals and chemical containers" and insert "pesticides and pesticide containers". Senator Lee seconded the motion. Motion carried.

Senator Sallee moved to amended line 26, on page 7 to the original language "encourage". Senator Frahm seconded the motion. Motion carried.

Information regarding HB 2801 was distributed from Joe Pajor and Joe Lang, city of Wichita (Attachment 11), and from Joe Freed, Kansas City, Ks. (Attachment 12).

Senator Lee distributed copies of amendments to HB 3153 that she would propose when HB 3153 was discussed.

The meeting adjourned at 9:05. The next meeting will be March 31, 1992.

19-91 SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Date March 27, 1992

PLEASE PRINT

GUEST LIST

| <u>NAME</u> | | <u>REPRESENTING</u> |
|-------------------|---------------|---------------------------------------|
| Randell Scott | Topeka | Ks. Comm. on Vets Aff. |
| Joe Lieber | " " | Ks Co-op Council |
| Bill Fuller | Manhattan | Kansas Farm Bureau |
| Chris Wilson | Topeka | KS Grain & Feed Ass'n |
| Ed Speer | Overland Park | Water District No 1 of Johnson County |
| MIKE ARMSTRONG | " | " " " |
| BURTON JOHNSON | MISSION KS | WATER DIST NO 1 JTO CO KS |
| Gary Blackburn | Topeka | KDHE |
| Larry Knoche | Topeka | KDHE |
| Pat Curry | " | " |
| Ron Hammarschmidt | Topeka | KDHE |
| Charles Nicolay | Topeka | KOMA |
| ED SCHAUB | " | KPL |
| John McAlure | Helen Elder | House |
| Rep Clyde Shuler | Lawrence | |
| MIKE WOSIENIA | TOPEKA | DOB |
| STEVE KEAGNEY | TOPEKA | COASTAL |
| Tom R. Tunnell | Topeka | Ks Grain & Feed Assn. |
| Jim Sullinger | Olathe | KCSTAR |
| Gary Dahn | Topeka | Refferbank |
| Jim Cooper | Stilwell | QUICKTRIP |

Statement of
Jim Cooper
Presented to the Senate Committee on
Energy & Natural Resources
The Honorable Ross Doyen, Chairman
March 26, 1992 Statehouse Topeka, Kansas

Mr. Chairman, members of the Committee, good morning. My name is Jim Cooper and I am representing QuikTrip Corporation. QuikTrip markets motor fuel and other consumer goods at numerous locations in Kansas. Thank you for the opportunity to present the views of QuikTrip Corporation regarding HB 3153. I am testifying as a proponent of the Bill.

Let me begin by saying that the Kansas Legislature should be commended for establishing an Underground Storage Tank trust fund three years ago. As you know, Kansas has been a leader in the environmental movement for many years, especially with regard to Underground Storage Tanks (USTs). Compared to Missouri, for example, where the LUST fund will not be finalized and working before this summer (1992), Kansas is way ahead.

There is one issue that QuikTrip feels is problematic. THAT IS THE ISSUE OF THE UST TRUST FUND DEDUCTIBLE. Since QuikTrip is a self insured Company (with respect to pollution liability) we automatically fall into the \$100,000.00 deductible category. This seems to be an extraordinarily heavy burden, and in our opinion, inequitable treatment.

In Kansas, as well as every other state in which QuikTrip operates (5 others), we have worked hard to be good corporate citizens. We believe we have conducted, and continue to conduct, business in a positive manner. QuikTrip has been in operation in Kansas since 1966 and presently has sixty-eight (68) stores in Kansas. Forty-eight (48) of these facilities are in the Wichita area and twenty (20) are in Johnson and Wyondotte counties. I should add that we are in a continuous state of renovation and construction to provide the highest quality service in an aesthetically pleasing manner. To that end, we have spent nearly \$4,000,000.00 on construction cost of new facilities in Kansas in fiscal year 1991.

At these sixty-eight (68) locations we operate 208 Underground Storage Tanks - 143 in Wichita and 65 in Johnson and Wyondotte counties. We employ more than 400 individuals in Kansas and those employees received nearly \$10,000,000.00 in wages and benefits in our 1991 fiscal year, May 1, 1990 - April 30, 1991. During the 1991 Kansas fiscal year, our payroll taxes totalled nearly \$725,000.00. Also, in calendar year 1991 sales taxes totalling approximately \$3,500,000.00 and motor fuel taxes totalling approximately \$10,200,000.00 were collected at our stores. By most yardsticks, that's putting a lot of people to work - and a lot of money into the economy. These figures show a solid and enduring presence in the State.

QuikTrip is continually working hard to provide good friendly service and quality products to our customers. We have always attempted to provide service in an environmentally safe manner. This practice is evidenced by the fact that QuikTrip founded it's

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own environmental company, BDAT Environmental, about 1 1/2 years ago, to directly address the environmental impact of USTs. That action, coupled with the fact that QuikTrip has spent nearly \$235,000.00 on site clean-up and corrective actions in Kansas, underscores our strong environmental commitment. Additionally, QuikTrip, to date, has collected and paid approximately \$150,000.00 into the Kansas UST fund. IN SPITE OF THESE FIGURES, QUIKTRIP HAS NOT BEEN ELIGIBLE FOR ONE CENT OF REIMBURSEMENT MONEY FROM THE FUND. We do not believe that the legislative intent behind the original UST trust fund legislation was, in effect, meant to exclude a conscientious company like QuikTrip from accessing the fund.

The House version of this years bill still does not reduce QuikTrip's deductible. Obviously we cannot support the deductible aspect of HB 3153 as written. QuikTrip maintains the position that the deductible should be reduced to a more reasonable and equitable level. Our view is that a \$5,000 - \$10,000 per occurrence deductible, in other words, one similar to the original draft, would be a more equitable and uniformly fair law.

In closing I want to address the fact that QuikTrip should not be treated disproportionately, compared to an operator with fewer tanks or one that is not self insured. I will use two examples to demonstrate this point.

First, an owner or operator who has 20 tanks at 10 locations will pay a deductible of only \$13,000.00 for corrective actions taken for a release from one of that companies sites. Secondly, an owner or operator who has 50 tanks at 20 sites will pay only \$28,000.00 for corrective actions taken on a similar release before being eligible for reimbursement from the fund. Before QuikTrip is eligible for any reimbursement we would be required to pay \$100,000.00, per occurrence. THIS, IN SPITE OF THE FACT THAT APPROXIMATELY 40% OF OUR SITES ALREADY MEET 1998 FEDERAL REGULATIONS. The deductible scheme presently in HB 3153 does precisely that, even though the environmental damage, and corrective action costs, could be identical in all three incidents. This is the basic inequitable treatment we are addressing and would like to see changed in HB 3153.

We believe this equity can best be achieved on a per site basis rather than to a per tank basis statewide. If it is deemed necessary to utilize "number of tanks" in a formula, then it should be on a per tank basis at the site of the release, not statewide. The non-uniform treatment of similarly situated parties undercuts the basis of the free market system. QuikTrip is not asking for favoritism, only equitable treatment as a long time business entity in the State of Kansas.

Thank you for your time and consideration and I'll be happy to answer any questions you may have.

STATEMENT FOR SENATE COMMITTEE ON
ENERGY AND NATURAL RESOURCES
BY KANSAS OIL MARKETERS ASSOCIATION
HB 3153
MARCH 26, 1992
8:00 A.M.

Dear Mr. Chairman and Members of The Committee

My name is Charles Nicolay. I'm Executive Director of the Kansas Oil Marketers Association.

KOMA is a statewide trade association made up of independent petroleum marketers who market motor fuel through bulk plants, service stations and convenience stores.

Our association appears today as a proponent to what HB 3153 attempts to do. However, we do have some strong concerns. First of all, we want to compliment the Kansas Department of Health and Environment on the manner in which they have assumed and carried out their responsibilities on the petroleum storage tank law that the Legislature passed three years ago. We also appreciate the fact that KDHE is attempting to address the concerns that have to do with the constitutionality of the storage tank law with regard to the levels of the deductible for tank owners.

HB 3153 proposes that a \$3,000 deductible be applied to each occurrence where there is evidence of a release from a petroleum storage tank. In addition to the \$3,000 per occurrence, each tank owner would figure his deductible based on the number of underground storage tanks he owns in Kansas at a second tier of \$500 per tank, up to a maximum deductible of \$100,000.

We feel that the degree of risk should not be based on the total number of tanks owned or operated in Kansas, but rather it should be based on the amount of risk per location or per site where underground storage tanks have been installed. Identifying or determining the risk on a per site basis is consistent with what this Legislature did regarding the section of the law that establishes the third party liability plan. The deductible per occurrence for third party is set by statute at \$10,000.

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attachment 2*

A deductible amount that is determined by the number of tanks owned or operated by an individual or company in the state of Kansas does not relate to the risk at an individual location. Creating an ever increasing deductible based on the number of tanks within the state is inequitable.

For example, let us make a comparison of two underground storage tank owners. The first owner has 50 tanks in the state of Kansas and the second has 15 tanks in the state of Kansas. If owner #1 has filed a corrective action plan for necessary remediation to clean up a site, the amount of deductible that has to be satisfied before he or she is eligible to receive reimbursement from the fund under the proposal before you, would be \$28,000 - \$3,000 initial plus \$500 per each tank owned in Kansas. Owner #2 has a corrective plan of action approved for remediation, yet his deductible is only \$10,500 for that one site.

Is tank owner #1 more of a liability by virtue of his owning more tanks in Kansas than is tank owner #2? We think not. Tank owner #1 may actually have newer tanks than tank owner #2, with advanced state-of-the-art leak detection, etc., yet his deductible is greater simply because he is a bigger operator than is owner #2.

Thus, it is our opinion that the degree of risk should be determined by site or location of the tanks and not by the total number of tanks within the boundaries of the state of Kansas. Sound insurance principles indicate that tying the risk to a location rather than the number of locations throughout a given state is much more equitable.

One final note on petroleum storage tanks, in the interest of improving the environment by remediating contaminated sites as a result of releases from aboveground tanks, we would strongly urge that the Legislature establish a trust fund for aboveground tanks. Doing so would complete the task before us and ensure a future for our state that is free of any petroleum-related contamination.

Mr. Chairman and members of the committee, I appreciate the opportunity to have presented our views and would be happy to respond to any questions. Thank you.



PUBLIC POLICY STATEMENT

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

RE: H.B. 3153 - Amending the Kansas Storage Tank Act

March 26, 1992
Topeka, Kansas

Presented by:
Bill Fuller, Assistant Director
Public Affairs Division
Kansas Farm Bureau

Chairman Doyen and members of the Committee:

My name is Bill Fuller. I am the Assistant Director of the Public Affairs Division for Kansas Farm Bureau. We certainly appreciate this opportunity to testify on behalf of the farmers and ranchers who are members of the 105 County Farm Bureaus in Kansas.

We support the amendments to H.B. 3153 that have been proposed by Senator Lee. The amendments will give above ground tanks the same access to the "Trust Fund" as underground tanks now have for clean-up assistance. Our support is based upon new policy approved by the Voting Delegates at the 73rd Annual Meeting of Kansas Farm Bureau in Topeka last fall:

ENVIRONMENTAL CLEAN-UP

The Kansas Legislature has created the Petroleum Storage Tank Release Trust Fund. The Trust Fund assists owners of certain underground petroleum storage tanks with clean-up of soil and water resulting from any leaking tanks.

The Trust Fund is currently being used for clean-up from underground tanks, pipes and spills. We believe the clean-up assistance should be expanded to include above-ground tanks.

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While the proposed amendments would make available clean-up assistance for some larger farm tanks, a major concern of our members is for the retailers, the cooperatives and independent tank wagon operators, that supply their fuel. Without clean-up assistance the cost of fuel could be forced higher and the very existence of some businesses could be threatened whenever the high cost of contamination clean-up was required.

The Kansas Storage Tank Act establishes a 1 cent per gallon environmental assurance fee to fund the Trust Fund on all petroleum products except aviation fuel. That fee stops when the \$5 million cap is reached, and resumes when the balance is equal to or less than \$2 million. All fuel that is stored and marketed through **underground and above ground** tanks is taxed. We believe this is a fairness issue. All fuel that is taxed should be eligible for any contamination clean-up regardless if it is stored in underground or above ground tanks. Contamination is contamination and needs to be cleaned up regardless of the location of the leaking tank.

We encourage the Committee to adopt the amendments to expand the Kansas Storage Tank Trust Fund to include above ground tanks.

Thank you!

HOUSE BILL 3153
SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
MARCH 26, 1992

Prepared by:
EDWARD LONG, GENERAL MANAGER
KENSINGTON COOPERATIVE ASSOCIATION

Mr. Chairman and members of the Committee, I am Edward Long, manager of the Kensington Cooperative Association. I represent 1,527 members in north central Kansas.

We are in support of HB 3153 and an amendment that would include above ground fuel tanks. House Bill 3153 and an amendment to include above ground tanks, would help small and medium sized fuel retailers stay in operation and would preserve many needed jobs. The Bill and the proposed amendment would also aid in cleaning up our environment. There are several other reasons why we are in support of HB 3153.

First, I would like to share the impact that a fuel leak can have on a business and the community in which the business operates. I will try to keep this brief and just hit the highlights.

In 1989, our business reported a loss of fuel. The Department of Health and Environment was called, in order to help with the cleanup. The cleanup has cost our company in excess of \$110,000. Because of the cost and the continued expenses involved, we were forced to close our station. The problem has cost our community eight full-time jobs, a loss of tax revenue and a loss of the only business in town.

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attachment 4

One very important reason to support the Above Ground Fuel Tank amendment is fairness. Above ground tank owners have been paying into the UST Fund just like the underground tank owners. We pay to cleanup our neighbors' leaks, but we can't use it for own. It isn't right to pay for something you cannot use.

Secondly, what is our trust fund paying on today. Figures from the Department of Health and Environment are surprising. On September 1, 1991, there were 384 sites using the Fund. The breakdown of the types of leaks were as follows: Tank 169; Pipe 114; Overfill/Spills 113; Others 17. We believe pipes coming from any tank should be included in the Fund. Underground pipes coming from an above or below ground tank should be treated the same. This proposed amendment would ensure that.

Third, HB 3153 and proposed amendment would treat all tank owners equally. HB 3153 and the amendment would help businesses stay open and continue to offer much needed jobs, plus aid in the cleanup of our environment.

We believe it is important for all fuel systems of be included in the Fund. This would be a benefit to everyone in the state of Kansas. The successful passing to HB 3153 and the amendment, would help all areas of the state of Kansas, urban and rural alike.

I want to thank you for the opportunity to speak in support of HB 3153 and the proposed amendment, and would respectfully request that the Committee vote in favor of HB 3153 and the proposed amendment.

Testimony on HB 3153
Senate Committee on Energy and Natural Resources
March 26, 1992
Prepared by Joe Lieber
Kansas Cooperative Council

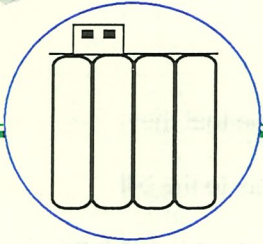
The Council supports HB 3153. The current underground storage tank law seems to working properly and with the adjustments made in HB 3153, it will work even better. Kansas cooperatives are included in the current law and HB 3153 does not change that.

It is the Council's understanding that there may be an amendment to HB 3153 that would establish a cleanup fund for above ground tanks.

If there is such an amendment, and it is similar to the current underground storage tank law, we would support it.

Thank you, and I will attempt to answer any questions.

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KANSAS GRAIN AND FEED ASSOCIATION
STATEMENT OF KANSAS GRAIN AND FEED ASSOCIATION

TO THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

SENATOR ROSS DOYEN, CHAIR

REGARDING H.B. 3153

MARCH 27, 1992

Mr. Chairman and Members of the Committee, I am Chris Wilson, Director of Public Affairs of Kansas Grain and Feed Association (KGFA). KGFA is the trade and professional organization of the Kansas grain warehousing, transportation, processing and merchandising industry. Our 1300 member firms account for 96% of licensed storage capacity and 95% of all grain warehouses in the state. Some of our members also retail fuel. We appreciate the opportunity to comment today in support of H.B. 3153 and proposed amendments to the bill.

Since the trust fund was enacted, our members selling fuel have paid into the fund, although not all have been eligible to access the fund. Our Association was involved in seeking the Attorney General opinion regarding the equity of the law, which in large part prompted the need for H.B. 3153. We appreciate that the bill as passed by the House of Representatives goes part of the way toward making the trust fund access less discriminatory. However, we strongly support suggested amendments which would allow above ground tank owners, as well as underground tank owners, to access the fund. It seems obvious to us that including above ground tank owners is only fair and that the potential exposure to the fund for those tanks would be less.

We also believe that the deductible should be assessed on a per site basis. That would be consistent with the third party liability section of the law. As you are no doubt aware, there have been many mergers and acquisitions in our industry, resulting in a single firm owning several branch stations, which were all separate firms at one time. Each of those branches must be a viable operation to warrant maintaining. Simply because they have merged does not make them any more able to pay a deductible

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Attachment 6*

which is multiplied by the number of tanks at all branch stations, nor does it seem equitable that they should do so. The deductible should be paid on a per site basis. In addition, amendments to the bill should provide for retroactive coverage, to allow those who should have been allowed access to the fund but who have had to go ahead with site remediation, to submit claims.

We respectfully ask that you adopt amendments to H.B. 3153 to include above ground tanks; modify the deductible provision; and provide for retroactivity. Thank you for your consideration.

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KANSAS FERTILIZER AND CHEMICAL ASSOCIATION, INC.
816 S.W. Tyler St. P.O. Box 1517 A/C 913-234-0463 Topeka, Kansas 66601-1517

March 27, 1992

TO: CHAIRMAN DOYEN AND MEMBERS OF THE SENATE ENERGY
AND NATURAL RESOURCES COMMITTEE

RE: H.B. 2801, REGARDING SOLID WASTE

Kansas Fertilizer and Chemical Association supports a change in the language of H.B. 2801, referred to by Joyce Wolfe of the Audubon Society in her testimony on March 26. This change would replace the words "agricultural chemicals and chemical containers" in the bill, with "pesticides and pesticide containers". The term agricultural chemicals technically refers to fertilizers as well as pesticides. Fertilizers are not an issue with respect to solid waste disposal. The term pesticides more accurately reflects the intent of the bill.

This provision was requested by the Audubon Society as part of amendments the Society offered in the House. The intent is to encourage counties to consider pesticide and pesticide container disposal as one of the areas which should be studied when developing the solid waste disposal plan. We support that provision. We would note that the counties should also consider the economics of the options for disposal of pesticides and pesticide containers.

Thank you for your consideration.

Sincerely,

Christina M. Wilson
Director of Public Affairs

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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.

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attachment 7

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.

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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
 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
 15 by the governing body of such county or city and *Two or more*
 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.*

or a designated city,
 or designated city
 or designated city if so authorized

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.

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

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

or designated city or designated cities

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-
 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.

or designated city or designated cities

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

or subdivisions

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.

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

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

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

27 (A) *Resource conservation;*

28 (B) *reduction;*

29 (C) *reuse and recycling;*

30 (D) *processing treatment; and*

31 (E) *land disposal.*

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

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

43 (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.

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 ~~(e)~~ (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 *pabilities 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.

Frank's - exemption - 258-1

1 (1) The applicant currently holds, or in the past has held, a
2 permit under this section and ~~has~~ 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 (d) (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.

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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;

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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 (c) 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.

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

26 (2) Any permit, issued before the effective date of this act, to
 27 construct or operate a solid waste disposal area is hereby declared
 28 void if such area is not yet in operation and is located within 1/2
 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 ~~icipalities 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

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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 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,

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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

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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 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 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.

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.

7-18

18-18

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

Division of Environment

M E M O R A N D U M

TO: Senate Energy and Natural Resources Committee
FROM: Ron Hammerschmidt *RH*
SUBJECT: Amendments to House Bill 2801
DATE: March 27, 1992

In light of the testimony of a number of conferees on House Bill 2801, we have prepared a balloon of the bill which contains language which the department would find workable. In some cases the department may not feel that the changes suggested are necessary but their addition does nothing to weaken the bill.

SECTION ONE:

Item (a)

Language has been added to exclude domestic animal waste and recyclables. The domestic animal waste language is linked with K.S.A. 65-3409 (a)(1). Recyclables are defined below.

Item (c)

Language is added to exclude "scrap material recycling and processing facility" from "solid waste processing facility". This term is defined below.

Item (p)

Definition of "designated city" is added. This definition is linked to the ability of a county to delegated SW planning functions to a city or cities.

Item (q)

Definition of "non-hazardous special waste" is added as per testimony.

Item (r)

Definition of "recyclables" is added. This definition excludes ferrous metals, i.e. those contain iron as a major component, paper and plastic. Shredder fluff and non-ferrous metals would be further defined by KDHE rule and regulation.

Item (s)

Definition of "scrap metal processing industry", the term used on page 4 line 6 in regard to the county solid waste management planning committee, is added.

E+NR
3-27-92
- 8-1
Attachment 8

Item (t)

Definition of "scrap material recycling and processing facility" is added.

SECTION TWO:

Language related to "designated city" is added in appropriate locations on pages 3, 4 and 6.

Language to give each city which operates a permitted facility is given a representative on the SW management planning committee is added on line 3 page 4.

The hierarchy for waste volume reduction is restored in modified language on page 5, line 24.

SECTION THREE:

On page 7, line 1, item 3(a)(9) is modified to explicitly mention assistance to counties and regions. This change was mentioned by conferees. The authority to assist individual counties and cities is stated in 3(a)(4) but this language serves to clearly state the authority of KDHE to provide the assistance.

On page 8, line 4 language is added to authorize the secretary to adopt rules and regulations for the management of "non-hazardous special wastes."

SECTION FOUR:

On page 9, line 24 and page 11, line 13 and 14, technical changes have been made to language related to corporate control. This language is a clarification suggested by industry.

The amendment on page 9, line 37 restores the exemption in current law for political subdivisions from payment of permit fees. The adoption of this language would result in a potential fiscal impact of approximately \$200,000 to the fee fund. It would however continue the status quo in regard to fees.

On page 11, line 37 an exemption for activities regulated by other KDHE programs including public water supply, sewage discharge and NPDES, are exempted from the provisions of this section. These lagoons are permitted by this programs but after their closure may be monitored as solid waste facilities. This amendment was suggested by KDHE staff.

SECTION FIVE:

On page 11, line 39, language is added for planning grants to "designated cities if so delegated." This amendment would allow direct payment of grant funds to designated cities if allowed by the county under terms of the interlocal agreement.

On page 12, line 12, language restored to allow planning grants to be funded from state general fund in addition to the dedicated fee fund.

SECTION SIX:

No amendments.

SECTION SEVEN:

On page 14, line 10, annual fees are to be credited to the fund in addition to application fees. This is a technical correction.

On page 14, line 21, "designated city" language is added to the planning grant authorities.

SECTION EIGHT:

On page 16, line 24, language is added to exempt the on-site disposal of industrial materials. This exemption would only apply if disposal occurred on the site at which the material is generated.

SECTION NINE:

No amendments.

NEW SECTION TEN:

The language supported by several conferees is added as a new Section 10. The fee currently imposed by Shawnee County is established under the home rule authority of counties. The agency is neutral on this issue and this section was added as a courtesy for the committee.

SECTION 11 and 12:

Section numbers modified. There may be a need to modify the language to reflect the amendments.

This summarizes the balloon prepared by KDHE.

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,

Section 1. K.S.A. 65-3401 is hereby amended to read as follows: 65-3401. It is hereby declared that protection of the health and welfare of the citizens of Kansas requires the safe and sanitary disposal of solid wastes. The legislature finds that the lack of adequate state regulations and control of solid waste and solid waste management systems has resulted in undesirable and inadequate solid waste management practices that are detrimental to the health of the citizens of the state; degrade the quality of the environment; and cause economic loss. For these reasons it is the policy of the state to: (a) Establish and maintain a cooperative state and local program of planning and technical and financial assistance for comprehensive solid waste management.

(b) Utilize the capabilities of private enterprise as well as the services of public agencies to accomplish the desired objectives of an effective solid waste management program.

(c) Require a permit for the operation of solid waste processing and disposal systems.

(d) Achieve status for the Kansas department of health and environment as an approved state agency for the purpose of administering federal municipal solid waste management laws and regulations.

Final amendment.

*ENR
Pg. 1-2
3-27-92
attachment 9*

*ENR
attachment-9
3-27-92
9-1*

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.*

which test may be met by a permittee's ad valorem
 taxing power

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

Amendment to HB 2801 as Proposed by the
City of Leavenworth

Replacement language for Page 4, line 1

The membership of the committee shall include:

(1) representatives from incorporated cities and the unincorporated parts of the county or counties. The number of representatives from each city shall be proportionate to the city's population in relation to that of the entire county or counties; provided, however, that each class of city shall have at least one representative. The number of representatives from the unincorporated parts of the county or counties shall be proportional to the population of the entire county or counties; (2).....

EHR
pg 10-1
Senator Martins
amendment
3-27-92
Attachment 10

CITY OF WICHITA
455 NORTH MAIN
WICHITA, KANSAS 67202

OFFICE OF THE LAW DEPARTMENT

DATE: MARCH 26, 1992

TO: SENATOR ROSS DOYEN

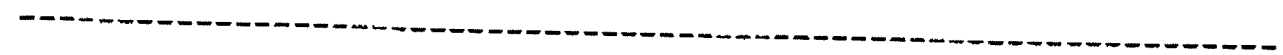
FAX NUMBER: 913-296-1153

FROM: JOE PAJOR (268-4356) and JOE ALLEN LANG (268-4681)

TOTAL NUMBER OF PAGES INCLUDING TRANSMITTAL SHEET: 4

If you do not receive all pages clearly, please call Mrs. Johnson at (316) 268-4681 as soon as possible.

Our FAX number is (316) 268-4519.



COMMENTS: Proposed Amendments To HB 2801

Please find attached as suggested proposed amendments to this bill to implement the suggestions of the City of Wichita. I have also attached a copy of the testimony that was presented last Tuesday and which contains the rationale for the amendments. Feel free to contact either of the above named City of Wichita representatives if you have any further suggestions or any questions. Thank you for your consideration.

FJR
3-27-92
Attachment 11
11-1

THE CITY OF WICHITA

COPY

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

March 17, 1992

Senate Committee on Energy and Natural Resources
Senator Ross Doyen, Chairman
State Capitol Building
Topeka, Kansas 66612

Dear Committee Members:

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

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

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

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

① First, is the restricting on the siting of a landfill within one-half mile of a navigable stream. The City suggests that a more environmentally protecting requirement is to prohibit siting anywhere within the 100-year flood plain. This approach would also be consistent with the new federal siting requirements contained in Subtitle D of the Resource Conservation and Recovery Act (RCRA). Current law would allow for an expansion of an existing landfill within the one-half mile distance. Future needs, however, might dictate the need to locate a new landfill within one-half mile of such a stream. If properly engineered to be out of the 100-year flood plain, such setting should not be prohibited by prescription as this bill would provide.

② Our second concern regards the use of the proposed new state solid waste tonnage fee. Up to 50% of the funds collected each year could be appropriated for emergency cleanup in areas across the state. This provision,

HB 2801
PROPOSED AMENDMENTS (DELINEATED)

① SECTION 4. K.S.A. 65-4307

(k) (1) No permit to construct or operate a solid waste disposal area shall be issued on or after the effective date of this act if such area is located within ~~1/2-mile-of-a-navigable-stream-used-for-interstate-commerce~~ a 100-year floodplain as defined in 40 C.F.R. § 258.11 or within one mile of an intake point for any public surface water supply system.

② NEW SECTION 8.

[add:] (g) Any county or group of counties implementing a solid waste management plan pursuant to Section 2 may elect to exempt such county or group of counties from the fee imposed pursuant to subsection (a). By such election, said county or group of counties shall not be eligible for participation in the receipt of sold waste management funds under Section 7 that are attributable to the fees generated by subsection (a).

③ SECTION 2. K.S.A. 65-3405

[add to the end of (a)]: For purposes of the provisions of this act a county plan shall also be considered as a regional plan.

CITY OF WICHITA
3/26/92

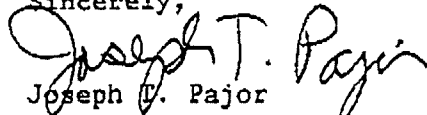
Committee Members of the March 17, 1992
Senate Energy and Natural Resources Committee

along with the lack of requirements for the allocation of funds between the counties, could result in much of the money collected in a given county being used in other parts of the state. The City's preference is to see each local unit of government take operational and financial responsibility to remediate pollution sites within their jurisdiction.

③ Our third concern is that a single county cannot act as a region under this bill. Encouraging counties to act and plan together in groups of two or more is wise. This approach allows for the economies of scale that will be needed to operate modern, environmentally sound landfills. The problem is that this approach fails to account for the fact that a few of the most populous of the counties are in and of themselves large enough to stand as a region.

Thank you for the opportunity to present the City of Wichita's position on House Bill 2801. I would be happy to address any questions the Committee might have.

Sincerely,



Joseph T. Pajor
Natural Resources Director

JTP:gr

CITIZENS FOR A REASONABLE ENVIRONMENT

A COALITION OF GRASSROOTS KANSANS DETERMINED TO PRESERVE THE FUTURE
JOHN FREED, CO-ORDINATOR

SENATE ENERGY & NATURAL RESOURCES
MARCH 24, 1992

Re: HB 2801, A PROPOSER

Senator Doyan & Members:

Please excuse my absence this AM, it was necessary for me to be at work during this committee meeting

I trust you will take time to review my discussion points about HB 2801, which I support with appropriate revisions.

My concerns are as follows:

SECTION 2, pg. 5 lines 32-37: FAIL TO DISCUSS INDUSTRIAL WASTE

SECTION 4, pg 9 lines 20-30: Recommend reinstatement to \$10,000 due to INCREASED

PROCESSING BURDENS ON KDHE.

pg 11 lines 20-30: should also include a given

DISTANCE FROM WELLS & OTHER SOURCES

SECTION 5, pg 11 (12 call): there is no ceiling on the COST of these grants, no guidelines nor

DEADLINES -- TOO OPEN ENDED FUNDING!

SECTION 7, pg 14 lines 19A to 15, line 11: what are the proposed, expected amounts for items 1-9?

Source of monies: ? Tipping & Lic. fees?

Ed R
Attachment 12
B-27-92
12-1-
A-12

Page 2 of 2

CITIZENS FOR A REASONABLE ENVIRONMENT

A COALITION OF GRASSROOTS KANSANS DETERMINED TO PRESERVE THE FUTURE
JOHN FREED, CO-ORDINATOR

Section 8, pg 17 lines 3-5: This is too OPENENDED FOR
The Counties, AS KDHE TESTIFIED
LAST week, ~~the~~ SEVERAL COUNTIES
DO NOT KNOW HOW MUCH
TRASH They ARE DEALING WITH, NOW.

pg 17, lines 6-17: re: Additional fee, This
creates a loop hole for
MISMANAGED COUNTIES AND
ESPECIALLY KANSAS CITY, KS
TO MESS THINGS UP AGAIN

Comments - re: KCKS

The County - Region concept & INTENT
MUST BE ADHERED TO -

The city of KCK is currently working
ON A 20yr TRASH CONTRACT, ACCORDING
TO City Counselor HAL WALKER,

25th 100th TON, in that Area to close the
only LANDFILL in EXISTENCE creates
A lot of CASH TO BE STASHED
IN A VERY QUESTIONABLE neighborhood

IT IS NOT MY DESIRE TO RETURN TO THE
STATE LEGISLATURE TO AGAIN BE
PLEAD FOR YOU ALL TO CLEAN UP ANOTHER
MISMANAGED MESS OF KCK.

Sincerely,



C. C. Ron Hammerschmitt

12-2