

Approved: 3-14-95
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES.

The meeting was called to order by Chairperson Don Sallee at 8:00 a.m. on March 9, 1995 in Room 254-E- of the Capitol.

All members were present except:
Senator Tillotson, Excused

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
Mike Corrigan, Revisor of Statutes
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:
Bill Bider, Director, Bureau of Waste Management, Division of Environment, KDHE
Ed Sass, Leavenworth County Solid Waste Committee, Leavenworth, Kansas
Phil Wittek, Environmental Department Director, Johnson County, Kansas
Dennis Peterson, Director, Riley County Household Hazardous Waste Program
David Burnett, Southeast Kansas Solid Waste Authority
Written testimony by R. H. Miller, Chairman, Lake Region Waste Authority, Chanute, Kansas presented by David Burnett
D. Sean White, Deffenbaugh Industries, Inc., Shawnee, Kansas
Steve Kearney, Waste Management of Kansas
Anne Spiess, Director of Legislation, Kansas Association of Counties
Chiquita Cornelius, Executive Director, Kansas Business and Industry Recycling Program, Inc.
Ronald Karn, Solid Waste Administrator and Vice-chair, Jackson Solid Waste, Holton, Kansas

Others attending: See attached list

Senator Vancrum, Vice-chairperson called the meeting to order at 8:00 a.m.

HB 2036: Concerning waste management; relating to certain grants and other programs to assist cities, counties and regional solid waste management entities; concerning certain solid waste tonnage fees; limiting certain full-time equivalent positions

Bill Bider, Director, Bureau of Waste Management, Division of Environment, KDHE, presented testimony on **HB 2036** stating the department supported most provisions of the amended bill but offered some changes for the consideration of the committee. (Attachment 1) Mr. Bider told members three new uses recommended by KDHE which were new uses for funds in the tipping fee and were maintained in the amended bill. The amended version eliminated additional staff resources at KDHE and the Department of Commerce and Housing to be used to provide increased state services in the area of waste reduction and recycling. Mr. Bider's testimony set out major changes in the bill. Page 3 of testimony sets out recommendations of the Department.

A member questioned the total salaries allocated in the projected fy94-98 budget noting a significant jump. Mr. Bider stated this was due to filling some positions which had not been filled, also that some positions were still vacant.

Ed Sass, Leavenworth County Solid Waste Committee, Leavenworth, Kansas, presented testimony in support of **HB 2036** as it was originally presented by KDHE. (Amendment 2) Mr. Sass stated that lengthy discussions with people throughout the State involved in all areas of solid waste and planning had taken place and the consensus was the legislation should include assistance in developing and operating solid waste management systems to meet the requirements of sub-title D, also the \$1.50 tipping fee should be maintained. Mr. Sass told the committee that counties use various means to support the solid waste programs, sales tax, special assessment, with no good way to fund these programs and the only method to obtain a return of tipping fees is through the grant programs.

Phil Wittek, Environmental Department Director, Johnson County, Kansas, presented testimony stating many basic elements of the bill were beneficial but also pointed out disadvantages of key provisions. (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, ROOM 254-E-Statehouse, at 8:00 a.m. on March 9, 1995.

Mr. Wittek requested the committee consider long range impacts on the solid waste management for the locals as well as the state. He suggested a more moderate approach and urged the committee to consider amendments. Further suggestions are contained in (Attachment 3).

Dennis Peterson, Riley County Household Hazardous Waste Program and Big Lakes Regional Household Hazardous Waste Program, told the committee there is a need to increase the state match to help less populated counties deal with household hazardous waste problems as well as agricultural pesticide collection programs. (Attachment 4) Mr. Peterson further suggested changes to facilitate accepting waste from businesses which would keep such waste from contaminating landfills and the environment. Mr. Peterson said continuing support for present programs and support of development of new programs in hazardous waste management would be very helpful, especially if a direct payment could be made to counties. He also indicated the tonnage fee should remain intact for at least 3 years to bring other counties up on line.

David Burnett, Southeast Kansas Solid Waste Authority presented testimony on **HB 2036** noting his organization feels the amended version goes in the wrong direction and would unfairly discriminate against the smaller, poorer counties' ability to obtain the resources necessary to comply with federal and state environmental mandates. Mr. Burnett further urged the committee to authorize distribution of funds for their intended purpose, the implementation of KDHE approved solid waste management plans. Concern was expressed that planning seemed to become an end to itself without consideration and ability to follow through. Other suggestions are also contained in (Attachment 5). Concern was expressed that out-of-state waste was coming into the state in extremely large quantities and it was felt this should not come in at a reduced rate.

Mr. Burnett also presented testimony from R. H. Miller, Chairman, Lake Region Solid Waste Authority . (Attachment 6) The testimony from the Lake Region Authority stated his group has worked to comply with Sub Title D and HB 2801 legislation and the amendment made to **HB 2036** appears to undercut all of their planning activities and be contrary to referenced mandates and legislation. Difficulties with the present bill were set forth in the written testimony.

Sean White, Deffenbaugh Industries, Inc., Shawnee, Kansas, presented testimony expressing his company's position on **HB 2036**. (Attachment 7) Mr. White commented that **HB 2036** contains many elements required by the Federal government but in 1992 HB 2801 dealt with numerous planning programs not required by Sub-title D. Mr. White expressed concern about continual growth of government and whether independent companies are going to have funds to continue their efforts to maintain and continue jobs in the state.

John C. Peterson, Browning Ferris Industries, appeared in support of continuing tipping fees beyond the sunset provision to allow the state to administer Sub-title D.

Steve Kearney, Waste Management of Kansas, presented testimony on **HB 2036** and offered concerns and suggestions to the committee. (Attachment 8) Mr. Kearney stated this bill provides for numerous grant programs, some of which have no limits, while funding for the programs are limited. Also noted was concern that the grant programs place the private sector at a competitive disadvantage by subsidizing public operations that compete with private industry. An amendment, included in page 2 of Mr. Kearney's written testimony was suggested. A further suggestion was made that the committee reduce the tipping fee to \$.75 for two years and then sunset the fee at the end of the second year, also that the \$3.9 million carryover from current tipping fee be used to fund the final grant programs.

Anne Speiss, Director of Legislation, Kansas Association of Counties, presented testimony generally in support of **HB 2036** but expressing concerns with the House amendments. Ms. Speiss stated the proposed changes broaden the scope of projects eligible for funding under the program and extends eligibility to household hazardous waste and recycling efforts as well as bringing capital and equipment needs under the funding of the program. Concern was expressed that matching requirements would negatively affect those counties most needing assistance under this act. Other concerns addressed were that the needs of counties and their participation were not assured in the bill. Also the bill does provide automatic eligibility of counties who have met their timetables. (Attachment 9)

Chiquita Cornelius, Executive Director, Kansas Business and Industry Recycling Program, Inc., appeared stating her organization had supported HB 2801 in 1992 as well as supporting **HB 2036** as it was originally introduced. Ms. Cornelius stated that the amendments made to **HB 2036** would jeopardize the successful implementation of plans now being finalized at the local level. The committee was urged to reassess the advisability of reducing the tipping fee and sunsetting the fee in 1998. (Attachment 10)

Ronald E. Karn, Jackson County Solid Waste, Holton, Kansas, told the committee that Jackson County Commissioners and members of the Jackson County Solid Waste Management Committee requested the \$1.50 tipping fee not be reduced as the funds were desperately needed by cities and counties still planning and in great

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, ROOM 254-E-Statehouse, at 8:00 a.m. on March 9, 1995.

need of state support to implement their plans. Private concerns could not survive in their small community, therefore the county has stepped forward. Mr. Karn stated a planned two day gathering of chemicals and hazardous waste was so overwhelming that the grant could only cover one of the two days planned, therefore they had to cancel the second day.

A member suggested staff might need to look at original projections of HB 2801, also the original revenues and expenses as estimated with regard to tipping fees when they were set at \$1.50. A similar response was requested from the Department of Health and Environment, also a county survey was needed immediately.

David Burnett was questioned with regard to their original proposal and he stated that they had requested \$.75 of the tipping fee would be remitted back to the counties on their tonnage fee.

A member asked staff whether local units could not now assess a tonnage fee presently. Staff stated they were not sure what limits were placed on useage of that fee but would check.

A member asked for opinions from other conferees concerning the amendment proposed by Steve Kearney, Kansas Waste Management, Inc.

The meeting adjourned at 8:58 a.m.

The next meeting is scheduled for March 10, 1995.

**SENATE COMMITTEE ON ENERGY & NATURAL
RESOURCES GUEST LIST COMMITTEE**

DATE: March 9, 1995

NAME	REPRESENTING
David Burnett	Southeast Kansas Solid Waste Authority And - LAKE AREA Solid Waste Authority
John Delmont	Cherokee County
PHIL WITTEK	JOHNSON COUNTY / ENVIRONMENTAL DEPT
Dennis Peterson	Riley Co. HHW Program
J. Everett Mitchell	Big Lakes Regional Council Manhattan, KS
Ronald Karn	Jackson County Solid Waste Administration
Debbie McRill	Solid Waste Mgmt, LV County
Ed Sess	Leavenworth Co Solid Waste Committee
Chiquita Cornelius	Ks. B.I.R.P.
CLAUDE S. SHELOR	VBP, Inc.
Whitney Dameron	Pete McMillan & Associates
STEVE KEARNEY	WASTE MANAGEMENT
Anne Spiess	Ks. Assoc of Counties

State of Kansas

Bill Graves



Governor

Department of Health and Environment

James J. O'Connell, Secretary

Testimony presented to

Senate Energy and Natural Resources Committee

by

The Kansas Department of Health and Environment

House Bill 2036

The Kansas Department of Health and Environment is pleased to have this opportunity to provide testimony related to House Bill 2036 which establishes several new uses for the solid waste management fund. The department supports most of the provisions of the amended bill; however, we do wish to offer some suggested changes for the committee's consideration.

As you may know, the concepts contained in the original version of this bill were developed based upon information received from a wide range of interested persons at a special meeting hosted by KDHE in Topeka on August 23, 1994. Participants in that meeting numbered over 120 including employees of cities, counties, private companies, and regional solid waste authorities. Several private citizens and representatives of environmental interest groups also attended. This group assembled to offer their opinions as to the most appropriate way to utilize the solid waste fund after the ongoing statewide local planning activity slowed. Based upon input received, KDHE developed a series of draft documents which were reviewed and commented upon by the meeting participants and a special work group which was established to complete the process. The final recommendations provided to the legislature in November 1994 represented a consolidation of many ideas which sought to return as much money as possible to the counties for the purposes of providing assistance in the implementation of federal and state solid waste laws and regulations.

Some background information regarding the solid waste management fund and past uses may be helpful. The revenues deposited into the solid waste management fund come primarily from the \$1.50 per ton tipping fee which is paid on most waste landfilled in the state. In FY 1994, about \$4.9 million was deposited into the fund. Annual revenues are likely to decrease in the future as counties and cities implement waste reduction and recycling programs.

In FY 1994, about \$2.8 million was awarded from the fund to counties and regional authorities for solid waste planning activities. Current statutes specify precisely how the fund may be used. In addition to planning grants, KDHE may utilize the fund to administer the solid waste program, to carry out public education and training in solid waste management, and to perform remediation projects at old solid waste disposal areas which constitute an existing or potential threat to human health or the environment. With a tipping fee of \$1.50 per ton, over \$2.0 million per year is available for solid waste grant programs, and over \$3.0 million will have accumulated in the fund by the end of FY 1995.

Senate Energy + Nat'l Res
March 9, 1995
Attachment 1

Four new uses for the fund were recommended by KDHE and the solid waste advisory group, and three of the four were maintained in the amended bill passed by the House. The only change was the elimination of additional staff resources at KDHE and the Department of Commerce and Housing, which were recommended to provide increased state services in the area of waste reduction and recycling. The positions were withdrawn by KDHE in accordance with the governor's stated objective to minimize growth in state government. The new areas of expenditure provided by the amended version of HB 2036 are:

- (1) **Solid Waste Base Grants** - Awarded to counties, regions, or designated cities to carry out miscellaneous solid waste projects which are most important to local needs. Grant amounts will be based primarily on county population.
- (2) **Solid Waste Plan Implementation Grants** - Awarded to counties, regions, cities, or designated private entities on a competitive basis to implement projects related to waste reduction, recycling, and public education and training, and identified in approved solid waste plans.
- (3) **Household Hazardous Waste (HHW) Grants** - Awarded to counties, cities, or regions to implement standard HHW collection programs or to enhance existing programs to include regional coverage. Existing programs may also receive funding for the collection of agricultural pesticide waste or exempt quantities of hazardous waste generated by small businesses.

The original recommendations in the bill attempted to represent the wishes of the majority of the interested parties across the state. While the House did not eliminate any of newly recommended grant programs, some changes in the details of those programs were made. In addition, several other important amendments were incorporated into the bill. These include the following major changes:

- o The local financial match was increased on most grant programs.
- o The tipping fee is being reduced in increments; first to \$1.25 per ton on July 1, 1995, then to \$1.00 per ton on July 1, 1996. The tipping fee sunsets on June 30, 1998.
- o A head count cap of 44 full-time equivalents has been placed on staff paid from the solid waste fund.
- o A cap of \$150,000 per year has been established for the support of HHW programs which provide collection service for exempt small business waste.
- o The list of eligible expenses for base grants has been expanded to be consistent with the Kansas Association of Counties 1995 platform.
- o KDHE shall deliver a report to the 1998 legislature which summarizes all solid waste program activities and which makes recommendations regarding the continuation or modification of existing programs.

The department recommends reconsideration in two important areas, both related to the tipping fee amount.

Recommendation No. 1 - Maintain the Tipping Fee at \$1.50 per Ton Through June 30, 1998 Kansas is about to enter into a very important time regarding the implementation of local solid waste plans. Many counties and regional authorities have developed plans under the assumption that some financial assistance would be available through grant programs funded by the tipping fee. Without such help, many counties and regions will not be able to implement waste reduction and recycling projects which have been proposed in plans and which are required by existing statute. HB 2801 passed three years ago required every county to develop a solid waste plan which included a schedule for implementing waste reduction projects.

Tables 1 and 2 which are attached demonstrate the impact of reducing the tipping fee on grant programs over the next three years. Our estimates show that about \$4.0 million less will be available for grants to assist counties, cities, and regions, through this transition period.

Recommendation No. 2 - Decrease Tipping Fee to \$1.00 per Ton on July 1, 1998

The total sunset of the tipping fee on June 30, 1998 could result in several potential problems primarily related to the maintenance of qualified staff and state program approval from EPA. All solid waste program staff are currently funded by the solid waste tipping fee. No state general funds are used to support any positions. As the sunset date approaches, there is the likelihood that qualified staff may seek employment elsewhere rather than face the uncertainty of whether the 1998 legislature will continue the program. It would be virtually impossible to fill vacancies with qualified persons given the insecure future. Loss of staff would provide grounds for EPA to consider repealing the existing state approval for the Subtitle D program. A loss of approved program status conflicts with another part of the solid waste statutes which directs the secretary to "achieve status as an approved state agency for the purpose of administering federal solid waste management laws and regulations." When this statute was drafted, it was clear that there were advantages to the regulated community if KDHE administered the program rather than EPA. Examples of advantages include utilizing regulatory flexibilities, protecting facility owners and operators from third-party liabilities through the issuance of facility operating permits and/or consent agreements, and providing technical assistance to help facilities achieve compliance rather than moving straight to enforcement action when full compliance is not demonstrated. The sunset provision for the tipping fee in the amended bill does not provide the secretary with the resources to maintain program approval beyond fiscal year 1998, and may jeopardize continued approval as the sunset date approaches.

In accordance with the proposed provisions of the bill, KDHE will submit a report to the Legislature on or before January 2, 1998 which summarizes the status of statewide solid waste management practices and all KDHE program activities. In preparing this report, KDHE will seek input from interested persons across the state regarding the continuation of existing solid waste programs or the need for new programs. The information provided in this report can serve as the basis for legislative action in 1998 regarding the application of the solid waste tipping fee to support existing or modified uses as determined by the Legislature. Those determinations can then be made on the basis of comprehensive information without introducing the risks to continued program approval by EPA that the sunset provision may cause during this interim period.

Thank you for this opportunity to provide testimony on this important bill.

I would be happy to answer any questions you may have regarding this testimony or any other solid waste program issue.

Testimony presented by: Bill Bider
Director, Bureau of Waste Management
Division of Environment
March 9, 1995

**BUREAU OF WASTE MANAGEMENT
SW MANAGEMENT FUND REVENUE/EXPENDITURES
FY 94-98 (Estimated February 21, 1995)**

TABLE 1

	<u>FY 94</u> <u>(Actual)</u>	<u>FY 95</u> <u>(Projected)</u>	<u>FY 96</u> <u>(Budgeted)</u>	<u>FY 97</u> <u>(Estimated)</u>	<u>FY 98</u> <u>(Estimated)</u>	
CARRYOVER	\$830,953	\$1,431,554	\$3,818,174	\$3,237,938	\$1,232,211	
TIPPING FEE	\$1.50	\$1.50	\$1.25	\$1.00	\$1.00	
REVENUE	\$4,840,453	\$5,031,301	\$4,066,968	\$3,155,967	\$3,061,288	Notes 1 & 2
INTEREST	<u>\$83,047</u>	<u>\$165,000</u>	<u>\$205,014</u>	<u>\$166,242</u>	<u>\$111,631</u>	
FY NET REVENUE	\$4,923,500	\$5,196,301	\$4,271,982	\$3,322,209	\$3,172,919	
FY AVAILABLE FUNDS	<u>\$5,754,453</u>	<u>\$6,627,855</u>	<u>\$8,090,156</u>	<u>\$6,560,147</u>	<u>\$4,405,130</u>	
CURRENTLY AUTHORIZED EXPENDITURES						
Salaries & Fringe Benefit	\$1,164,005	\$1,682,659	\$1,893,735	\$1,961,051	\$2,029,688	
Operational Expenses	\$315,893	\$348,022	\$215,000	\$241,885	\$250,351	
Landfill Remediation Projects	\$0	\$0	\$300,000	\$300,000	\$300,000	
Public Education & Training	\$28,515	\$40,000	\$75,000	\$75,000	\$75,000	
Technical Consulting Contracts	\$0	\$200,000	\$218,483	\$100,000	\$100,000	
Solid Waste Planning Grants	\$2,814,486	\$539,000	\$500,000	\$200,000	\$200,000	
RECOMMENDED EXPENDITURES						
Household Hazardous Waste Program						
Grants & Direct Expenditures	\$0	\$0	\$300,000	\$300,000	\$300,000	
Waste Reduction Program						
Operating Expenses	\$0	\$0	\$150,000	\$150,000	\$150,000	
Solid Waste Base Grants			\$1,200,000	\$0	\$0	
Solid Waste Plan Implementation Grants	\$0	\$0	\$0	\$2,000,000	\$500,000	
TOTAL PROJECTED FY EXPENSES	<u>\$4,322,899</u>	<u>\$2,809,681</u>	<u>\$4,852,218</u>	<u>\$5,327,936</u>	<u>\$3,905,039</u>	
ENDING FY FUND BALANCE (June 30, 199X)	\$1,431,554	\$3,818,174	\$3,237,938	\$1,232,211	\$500,091	

Note 1: FY 96-98 revenue is based upon a 3% waste reduction from the FY 95 projected revenue.

Note 2: Wide fluctuations have been observed in revenues during the first three years of tipping fee payments. Any variations in projected revenues will result in adjusted totals available for grant programs and certain operating costs.

**BUREAU OF WASTE MANAGEMENT
SW MANAGEMENT FUND REVENUE/EXPENDITURES
FY 94-98 (Estimated February 21, 1995)**

TABLE 2

	<u>FY 94</u> <u>(Actual)</u>	<u>FY 95</u> <u>(Projected)</u>	<u>FY 96</u> <u>(Budgeted)</u>	<u>FY 97</u> <u>(Estimated)</u>	<u>FY 98</u> <u>(Estimated)</u>	
CARRYOVER	\$830,953	\$1,431,554	\$3,818,174	\$3,672,480	\$947,062	
TIPPING FEE	\$1.50	\$1.50	\$1.50	\$1.50	\$1.50	
REVENUE	\$4,840,453	\$5,031,301	\$4,880,362	\$4,733,951	\$4,591,933	Notes 1 & 2
INTEREST	<u>\$83,047</u>	<u>\$165,000</u>	<u>\$226,162</u>	<u>\$218,567</u>	<u>\$144,014</u>	
FY NET REVENUE	\$4,923,500	\$5,196,301	\$5,106,524	\$4,952,518	\$4,735,946	
FY AVAILABLE FUNDS	<u>\$5,754,453</u>	<u>\$6,627,855</u>	<u>\$8,924,698</u>	<u>\$8,624,998</u>	<u>\$5,683,009</u>	
CURRENTLY AUTHORIZED EXPENDITURES						
Salaries & Fringe Benefit	\$1,164,005	\$1,682,659	\$1,893,735	\$1,961,051	\$2,029,688	
Operational Expenses	\$315,893	\$348,022	\$215,000	\$241,885	\$250,351	
Landfill Remediation Projects	\$0	\$0	\$300,000	\$300,000	\$300,000	
Public Education & Training	\$28,515	\$40,000	\$75,000	\$75,000	\$75,000	
Technical Consulting Contracts	\$0	\$200,000	\$218,483	\$100,000	\$100,000	
Solid Waste Planning Grants	\$2,814,486	\$539,000	\$600,000	\$200,000	\$200,000	
RECOMMENDED EXPENDITURES						
Household Hazardous Waste Program						
Grants & Direct Expenditures	\$0	\$0	\$300,000	\$300,000	\$300,000	
Waste Reduction Program						
Operating Expenses	\$0	\$0	\$150,000	\$150,000	\$150,000	
Solid Waste Base Grants			\$1,500,000	\$750,000	\$750,000	
Solid Waste Plan Implementation Grants	\$0	\$0	\$0	\$3,600,000	\$1,000,000	
TOTAL PROJECTED FY EXPENSES	<u>\$4,322,899</u>	<u>\$2,809,681</u>	<u>\$5,252,218</u>	<u>\$7,677,936</u>	<u>\$5,155,039</u>	
ENDING FY FUND BALANCE (June 30, 199X)	\$1,431,554	\$3,818,174	\$3,672,480	\$947,062	\$527,970	

Note 1: FY 96-98 revenue is based upon a 3% waste reduction from the FY 95 projected revenue.

Note 2: Wide fluctuations have been observed in revenues during the first three years of tipping fee payments. Any variations in projected revenues will result in adjusted totals available for grant programs and certain operating costs.

COUNTY OF LEAVENWORTH

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



FROM THE OFFICE OF:

Solid Waste Management

Testimony
House Bill 2036

March 9, 1995
Presented by: Ed Sass
Leavenworth County Solid Waste Committee

Leavenworth County would like to speak today in support of House Bill 2036 as it was originally presented by the Kansas Department of Health and Environment.

Contrary to the amendments the House sub-committee recommended and the vote of the House of Representatives, we believe the \$1.50 per ton tipping fee at the landfills should be maintained as we assert it is not a tax but a user fee. The fee is charged to the waste generator. If small amounts of waste are generated, then the fees are minimal. If large amounts are generated, the fee can be an incentive to reduce waste.

The total amount of revenue generated by the \$1.50 tipping fee is assessed from generation of waste disposed of in the State of Kansas. A percentage of this revenue is assessed on waste coming to Kansas from out of state. Waste Management and Deffenbaugh collect waste from various cities (Kansas City, Mo, Independence, Mo, St. Joseph, Mo). To our knowledge, this is the only fee assessed on out of state waste to benefit Kansas Counties, the recipients of this waste.

The money generated from this fee should be partly returned to the counties as they continue their solid waste management planning as required, and as many of the counties begin their plan implementation.

Leavenworth County has been involved in lengthy discussions with people throughout the State of Kansas that are involved in all areas of solid waste and the planning process. The general consensus was that the legislation needed to be amended to now include assistance in developing and operating solid waste management systems to meet the requirements of sub-title D, and that the \$1.50 tipping fee should be maintained.

City-County Probation
684-0760

Council on Aging
684-0777

Emergency Medical Service
684-0788

Noxious Weeds
684-0494

Community Corrections
684-0775

County Infirmary
684-1010

Health Department
684-0730

Sheriff
682-5724

Senate Energy & Nat'l Res
March 9, 1995
Attachment 2

Prepared Testimony
on
House Bill No 2036
As Amended by the House Committee
on Energy and Natural Resources

Presented By
Phil Wittek
Environmental Department Director
Johnson County, Kansas

March 9, 1995

On behalf of Johnson County and the Johnson County Environmental Department, I would like to thank the Committee for the opportunity to offer testimony on House Bill No. 2036.

It is our opinion that many basic elements of the Bill are beneficial and would be of great assistance for proper solid waste management in our State. Representing a county that is actively involved in the solid waste management planning process, we see the importance of the grant funding package. The entire State would benefit--both rural and urban communities. However, I respectfully urge the Committee to consider amendments. The changes from the original Bill's version appear contrary to the philosophy of basic assistance to all counties.

The following are some of the key provisions of the Bill as written that have disadvantages.

1. The lowering and final abolition of the tipping fee essentially is the key part. I would suggest a more moderate approach. Wouldn't it be more prudent to gauge the efficiency and benefits of all the grants prior to taking such drastic action? Aren't we throwing out the benefits before we have time to weight them?

Senate Energy & Nat'l Res.
March 9, 1995
Attachment 3

2. Solid waste planning and implementation is not just a one or two year project. May I respectfully remind the Committee that State law from House Bill 2801 passed in 1992 requires local Solid Waste Management Plans to deal with a 10 year window. HB 2801 delineates what plans should contain. Two examples I site are:

- a) A schedule for the reduction of waste volumes considering source reduction, reuse, recycling, composting, and land disposal.
- b) Development of specific management programs for certain wastes including but not limited to lead acid batteries, household hazardous wastes, small quantities of hazardous waste, pesticides and their containers, motor oil, and yard waste.

These are not by any means one or two year projects. Counties without adequate resources will find it difficult to sustain the planning elements without funding.

3. The current version of HB 2036 does not offer any means of maintaining and sustaining solid waste programs once implemented on the local level. There will be no renewal process.
4. The mandated match should be lowered. I don't believe match makes commitment.

5. Finally, it seems inappropriate to include in the Bill a ceiling on KDHE personnel involved in the Solid Waste Program. Shouldn't merit and benefit be controlling factors?

In conclusion, I respectfully urge you to consider amending this current version of House Bill 2036 and consider the long range impacts on the Solid Waste Management for the locals as well as the State. I would be glad to address any questions concerning Johnson County's plans.

Again, thank you for the opportunity to appear before this Committee.

PJW/tlw
114504a.mem

BIG LAKES REGIONAL HOUSEHOLD HAZARDOUS WASTE PROGRAM

SENATE COMMITTEE ON ENERGY AND NATIONAL RESOURCES

RE: H.B. 2036: An Act concerning waste management; relating to certain grants and other programs to assist cities, counties, and regional solid waste management entities.

**March 9, 1995
Topeka, Kansas**

**Presented by:
Dennis Peterson, Director
Riley County Household Hazardous Waste Program**

Chairman Sallee and members of the Committee:

My name is Dennis Peterson. I am director of the Riley County Household Hazardous Waste Program. Riley County also serves as the host facility for the Big Lakes Regional Household Hazardous Waste Program. On behalf of Riley County and the Big Lakes Region, we appreciate the opportunity to express our support of House Bill 2036.

House Bill 2036 deals with many different areas of solid waste management. I would like to address those areas of the bill that deal with Household Hazardous Waste (HHW) Management. First, I would like to give you some background information on our program to show that the money allocated for grants to develop HHW programs has gone to good use.

*Senate Energy & Nat'l Res
March 9, 1995
Attachment 4*

Riley County first became involved in HHW management in 1989 with the formation of a task force to study our problems and apply for a grant to start up a HHW program. We received a grant in 1990 and held a one-day collection on April 21, 1990. The remainder of the grant not used for the collection day was used to build a permanent facility that opened on October 4, 1990. Riley County was the first county in Kansas to receive a permit to operate a household hazardous waste facility.

In 1991, Riley County agreed to be the host county for a regional household hazardous waste collection program. A grant was issued and the Big Lakes Region for Household Hazardous Waste Management was formed to include Riley, Morris, Marshall, and Pottawatomie counties. In 1993, a second regional grant was issued to include Washington County. In January of 1995, Clay County joined the Big Lakes Region and at a regional meeting last Friday, Geary and Wabaunsee counties announced their intentions to join the region in 1995. This will bring the Big Lakes Region up to a total of eight counties covering **5,784** square miles and serving a population of **154,457** people. To accomplish this, **\$101,501** of grant money and **\$125,208** local match have been used to fund the startup of this program. As of today, over 250,000 pounds of HHW has been collected and either recycled or properly disposed of through a hazardous waste contractor. As a result of our efforts and your grant funding, in 1994, Riley County/Big Lakes Region was recognized as the ***Best Small Community Household Hazardous Waste Program in the United States.***

At the present time, there are 19 permanent HHW facilities in operation in Kansas and 3 facilities in the planning or building stage. Also, 8 of the 19 permanent facilities are serving as regional facilities which allow for another 23 counties to participate in a HHW program on a regional basis. That still leaves 61 counties with a need for help in planning and implementing a HHW program.

The first item I would like to address in H.B. 2036 is found on page 2, part D, which addresses the percentage of grant money to be used in implementing a program. Currently, the grant match is 50 percent state funds and 50 percent local match. There is a need to increase the state match to help less populated counties deal with HHW problems. The 61 counties presently without any type of HHW program account for 25 percent of the statewide population. The combination of lower tax bases in these counties and the high costs of disposal for HHW stress the need to increase the state match for development and first year operation of HHW programs in Kansas. As a regional facility, I feel that we have proved that the regional approach to HHW management is the most cost effective method of managing this waste problem and that there should be an additional incentive so counties will consider the regional HHW program. By amending this portion of H.B. 2036 to allow for up to a 75 percent state match to counties joining or starting a regional program and 60 percent for individual counties or cities' programs, you would be encouraging counties to utilize the most cost effective method of managing HHW available to them.

The second item I would like to discuss is on page 2, part E, which addresses the development of agricultural pesticide collection programs. Big Lakes Regional HHW Program also has had experience with this type of program. In 1993, the state of Kansas received an \$80,000 EPA grant for the disposal of agricultural waste pesticide. At the time, Big Lakes was the only regional facility in the state and possessed the expertise to do an agricultural pesticide collection program. The four counties of Riley, Morris, Marshall, and Pottawatomie, worked together to collect 18,493 pounds of waste pesticide with a disposal cost of \$70,920. This high cost of disposal for agricultural pesticides emphasizes the need to continue funding HHW programs and to develop new programs to assist counties with these specialized programs.

The third item I would like to discuss is on page 3, part F, which deals with developing programs for collection of waste from exempt small quantity hazardous waste generators. These types of generators are small businesses that generate 25 kilograms (55 pounds) or less of hazardous waste per month. Presently, HHW facilities are not permitted to accept waste from businesses; however, these same businesses can legally dispose of this waste in the landfill. I have personally had a serious problem with this procedure for several years and have been working to get KDHE to make it possible for HHW facilities to collect from businesses. This legislative change would allow for this to happen and prevent small amounts of business hazardous waste from contaminating landfills and the environment.

The next point that I have questions about is found on page 5, part 10, which allows for payment to counties or cities for disposal of hazardous waste generated in a county without a HHW program. I feel that this section of H.B. 2036 is much needed so as to have a way of helping out counties with special problems and no financing available to operate a HHW program. The problem I see, though, is that counties may neglect their responsibilities and abuse this section to avoid starting a HHW program. To prevent counties from accepting waste from another county and having payment for reimbursement refused by the state, I feel that prior approval by the state should be given to prevent this problem from occurring.

Suggested wording for page 5, part 10 would be: "direct payments to reimburse counties or cities for household, farmer, or exempt small quantity generator hazardous wastes generated from persons not served by existing household hazardous waste programs ***with approval from KDHE before collection of such waste*** or direct payment of contractors for disposal costs of such waste."

The final item I would like to comment on is the tonnage fee used to support these programs. The Big Lakes Region feels that the \$1.50 tonnage fee should

remain in effect at least until 1998 to help fund the remaining counties that have a need to start HHW programs and to fund the new agricultural pesticide collection program and the exempt small quantity hazardous waste program described in this legislation. The tonnage fee structure could then be re-examined in three years to determine which direction these programs are going and the need for future grant program requirements.

In closing, I hope that I have been able to show you that the grant money that you have made available in the past has gone to good use in helping to protect the environment from hazardous waste contamination. I also hope that I have been able to show you the need for continuing to support the present programs and to support development of new programs in hazardous waste management.

Again, I would like to thank you for this opportunity to express our support of House Bill 2036.

Testimony regarding HB 2036
for the Senate Energy & Natural Resources Committee
March 9, 1995

The attached Legislative Agenda (Position Statement) and additional comments reflect the desires of the nine counties that form the Southeast Kansas Solid Waste Authority. It directly states our concerns with the bill before you today.

An amended version of HB 2036 must be passed if we are to see the tipping fee funds, now held in escrow, released for their intended purpose during FY-96. **The original version of HB 2036, as proposed by KDHE, was a very stretching compromise for the authority to accept.** It did not reflect the unique nature or needs of solid waste management practice in Southeast Kansas. We asked the House Committee on Energy & Natural Resources to amend the bill to reflect the Legislative Agenda of the Southeast Kansas Solid Waste Authority (SEKSWA) attached.

We obviously find the present version of HB 2036 a giant step in the wrong direction. We urge you to amend the bill before you today to more nearly reflect the attached "Position Statement".

Understanding that the version of HB 2036 that ultimately becomes law will require compromise. I reiterate, the original version of HB 2036 was a very difficult exercise in compromise for SEKSWA.

On behalf of SEKSWA, and the nine county commissions and solid waste committees it represents, I wish to offer the following for your consideration:

1. The Kansas Department of Health & Environment held a public meeting to guide them in developing a legislative proposal for dispersing a portion of the tipping fee funds to implement county solid waste management plans. The present version of HB 2036 is a significantly different piece of legislation than the proposal originally developed from this meeting in August of 1994. The amended bill before you was passed by the House of Representatives without allowing an appropriate amount of time for consideration and comment by those who came from the far corners of Kansas to participate in the exchange of ideas that led to the formation of the original bill. The bill was moved through committee and on to the floor so quickly that it was virtually impossible for anyone but a full-time lobbyist to follow the status and amended provisions of the bill. **Please, make sure that your respective county commissioners and solid waste committees have had an opportunity to read, consider, and comment on this bill before you act on it.**

2. In 1992, the Kansas Legislature passed a \$1.50 per ton tipping fee on landfill waste to fund KDHE operations and provide a funding source for counties to meet the expense of developing statutorily required solid waste management plans. **County Commissioners and other Solid Waste entities have continued to support this fee in the belief that a portion of the fee would be made available to the counties to fund solid waste management planning and implementation.** Yet, this bill proposes to substantially reduce, and implies an ultimately "Sunset" of this vital source of funding.

SENATE ENERGY & NATURAL RESOURCES COMMITTEE HEARING HB 2036

SEK Solid Waste Authority - March 9, 1995 Testimony...continued...

3. I am told that there are some county commissioners that have expressed the opinion that all of the \$1.50 per ton KDH&E tipping fee should be eliminated. From what I have heard, they claim that removing KDH&E's funding will reduce KDH&E's ability to enforce solid waste regulations and thus remove their necessity to implement compliance. If such short-sightedness is allowed to become law though the enactment of HB 2036 in its present form, the 105 counties of Kansas will be at the mercy of the EPA's more onerous and burdensome enforcement procedures. Please, consider the burden for compliance that is squarely placed upon the counties. Do not un-fund their solid waste mandates.

4. Some legislators have accused the Department of Health & Environment of accumulating an un-allocated surplus. The tipping fee funds in the KDH&E treasury are "un-allocated" because the House Committee on Energy & Natural Resources failed to authorize their intended use when asked to do so in 1994. There is no surplus. There is only an un-distributed allocation awaiting your authorization. Please authorize distribution of these funds to their intended purpose, the implementation of KDH&E approved solid waste management plans.

The counties have entered into the extremely expensive planning process in good faith, believing that the legislature would approve the use of KDH&E tipping fee funds to assist with the cost of implementing their plans. Yet, the counties are now being asked to implement compliance with landfilling, household hazardous waste, recycling, waste reduction, public education, and other costly mandates without the full benefit of the funding mechanism that they have been led to believe would be available to them. Please, restore the tipping fees to \$1.50 per ton and allow the much needed resources to flow to their intended use.

5. It is unlikely that any citizen will have their annual taxes or garbage bill reduced as much as one cent by the reduction or elimination of the KDH&E tipping fee. Yet, the present version of this bill will force the smaller, poorer counties of Kansas to either raise taxes, impose new user fees, or face state and federal sanctions for failure to comply with regulatory mandates due to lack of funds. Please restore the tipping fees to \$1.50 per ton.

6. The matching fund requirements for grants offered under the present version of the bill would serve to unfairly discriminate against the smaller, poorer counties' ability to obtain the resources necessary to comply with federal and state environmental mandates. Please restore them to the levels presented in the original version of the bill.

7. The intent of 1992 legislation was to place responsibility for solid waste management planning and implementation squarely on the counties. Yet, HB 2036 strikes out the language to require private entities to obtain county approval prior to planning, and applying for grants for solid waste management projects within the counties. In fact, private entities would not have to notify the counties about grant projects at all. Please, eliminate the House imposed strike-through.

Thank you for considering these thoughts as you amend and pass HB 2036.

Legislative Action Agenda (Position Statement)

1. Amend HB 2036 to:
 - (A.) Allow KDH&E to continue collecting the full \$1.50 per ton landfill tipping fee.
 - (B.) Require KDH&E to remit \$0.25 (twenty-five cents) per landfill ton directly back to the county commission/solid waste committee in an amount equal to the tonnage generated within the county during the previous calendar quarter. KDH&E should be required to remit these monies to the counties on a monthly basis effective with tipping fees collected beginning July 1, 1995. Require KDH&E to increase the remittance back to the counties to \$0.50 (fifty cents) on July 1, 1996.
 - (C.) To require that the rules, regulations, and distribution formulas for the various grant programs be included in the statute. To allow the Secretary of KDH&E to arbitrarily determine these formulas, methods, and regulations without prior legislative approval flies in the face of the democratic process.
2. Amend HB 2036 to reflect the matching fund requirements for the various grants as stated in KDH&E's original proposal to the House Energy & Natural Resources Committee. The original proposal would allow smaller cities and counties to participate in the various grant programs. This present version of HB 2036 discriminates unfairly against cities and counties with small populations, low incomes, low property values, and a disproportionate number of senior citizens.
3. Re-visit KSA 65-3405, 3407, 3409, 3415, and 3419 (a.k.a. HB 2801 as contained in Chapter 316 of the 1992 Session Laws of Kansas) with the intent of lessening the impact of solid waste/environmental mandates to the counties as set out in these statutes.
4. Mitigate the ability of the Secretary, and other KDH&E department heads, to create unfunded environmental mandates by departmental regulations and procedures.
5. Give the counties an unquestionable right to impose tipping fees upon private solid waste entities within their jurisdiction. Some hold that the passage of HB 2801 in 1992 provided the counties with this right. It must be noted that Cherokee County has been challenged to prove its authority to levy a tipping fee against American Waste Disposal, operator of a large landfill in Cherokee County. Cherokee County must endure the expense and effort of a court battle to establish its right to assess a tipping fee. The smaller, poorer counties will find it virtually impossible to assess a tipping fee unless something is done to provide clear and definitive legislation to this end.

Lake Region Authority

121 East Second
Ottawa, Kansas 66067

March 7, 1995

Mr. Dave Burnett, Administrator
Southeast Kansas Regional Solid Waste Authority
P. O. Box 664
Chanute, Kansas 66720-0664

Reference: H.B. 2036, March 9 Senate hearings

Dear Mr. Burnett:

Post-it* Fax Note	7671	Date	3/7	# of pages	2
To	Dave Burnett	From	Kay Miller		
Co./Dept.		Co.			
Phone #		Phone #	913-795-2308		
Fax #	316-431-4805	Fax #	913-795-2016		

This refers to our March 7 telephone conversation concerning proposed revisions to H.B. 2036.

It is doubtful that we will be able to appear at the March 9 Senate hearing. We understand that you are scheduled to appear. We would appreciate it if you would convey the content of this letter to the Senators in the course of your testimony.

The Lake Region's solid waste activities have been in existence for approximately four years. Within the next month, our Authority's planning activities will peak with the delivery of our Solid Waste Management Plan to KDHE. We, and our member counties have taken the mandate of Sub Title D and H. B. 2801 legislation seriously, and have worked diligently to comply. The House of Representatives' March 1, 1995 amendment to H. B. 2036 appears to undercut all of our planning activities, and to be contrary to the above referenced mandates and legislation.

Specifically, we see the following problems with the March 1 version of the bill:


1. Does this version seriously address how we counties and regions will maintain the momentum of compliance activities that have diligently occurred to date?
2. If this revised legislation is passed, will it comply with the U.S. Environmental Protection Agency's mandates? We think not.
3. The revised legislation appears to allow funding for private solid waste industry activity without requiring local approval. This might, if carried to the extreme, mean that a private solid waste activity could start up with State funding with local and regional authorities having nothing to say.
4. The tipping fee is a "user's fee", not a tax. It has been used responsibly to finance mandated solid waste activities, and to enhance interlocal cooperation. In 1994, this fee resulted in a return of \$2.8 million to the counties and regions. This is money spent for activities that will minimize potential future remediation costs.

We strongly recommend the amendment of the March 1 version of the bill, to adopt the original version of H. B. 2036. This original version was formulated as a result of an August 23, 1994 fact finding meeting in Topeka, attended by over 100 representatives of KDHE, counties, authorities, and industry. While this version of the bill is not perfect, it does conform with mandates, it gives us the incentive to continue activities on a regional basis, and we see it as a bridge between the present solid waste climate and the universal goals of "reduce, reuse and recycle". The adoption of the March 1 version of H. B. 2036 would cause a large step backward in the attainment of these goals.

Senate Energy & Nat'l Res.
March 9, 1995
Attachment 6

We in the Lake Region Authority offer you our sincere thanks for conveying this message to the March 9 Senate hearing.

Cordially,



R. H. Miller
Chairman, Lake Region Solid Waste Authority

cc: County Commissioners, Anderson, Coffey, Franklin, Linn, Miami and Osage Counties
Valerie Hill
Richard Long
Lake Region Authority Members
Dan Williamson
Hub Caspar
Kent Foerster
Andrew Howell

DEFFENBAUGH INDUSTRIES, INC.

POST OFFICE BOX 3220
SHAWNEE, KANSAS 66203
913-631-3300

March 9, 1995

Committee on Energy and Natural Resources
Kansas Senate
State of Kansas
Topeka, KS 66612

RE: House Bill 2036

Dear Mr. Chairman and Members of the Committee:

My name is Sean White, and I am the environmental compliance manager for Deffenbaugh Industries, Inc.. I appear before you today to share with you my company's position on House Bill 2036.

Deffenbaugh Industries, headquartered in Shawnee, has been a leader in solid waste management in Kansas for over 20 years. Deffenbaugh and its affiliate companies employ over 1,100 people in Kansas at operations in Shawnee, Bonner Springs, Olathe, Kansas City, Newton, Pittsburg, and Wichita, and we take great pride in our ability to provide efficient, cost-effective, and environmentally protective solid waste management services to the citizens and businesses of this state.

In 1992, when Kansas faced the unfunded mandate created by Subtitle D of the Resource Conservation and Recovery Act, the legislature enacted House Bill 2801 in order for Kansas to become approved by the U.S. EPA for purposes of implementing the Subtitle D criteria. It was argued during consideration of H.B. 2801 that a \$1.50 per ton fee on solid waste disposed of at Kansas landfills was needed by KDHE to fulfill its federally-imposed obligations. At that time, it was estimated that the \$1.50 fee would generate \$3.7 million annually¹. However, in FY 1994, the solid waste management fund received a total of \$4,923,500² - fully \$1.2 million more than originally projected. After operating expenses incurred during FY 1994, the KDHE solid waste management fund experienced a \$1.4 million surplus. Obviously, the expenses were overestimated and the revenue stream underestimated. This speaks forcefully for a reduction in

¹ Testimony presented to House Energy and Natural Resources Committee by Kansas Department of Health and Environment on House Bill 2801, February 18, 1992

² Memorandum from William L. Bider, Director KDHE Bureau of Solid Waste, and Charles Jones, Director KDHE Division of Environment to Solid Waste Advisory Committee, RE: "Future Uses of Solid Waste Management Fund", September 21, 1994

Senate Energy & Natl. Res
March 9, 1995
Attachment 7

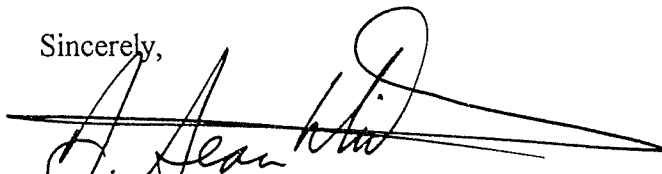
the tipping fee.

When House Bill 2036 was introduced in the House, it did not contain the solid waste tonnage fee provisions that are contained in the version that this Committee is reviewing today. Originally, Deffenbaugh Industries came out as an opponent of HB 2036 because we were concerned that the bill represented an increase in the scope and breadth of state government - precisely at a time when Kansans believe that the size and cost of state government needs to be reduced *not expanded*.

Deffenbaugh Industries questions whether the tipping fee reduction contained in today's bill is adequate given the large surpluses that KDHE has collected to date through the solid waste tonnage fee. For example, KDHE has recently reported that the fund carryover to FY 96 will be about \$3.7 million³, up from their earlier estimate (see attached table). The adverse affects of the current excessive tipping fee are especially acute for independent Kansas-based solid waste businesses. Specifically as it relates to Deffenbaugh, we have not been able to easily pass the increased tipping fee costs through to our customers as we collect and haul both household and commercial solid waste, and contractual arrangements often restrict increases in costs, especially with municipal/city solid waste contracts.

Mr. Chairman, I appreciate the opportunity to testify today. I would be more than happy to answer any questions that Committee may have at this time.

Sincerely,



D. Sean White

³ Memorandum and table from William L. Bider, Director KDHE Bureau of Solid Waste to Carl Holmes, Chairman, House Energy and Natural Resources Committee, January 30, 1995 (see attached table)

BUREAU OF WASTE MANAGEMENT
 SW MANAGEMENT FUND EXPENDITURES
 FY 94-97 (Estimated January 30, 1995)

	FY 94 (Actual)	FY 95 (Projected)	FY 96 (Budgeted)	FY 97 (Estimated)
CARRYOVER	\$830,953	\$1,431,554	\$3,753,174	\$3,376,756
REVENUE	\$4,923,500	\$5,031,301	\$4,775,800	\$4,729,500
INTEREST	\$0	\$100,000	\$100,000	\$100,000
FY NET REVENUE	\$4,923,500	\$6,562,855	\$8,628,974	\$8,206,256
FY AVAILABLE FUNDS	<u>\$5,754,453</u>	<u>\$6,562,855</u>	<u>\$8,628,974</u>	<u>\$8,206,256</u>
CURRENTLY AUTHORIZED EXPENDITURES				
Salaries	\$1,164,005	\$1,682,659	\$1,893,735	\$1,961,051
Operational Expenses	\$344,408	\$588,022	\$215,000	\$241,885
Landfill Remediation Projects	\$0	\$0	\$300,000	\$300,000
Public Education & Training	\$0	\$0	\$75,000	\$75,000
Technical Consulting Contracts	\$0	\$0	\$218,483	\$100,000
Solid Waste Planning Grants	\$2,814,486	\$539,000	\$600,000	\$200,000
RECOMMENDED EXPENDITURES				
Household Hazardous Waste Program Grants & Direct Expenditures	\$0	\$0	\$300,000	\$300,000
Waste Reduction Program Operating Expenses	\$0	\$0	\$150,000	\$150,000
Solid Waste Base Grants			\$1,500,000	\$750,000
Solid Waste Plan Implementation Grants	\$0	\$0	\$0	\$3,600,000
TOTAL PROJECTED FY EXPENSES	<u>\$4,322,899</u>	<u>\$2,809,681</u>	<u>\$5,252,218</u>	<u>\$7,677,936</u>
ENDING FY FUND BALANCE (June 30, 199X)	\$1,431,554	\$3,753,174	\$3,376,756	\$528,320



Kansas Environmental News

January 1995

KDHE Permit Survey

Over the last six months, the Public Advocate's office has been coordinating a survey of businesses that have received a permit from bureaus within the Division of Environment. The survey asked businesses about the application, instructions, time, and dollars spent completing the application, if telephone inquiries were answered appropriately, and company use of consultants.

Of the approximately 50 completed surveys received, all indicated an overall positive response. Some of the comments were "staff are helpful" and "co-operative" and the "application is quite good, thank you." A constructively critical comment read "report forms could be improved if the times they were due were coordinated among all types of [tire] permits, it would save a lot of duplicate paperwork." Estimates of application cost varied from "not much" to \$90,000. Time to complete applications varied from 30 minutes to 1,200 hours.

The survey forms will continue to be distributed with all new permits issued. When 50 forms have been returned from each bureau, a detailed report will be provided to bureau staff for their review. For more information about the survey, contact Janet Neff, Public Advocate, 296-0669 or 800-357-6087.

An Update on Cryptosporidium

Cryptosporidium [krip-toe-spore-idee-yum] has received media attention in recent years. This tiny protozoan causes a disease called cryptosporidiosis which is characterized by gastrointestinal illness lasting up to two weeks. Side effects can be severe in the elderly, children, and people with weakened immune systems. Outbreaks of the disease have occurred primarily in areas in the United States where *Cryptosporidium* is in raw water and the water treatment plant has had a problem. It has been detected in Kansas rivers.

Testing for this protozoan is quite expensive as well as difficult. The Kansas Department of Health and Environment has specific recommendations for water treatment plants reducing the risk of the disease which include properly maintaining all equipment, proper filtering of water, and closely monitoring all water plant mechanical and operational processes.

In the future, the US EPA may pass regulations regarding *Cryptosporidium* with specific requirements including better microbiological testing, alternate disinfectants, source protection, and additional consumer notification. For more information, contact Ralph Gelvin at (913) 296-5516.

Ralph Gelvin, Public Water Supply Section

Role of Municipalities in Environmental Cleanups

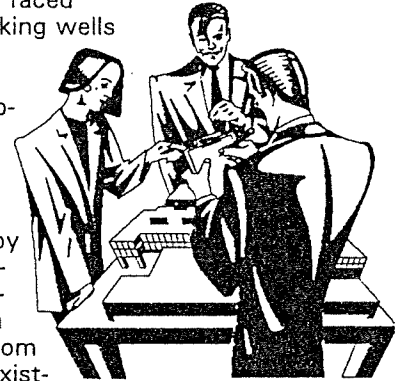
Kansas municipalities are frequently discovering that their public water supplies are contaminated or are threatened by contamination migrating into their well field area. Communities may not have the financial resources to invest in a new water supply system or to install a new treatment system on the existing water supply. Municipalities are faced with taking wells

out of service and supplementing the loss of water by increasing production rates from other exist-

ing wells or limiting consumption. In either case, solutions are temporary and contamination problems must be addressed for future generations.

A municipality with a contaminated water supply site is further affected when the public water supply wells are located within the city limits, often where industry and businesses which are major sources of tax bases are located. When contamination problems have been publicly identified, property values in the area may drop; property sales may decrease or stop; and existing businesses and industry may not be able to obtain financial funding for expansion, improvement, or operations. The economic impact on the municipality is generally immediate and long term. Future economic development may be limited or non-existent.

The Bureau of Environmental Remediation (BER) is generally notified of public water supply problems in conjunction with the Bureau of Water's routine water supply sampling and reporting program. BER conducts investigations to determine potential sources of the public water supply contamination. Funding is provided from the CERCLA (Superfund) Program. Use of federal funding, through a cooperative agreement with the US EPA, requires BER to score the site for potential National Priority Listing (NPL). This means the site is scored as a potential Superfund Site.



Future Use of Solid Waste Management Fund

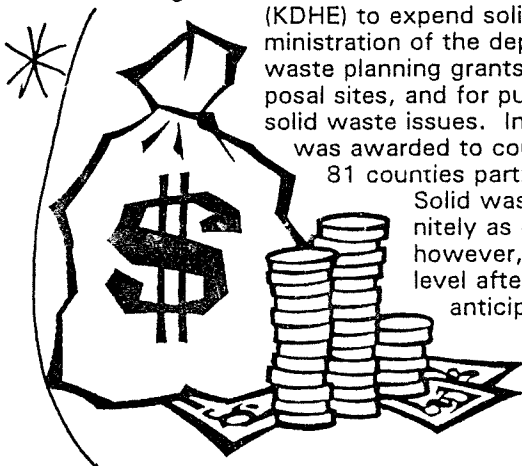
Kansas law requires that a fee of \$1.50 per ton be paid to the Solid Waste Management Fund for all solid waste which is landfilled in the state. Some industrial, construction, and demolition wastes are exempt from the fee if disposed of in certain types of landfills. In fiscal year (FY) 1994, \$4.9 million was deposited in the fund. It is expected that revenues will decrease steadily for several years as cities and counties implement recycling programs and other waste reduction practices.

Past Expenditures

Existing statutes authorize the Kansas Department of Health and Environment (KDHE) to expend solid waste management funds for the administration of the department solid waste program, for solid waste planning grants, for remedial action at solid waste disposal sites, and for public education and training related to solid waste issues. In FY 1994, \$2.8 million in planning grants was awarded to counties and multi-county regions. Overall, 81 counties participated in this grant program in FY 1994.

Solid waste planning activity will continue indefinitely as counties and regions update their plans; however, it will occur at a significantly reduced level after FY 1995. The amount of grant funding anticipated in the future for planning activity will also decrease significantly. This will free up financial resources for other new programs.

Continued on page 4.



Continued on page 3.

Environmental Progress during the Finney Administration

As we enter a new year and a new administration, perhaps it is time to reflect on the Finney Administration and to make at least a partial accounting of the accomplishments of these past four years.

Major environmental legislation was enacted.

- The Kansas Clean Air Act sets new standards for the protection of air quality.
- The Solid Waste Planning Act brought counties together to manage solid waste on a regional basis, funded those efforts, and promoted environmental well-being through a new and better generation of solid waste landfills.
- The Above-Ground Storage Tank Program Act gave owners and operators of above-ground storage tanks access to remedial funding through the Petroleum Storage Tank Trust Fund.
- Senate Bill 800 gave the Kansas Department of Health and Environment (KDHE) a strong statutory foundation for protecting the environment from adverse impacts associated with feedlots and other confined feeding operations.
- The Drinking Water Monitoring dedicated fee fund provided support to local efforts to monitor drinking water supplies.
- The Water Supply Revolving Loan Fund stands ready to receive and distribute funding for the upgrade and expansion of local drinking water supply systems.

In addition to these examples of major legislative initiatives, there were a number of cases where the modification of existing legislation served to enhance environmental protection. These include:

- promoting remediation of gasoline contamination by providing the owners/operators of underground storage tanks with easier and more affordable access to the Petroleum Storage Tank Trust Fund;
- enhancing emergency preparedness by creating a Nuclear Emergency Preparedness Dedicated Fee Fund; and
- amendments to the Kansas Low-Level Radioactive Waste Act which, among other things, made several Nebraska-requested changes contingent upon that state's licensure of the disposal facility.

KDHE developed an unprecedented number of initiatives intended to enhance the partnership between government and the people we serve. Included in these outreach initiatives have been creation of the following:

- Solid Waste Management Advisory Committee.
- Hazardous Waste Management Advisory Committee.
- Kansas Air Program Advisory Committee.
- Pollution Prevention Advisory Committee.
- Right-to-Know Fee Task Force.
- Water Program Review Panel.
- Environmental Remediation Review Panel.
- Environment Awareness Council.
- District Environment Awareness Councils.
- Kansas Environmental News.
- Secretary's Advisory Panel on Health and Environment.
- Low-Level Radioactive Waste Advisory Committee.
- Secretary's Agricultural Waste Committee.

The last four years have seen a great deal of reinvention within the Division of Environment, including:

- the great degree of privatization of Division of Environment activities—in fact nearly 70% of the division's budget flows through to private contractors and local government;
- the combined effort of KDHE, the Kansas Association of Counties, Representative Carl Holmes, and the Kansas Congressional Delegation in extending the federal deadline for compliance with solid waste regulations;
- creation of the Office of Pollution Prevention and the Small Business Ombudsman which sponsored conferences, awards, and outreach efforts to promote cost-effective and innovative compliance strategies;
- use of external panels to do performance reviews on the bureaus of Water and Environmental Remediation;
- the District Environmental Administrator initiative which enhances the responsiveness of KDHE field operations and increases the usefulness of the district offices as an information conduit and instrument of regulatory reform;
- development of the Uniform Enforcement Policy, Enforcement Tracking System, Division Planning Goals, and other strategic documents;
- participation in the Kansas Reinventing Government Water Permitting Team and development of new models for public/private partnership; and
- sponsorship of a workshop on cost-benefit analysis which was attended by KDHE staff, other state agencies, and legislators.

The Finney Administration will also be remembered for promoting environmental protection by providing resources in a measure proportionate to the value of our environmental heritage. In fact, between FY 1993 to FY 1995, the Division of Environment's budget grew from \$30.6 to \$54.9 million. By relying heavily on fee funding—the division funds are drawn from 10% State General Funds, 20% Federal grants, and 70% fees—this increased commitment was not on the back of general taxpayers and uses economic incentives to promote environmental protection. While bigger is not always better, this administration's commitment to the well being of future Kansans has been clearly reflected in the fiscal investments.

There have been a number of behind-the-scenes activities within the Division of Environment.

- The Bureau of Water, the Bureau of Air and Radiation, and the Office of Science and Support moved into new office space, providing the Bureaus of Waste Management and Environmental Remediation with much-needed expansion room.
- The entire division has been very aggressive in recruiting and promoting women and persons of color to better reflect the composition of the Kansas population.
- In the 1994 United Way drive, the division's participation rate was 84%—up 60 points from the preceding year—and was only one of many efforts on the part of staff to reach out and aid those in need.

There are some issues left unresolved, there are new challenges to take on, and there will always be those on both ends of the spectrum who fundamentally disagree with KDHE policy and actions. At the same time, there are many accomplishments attributable to the leadership of the Finney Administration and the hard work of KDHE employees.

Charles Jones, Director, Division of Environment



TO: Senate Energy and Natural Resources Committee
 FROM: Steve Kearney
 DATE: March 9, 1995
 SUBJECT: Testimony on HB 2036

Chairman Sallee and members of the Senate Energy and Natural Resources Committee. Thank you for this opportunity to appear before you on behalf of Waste Management of Kansas. While Waste Management generally supports the concepts embodied in HB 2036, we do have several concerns and suggestions we would like to pose to the committee.

Our suggestions address the following:

- 1) The efficient use of the tipping fee for grant purposes.
- 2) Competitive disadvantages that may inadvertently stifle free market forces.
- 3) Primacy of the KDHE's Waste Management Program.

Efficient Use of Grant Funds

When the original tipping fee of \$1.50 was implemented, it was with the specific purpose of aiding and assisting counties across the state in the implementation of Federal Subtitle D mandates. Today, with the purpose of the tipping fee having been served, we find ourselves faced with House Bill 2036, which proposes "new ways" to spend the tipping fee, originally intended for one narrow purpose. While some of the "new ways" to spend the fee are understandable, this measure before you proposes what one House Energy committee member characterized as a "cornucopia" of grant programs or a "fee looking for a program."

We suggest looking carefully at the funding available for these programs and the "cornucopia" of grants being offered by this bill. Based on the total funds available, each grant program should limit grants to either a dollar amount, a total percentage of funds available as well as stipulating what percentage of the total project cost may be covered by every grant. Our concern arises from the fact that HB 2036 currently provides for a number of grant programs, some of which have no limits, while funding for the programs are limited. Combining grant programs or eliminating those programs that are not a priority at this time may assist in the manageability and administration of these programs.

Competitive Disadvantages

We are concerned that these grant programs place the private sector at a competitive disadvantage by subsidizing public operations that openly compete with private industry. To ensure that Kansas communities are able to receive subsidies when needed, and as not to place the private sector at a competitive disadvantage, we respectfully suggest that HB 2036 be amended to include the following sample language.

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Prior to applying for a base grant pursuant to this section, a prospective grantee shall publish a request for proposal for any program provided for under the base grant program in the Kansas Register, allowing sufficient time for notice and submittal of qualified bids for such proposals. If no responsive bids, at acceptable price levels, have been received after formal advertising in the Kansas Register, the prospective grantee may apply and receive funding through the base grant program. The solid waste grants advisory committee shall take into consideration the qualified bids received by prospective grantees when selecting projects to receive grant funding.

In addition to giving free market forces a chance to work, this amendment would assist the Committee in prioritizing grant requests and would also allow the private sector to be alerted to the service needs of more remote areas of the State.

KDHE Primacy

We further suggest to the Committee that the measure be amended to reduce the tipping fee to \$.75 versus the House amendments that incrementally reduce and sunset the tipping fee from \$1.50 to \$1.25 the first year, \$1.25 to \$1.00 in the second year and sunsetting the fee at the end of the second year. We enthusiastically support maintaining the tipping fee at \$.75 to continue the operation of KDHE's Waste Management Program, assuring Kansas of primacy and the much needed flexibility that it brings to the Subtitle D mandate and other environmental issues. Furthermore, we support the use of the \$3.9 million carryover from the current tipping fee to fund the final grant programs.

Thank you for the opportunity to appear and for your consideration of our suggestions.

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To: Senator Don Saltee, Chairman
Senate Energy and Natural Resources
Committee

From: Anne Spiess, Dir. of Legislation
Jim Reardon, Dir. Legal Services

Date: March 9, 1995

RE: **H.B. 2036 Solid Waste Fee Fund**

Background: The solid waste management fund was created to provide grants to counties and multi-county regions to carry out the comprehensive solid waste planning required by law. The fund is supported by a \$1.50 per ton tipping fee. The proposed changes broaden the scope of projects eligible for funding under the program and extends eligibility to household hazardous waste and recycling efforts. Capital and equipment needs also become eligible for funding under the program.

The language changes reflect the transition from preliminary planning and closure requirements to on-going operational needs. They are the outgrowth of several meetings initiated by KDHE and attended by affected industry and governmental representatives.

New Sect. 3 creates a 6 member advisory committee to review grants, prioritize funds, and make recommendations regarding the selection of grantees and the disbursement of moneys.

KAC 1995 County Platform: The proposed changes provide local units of government with the flexibility to use funds to accomplish a greater variety of solid waste projects. This flexibility could be accomplished by the state increasing the level of grant funding to local units of government.

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Comment: KAC is in general support of H.B. 2036.

However, there is concern among some of our members that the language of **H.B. 2036** does not go far enough in addressing the needs of the counties or assuring their participation in the program. For example, **H.B. 2036** does not provide for automatic eligibility of counties who have met their compliance timetables. It is also KAC's opinion that current funding levels do not currently support the inclusion of all program categories sought by our platform committee.

KAC has concerns that the matching requirements will negatively affect those counties most needing assistance under this act. While we do not have a consensus from our members on this matter, solid waste advisers to the counties tell us that the tipping fees are an essential source of revenue for meeting the Subtitle D mandate.

Thank you for your consideration. We look forward to working with the Committee on this issue.

Sld Wst. mem

Kansas Business and Industry Recycling Program, Inc.

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Testimony on HB 2036 presented to
The Senate Committee on Energy and Natural Resources
by
Chiquita Cornelius, Executive Director
Kansas Business and Industry Recycling Program, Inc.

March 9, 1995

Mr. Chairman and Members of the Committee:

The Kansas Business and Industry Recycling Program (Ks BIRP) is a non profit organization founded in 1983. Our program supports a comprehensive, integrated approach to minimize our state's solid waste and believes that industry, government and the public must work together to resolve this common issue. We supported HB 2801 passed in 1992 that set the course toward this position.

Kansas BIRP also supported HB 2036 as originally introduced. If we are to continue the direction set in HB 2801 to develop and implement comprehensive solid waste management plans in the State of Kansas, then the next logical step is to foster implementation of these plans. In the past, too frequently we have seen plans developed or revised only to end up on a shelf. Therefore the reduction of the tipping fee effective July 1, 1995 and sunseting the fee in 1998 seems to be a premature action.

The concern shared with our program from across the state are that the amendments to this bill will jeopardize the successful implementation of plans that are just now being finalized at the local level. We would urge the committee to reassess the advisability of reducing the tipping fee effective July 1, 1995 and

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sunsetting the fee in 1998.

Kansas BIRP will continue to be available to offer our assistance and appreciates the opportunities we have had to be included in solid waste planning for Kansas citizens.