

## MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Senator David Corbin at 8:10 a.m., on February 15, 2000 in 245-N of the Capitol.

All members were present except:

Committee staff present:

Raney Gilliland, Legislative Research Department  
Mary Ann Torrence, Revisor of Statutes Office  
Lila McClafin, Committee Secretary

Conferees appearing before the committee:

Senator Don Biggs, Leavenworth, KS  
Karl Mueldener, Kansas Department Health and Environment (KDHE)  
Craig Volland, Sierra Club and Stewards of the Land  
Ken Meier, Commissioner, Harvey County  
Dwight Metzler, Topeka, KS  
Jolene Grabiell, Regional Economic Area Partnership  
Mike Jensen, Kansas Pork Producers Council  
Gary Stanford, Admire, KS  
Representative Sharon Schwartz, Washington, KS

Others attending:

See attached list.

With a motion from Senator Huelskamp and a second from Senator Biggs the minutes of February 9 and 10 were approved.

The hearing was opened on **SB 562—Swine confined feeding facilities; requirements relating to facility and lagoon closure.**

Senator Don Biggs, Leavenworth, KS supported the bill. The bill would lower the threshold for submitting a plan for closure from 3725 animal units to 1000. It addresses the ownership issue of the operator, and it requires the operator to demonstrate annually to the satisfaction of KDHE their financial ability to cover the cost of closure of the facility (Attachment 1).

Karl Mueldener, Kansas Department Health and Environment, said they believe **SB 562** will help protect the environment from problems from swine facilities. Studies have shown that lagoons when taken out of service can potentially create groundwater contamination problems unless properly decommissioned. Usually a lagoon being removed from operation is associated with the closing of the livestock facility, and quite often the operator is short on capital, and this bill would help keep cleanup costs with the facility operator as opposed to being transferred to neighbors or the state (Attachment 2)

Craig Volland, President of Spectrum Technologists, an environmental consulting firm in Kansas City, KS, testified in favor of the bill on behalf of the Kansas Chapter of the Sierra Club and Stewards of the Land said he has personally reviewed most of the large hog facility permits processed in western Kansas. He said his point is that the dollars involved in remediation of these facilities at the end of their useful lives could be quite substantial even for facilities smaller than the current "large" facility threshold of 3725 animal units, and the dollars might not be there for remediation. He thought this bill would assure that funds were available for this purpose (Attachment 3).

Ken Meier, Commissioner, Harvey County, remarked that stricter regulations were important but need to be cautious that they are not so strict that it drives the farmers off of the land. The secretary of KDHE already has authority to enforce more stringent regulations than those included in the bill. He said there was a need for a better way to take samples from lagoons. He showed a brochure of a tool that could be

## CONTINUATION SHEET

### MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

designed to do so. Responding to several questions Mr. Meier said their county is an agricultural county and they were very concerned that the cost of doing business would become prohibitive for the small producers and run them out of business leaving only large producers. He supported the bill as it would make operators responsible for remediation. He expressed a real concern for protection of the Equus beds.

Dwight F. Metzler, Topeka, KS, urged the adoption of the bill. He suggested also that KDHE needs more funding for research on the public health effects of air borne aerosols and chemicals (Attachment 4).

Jolene Grabel, Regional Economic Area Partnership (REAP), said the number one priority of REAP is to "Guarantee that there is absolutely no threat to the region's public water supply." (Attachment 5)

Mike Jensen, Kansas Pork Producers Council, opposed the legislation as it would require producers to spend money as an insurance against a situation that has never occurred in Kansas. He stressed there had never been a single instance where public money was needed for closure of a facility. In his opinion the bill would essentially be imposing tax on producers. Included with Mr. Jensen testimony is a Kansas Pork Industry fact sheet (Attachment 6).

Gary Stanford, Admire, KS, opposed the bill. He said they have always strived to be good environmental stewards of the land and water. All this bill would do is take money from their pocket and put it into the hands of insurance companies, bonding companies, or bankers. This money could be used better by his family for educating the children or to be invested in their family operation (Attachment 7).

Sharon Schwartz, Representative, Washington, KS, opposed the bill. She said two years ago legislation was passed that provided for the most stringent environment requirements on confined swine operations in the U. S. At that time we discussed closure requirements but were informed that very little research had been done to address the question. Now less than two years later, we are considering amending the act to include 1000 animal units to comply with closure requirements for the larger units. At the present time, there has been no prove that this is necessary to protect the groundwater (Attachment 8).

Chairperson Corbin closed the hearing on **SB 562**.

The meeting adjourned at 9:00 a.m. The next scheduled meeting is at 8:00 a.m. on February 16, 2000.

SENATE ENERGY & NATURAL RESOURCES  
COMMITTEE GUEST LIST

Please Sign in  
Black Ink

DATE: 2-15-2000

NAME	REPRESENTING
Dwight Metzler	Metzler Group
Craig Volland	Spectrum Technologists/Sierra Club
Dele Lambly	Ks. Dept. of Agric.
Jim Allen	Seaboard
Garry Keeler	Ks Dept of Ag
Gary STANFORD	KRPO
John Garling	
Ken Caches	Ks. Soc. of Professional Engineers
Woody Moss	KAMA
Russ McKee	Navajo Co. Comm.
Rep. Howard Seligson	
Judy Nolan	Ks. Assn of Counties
Kim Spiller	LKMA
Theresa Spiller	REAP.
Karl Muederer	KONE

DONALD E. BIGGS

SENATOR, 3RD DISTRICT  
LEAVENWORTH & JEFFERSON COUNTIES

TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS

RANKING MINORITY MEMBER:  
ENERGY AND NATURAL RESOURCES  
MEMBER:  
AGRICULTURE  
ARTS AND CULTURAL RESOURCES  
FEDERAL AND STATE AFFAIRS  
FINANCIAL INSTITUTIONS AND  
INSURANCELEGISLATIVE HOTLINE  
1-800-432-3924  
(DURING SESSION)

February 15, 2000

TESTIMONY FOR SENATE ENERGY & NATURAL RESOURCES COMMITTEE  
BY SENATOR DON BIGGS  
SB562 SWINE CONFINED FEEDING FACILITIES

This bill lowers the threshold for submitting a plan for closure from 3725 animal units to 1000. It also addresses the ownership issue of the operator. The operator needs to demonstrate annually to the satisfaction of KDHE the financial ability to cover the cost of closure of the facility. A surety bond or other financial security can be acceptable. We now know that such surety bonds are available for purchase.

It is a near certainty that there are going to be closed or abandoned swine confined feeding facilities in the future whether it be 5, 10, or 15 years. Technology and markets change as evidenced by the abandoned poultry pens and facilities in SW Missouri, NW Arkansas and even in Kansas. These never seem to be torn down or removed from the land and become rural eyesores. Closed swine lagoons pose much greater environmental problems based on preliminary K-State research. The 1000 animal threshold equates to 2500 swine above 55# and 10,000 swine below 55#. *unit*

It seems that we hear of remediation funds each year in this committee. We have the Underground Storage Tank Trust Fund, the Dry Cleaner clean-up fund, the Abandoned Oil and Gas Well Remediation Site Fund and now the Agricultural and Specialty Chemical Remediation Fund. The refrain for these has been basically the same: "We were using the best state of the art and management practices in place at the time." My prediction is that future legislators will be dealing with a state-wide swine facility and lagoon clean-up fund if we do not tighten things up as proposed in SB562. Thanks for your consideration.

Don Biggs

Senate Energy &amp; Natural Resources

Attachment: 1

Date: 2-15-2000



**KANSAS**  
**DEPARTMENT OF HEALTH & ENVIRONMENT**  
BILL GRAVES, GOVERNOR  
Clyde D. Graeber, Secretary

---

Testimony Presented to  
Senate Committee on Energy and Natural Resources  
by Karl Mueldener  
February 15, 2000  
Senate Bill 562

KDHE appears today in support of SB 562. The bill would expand the requirements for swine facility closure plans to cover facilities of 1,000 animal units and greater. Presently, state law only requires closure plans and financial assurance for swine facilities above 3,725.

Lagoons are commonly used to manage waste from swine facilities. Studies have shown that lagoons, when taken out of service, can potentially create groundwater contamination problems unless properly decommissioned. Of course, a lagoon being removed from operation is usually associated with the closing of the livestock facility. At this time the operator is perhaps short of capital, or at least looking to hold down expenses. KDHE believes SB 562 will help protect the environment from problems from swine facilities. The concept is similar to that now applicable to fuel storage tanks, landfills, and hazardous waste storage facilities. The bill will help keep cleanup costs with the facility operator as opposed to being transferred to neighbors or the state.

Proper closure of a lagoon does represent a significant expense. Closure plans for larger swine facilities now address costs of the following general actions: dewatering the lagoons and other structures, removing manure and sludge from the buildings, control structures and lagoons, removal of the lagoons synthetic or soil liner, proper disposal of the material removed, and regrading of the land surface. Now on file with KDHE are closure bonds totaling approximately \$6.6 Million covering 22 larger (above 3,725 animal units) swine facilities. The bonds on file average about \$300,000 per facility. Plans now on file range from \$40,000 to \$1,000,054.

The present universe of active swine facilities in Kansas is:

0 - 999 animal units	- 900 facilities
1000 - 3724	- 70 facilities
3725 - 99999	- 28 facilities.

C:\MyFiles\Old Files\OFFICE\WPWIN\WPDOS\2000 Legislature\SB 562 testimony.wpd

DIVISION OF ENVIRONMENT  
Bureau of Water

Senate Energy & Natural Resources

Forbes Field, Building 283  
(785) 296-5500

Printed on Recycled Paper

Attachment: 2

Date: 2-15-2000 2-1

This breakdown is provided to show SB. 562 would affect about 70 active facilities not currently covered. Some facility operators have revised their animal unit capacity to avoid the closure requirements. This bill would impact operators who have deliberately sized their facility just below 3,725 but still above 1,000. Those who have been reissued permits below 1,000 would not be required to have a closure plan and financial assurance.

The concept of proper facility closure should prompt operators to consider the type of waste management system to install when considering new construction or new expansion. Should the operator use a synthetic liner to reduce soil disposal costs, or even future liability? A smaller operator might elect to use concrete structures or tanks as an waste management option. The bill forces the producer to treat facility closure as an economic factor in the design and operation of the facility.

**Testimony to the Senate Committee on Energy and Natural Resources  
on Senate Bill No. 562. Feb. 15, 2000. by Craig Volland, Spectrum Technologists**

My name is Craig Volland, President of Spectrum Technologists, an environmental consulting firm in Kansas City, Kansas. I'm testifying in favor of the bill on behalf of the Kansas Chapter of the Sierra Club and Stewards of the Land, a group of citizens in western Kansas concerned about the proliferation of swine feeding facilities. Over the past three years I've reviewed most of the large hog facility permits processed in western Kansas.

Serious unanswered questions remain concerning the closure of swine feeding facilities and the disposition of both the contents of lagoons and contaminated soils beneath them. In areas containing sufficient clay, K State U. researchers have estimated that the soils beneath lagoons not lined with synthetic liners will become saturated with ammonia to a depth from between 10 and 20 feet in 20 years.. This ammonia will change to highly mobile nitrates when exposed to air after liquids are removed from the lagoon. To my knowledge no one has figured out how this large mass, <sup>of ammonia</sup> in lagoons ranging from 2 to 10 acres in size and 20 to 25 feet deep, will be handled. Early speculation centered on planting alfalfa but this soil will be too salty to sustain alfalfa.

In addition soil lined lagoons installed in sandy soils and meeting the 1/4 inch/day seepage standard are likely to contaminate the aquifer both with nitrates and salts. Those lagoons with synthetic liners will also leak but probably at a rate much less than the others.

The other big unanswered question is the impacts of salinity. Swine lagoon wastewater becomes highly saline in the climate of western and central Kansas where most swine facilities are being installed. Seaboard has submitted data to KDHE showing salinity values in their wastewater, after only 3 years of operation, as much as five times the concentration that, in soils, reduces the yield of alfalfa and three times that which reduces the yield of corn. Annual rainfall ranges from only 16 inches in the westernmost tier of counties to 26 inches in south central Kansas. But evaporation is very high throughout the area ranging from 66 inches in Morton county to 55 inches in Reno county. Thus evaporation is 2 to 4 times rainfall in the area likely to contain the bulk of swine feeding facilities. K State researchers found crystallized salt in sludge in the bottom of one old cattle lagoon. After baking in the western Kansas sun for 20 years I predict that both the sludge and the soils beneath will consist of, at best, a useless salt cake or, at worst, a hazardous waste. I have yet to see a credible analysis of this point by either KDHE or K State.

The point is that the dollars involved in remediating these facilities at the end of their useful lives could be quite substantial even for facilities smaller than the current "large" facility threshold of 3725 animal units. In the past year I've seen three large operators adjust their capacity to be just under the threshold so they can avoid the more stringent requirements. It's certainly wise to require a surety bond for operators that don't own the land. However, I'm not sure that operators who own the land are providing enough assurance with annual financial reports, given the current state of debt burdens in agriculture. In any event this bill should be passed.

**Testimony by Dwight F. Metzler, P. E.**  
**for**  
**Senate Energy & Natural Resources Committee**  
**February 15, 2000**

I am testifying as President of The Metzler Group, and as someone who has been active in Kansas water matters for over 50 years. This group is made up of specialists who are experts in one or another areas of hog waste disposal. For example, Mel Gray, a member of the group, worked with the livestock industry over 30 years ago for effective pollution controls for cattle. These controls have been quite successful in preventing water pollution for some three decades. Another member is Dr. Raymond Loehr of the University of Texas. Dr. Loehr has an international reputation in the methods for disposing of all kinds of sludges on the land. He developed methods for various industrial sludges while at Cornell University, for municipal sludges in Kansas, and animal sludges while at the University of Texas.

In addition to the provisions of this bill, KDHE needs funding for research on the public health effects of air borne aerosols and chemicals. Studies by Iowa State have identified over 100 of the latter, including the most offensive odor producers. Kansas needs to know how much a threat the bacteria and viruses are in the aerosols which drift on to adjacent property. Studies so far indicate they may be substantial.

Both the Department of Agriculture and KDHE need additional staff—the Department of Agriculture to review field applications and KDHE to staff field inspections. I will be glad to work with Secretary Graeber and the appropriations sub-committee to show how this can be done without increasing the KDHE expenditures.

At the beginning of this session, I submitted a recommendation for legislation which would require factory hog feeders to provide waste treatment, as *all* other industries must. I urge you to support S562, then review that statement. It will give you a glimpse of what is ahead for the next year. Thank you.

Senate Energy & Natural Resources

Attachment: 4

Date: 2-15-2000 4-1





# Regional Economic Area Partnership

*strengthening the economy of south central Kansas through joint action of cities and counties*

## ANDOVER

Mayor Dennis Bush

## ARKANSAS CITY

Commissioner Jim Ramirez

## AUGUSTA

Mayor Ross Rountree

## BELAIRE

Mayor Gary O'Neal

## BENTON

Mayor Will Johnson

## BUTLER COUNTY

Commissioner Linsey Cutsinger

## CHENEY

Mayor Carl Koster

## DERBY

Mayor Richard Standrich

## EL DORADO

Mayor Susan Seeber

## HALSTEAD

Mayor Mark McCall

## HARVEY COUNTY

Commissioner Eugene Wendling

## HAYSVILLE

Mayor Tim Norton

## HESSTON

Council Member Randy Stauffer

## HUTCHINSON

Mayor Jeffrey Roberts

## KINGMAN

Commissioner Jack Ford

## MAIZE

Mayor Karen Fitzmier

## MULVANE

Mayor James Ford

## NEWTON

Mayor Kathryn Gaeddert

## RENO COUNTY

Commissioner Frances Garcia

## ROSE HILL

Council Member Marsha Francis

## SEDGWICK

Mayor D. Keith DeHaven

## SEDGWICK COUNTY

Commissioner Bill Hancock

## SUMNER COUNTY

Commissioner Robert Courtney

## TOWANDA

Mayor Edward Rando

## UDALL

Mayor Mitchell Kratochvil

## VALLEY CENTER

Mayor James 'Jet' Truman

## WALTON

Mayor Alan Heine

## WELLINGTON

Mayor James Chisham

## WICHITA

Mayor Bob Knight

## WINFIELD

Mayor Mike Ledy

## Testimony on Senate Bill 562

### Senate Energy and Natural Resources Committee

February 15, 2000

Mr. Chairman and Members of the Committee. Thank you for the opportunity to address you this morning in support of Senate Bill 562. My name is Jolene Grabill. I am pleased to appear before you on behalf of REAP, the South Central Kansas Regional Economic Area Partnership.

REAP is a partnership of cities and counties who speak with one voice on critical issues effecting the economic well-being of South Central Kansas. Just yesterday morning I met with approximately thirty REAP members representing all parts of the economic region. The group included city and county elected officials and executive staff of both small and large municipalities in the region. Nearly 700,000 Kansans reside in the local governments that make up the membership of REAP. These individuals are represented by eleven state senators and thirty-five state representatives. Over 500,000 of those Kansans depend on the Equus Beds for their public water supply and for the water resources necessary to support a vital economy in South Central Kansas – and the overall economic health of our state.

Above all other issues, the number one priority of REAP is to “

**“Guarantee that there is absolutely no threat to the region’s public water supply.”**

SB 562 is one step toward providing the citizens of South Central Kansas that guarantee. The requirement of financial assurance is both fiscal and environmentally responsible. SB562 also provides important clarification about the authority of the Secretary of Health and Environment with regard to facilities operating with 1,000 or more animal units.

REAP urges the committee to act favorably on SB 562. Thank you. I will be happy to stand for questions.

Senate Energy & Natural Resources

Attachment: 5

Date: 2-15-2000

**Testimony in Opposition to SB No. 562**

**On behalf of the Kansas Pork Producers Council**

**Presented by Mike Jensen**

Mr. Chairman, members of the committee, I am Mike Jensen. I serve as Executive Vice-President of the Kansas Pork Producers Council. Our members produce the overwhelming majority of the pork in this state.

The first point I would like to make is the stellar environmental record our Kansas pork producers have. Notwithstanding the most stringent aggregate environmental standards in the nation, our producers have an environmental compliance record to be held up for applause. We led the nation in being the first state to start an "On-Farm-Assurance" program, essentially an "environmental audit" to insure that we are doing the best job we can.

The most pertinent point to this legislation is very simple. This legislation requires producers to spend money as an insurance against a situation that has **NEVER** occurred in Kansas. There has never been a single instance where public money was needed for closure of a facility. This last year alone, 27% of Kansas pork producers went out of business. No public entity had to pay for any closure costs.

What this bill does is essentially impose a tax. There is no other word to describe a legislative action that has the net effect of costing our state's producers money. In effect, it will require payment to the financial or insurance industry hundreds of thousands of dollars unnecessarily. Last year we estimate Kansas producers incurred over \$100 million in production losses. For our government to "tax" producers in this manner is beyond our understanding. This continual unwarranted harassment of the pork industry must finally come to a close. The members of our association are proud that they feed over 10,000,000 people worldwide. Please respect their environmental record and applaud them rather than demean them.

# Kansas Pork Industry Facts

## Kansas pork producers help feed the world

There are 1,900 hog farms in Kansas. Of these operations, 400 produce 91% of the state's pork.

Kansas is the number 10 state in hog and pig inventory producing about 2.2 percent of the nation's total.

In 1999, Kansas producers marketed 2,495,092 hogs with a gross market value of \$198,858,129. These hogs produced over 450,000,000 pounds of **Pork. The Other White Meat®** which helped feed over 10 million people both in the U.S. and abroad.

### Did you know?

Before the turn of the last century, Kansas producers had well over twice the number of hogs in their inventory as they do today.

## Pork industry important to Kansas economy

Kansas pork operations consume nearly 30 million bushels of grain. Primarily, these operations utilize Kansas-grown dryland milo, but they also feed significant amounts of corn and soybean products.

The Kansas swine industry annually spends about:

- \$200 million for feed grains
- \$35 million in construction
- \$20 million in supplies
- \$10 million for utilities (gas, propane & electric)
- \$10 million for trucking costs  
(hog marketing only, no grain)
- \$8 million in interest
- \$8 million for veterinary care

*Numbers as of January 1, 2000*

## Environmental Stewardship

Nearly 1,000 pork producers have complied with KDHE's state-mandated requirements for the size of their operation. This includes: 102 producers with NPDES permits, 765 producers with state permits and 92 producers with state certifications.

For decades, KDHE has required pork producers to control enough land to sustainably utilize the nutrients generated by the operation. About 80 acres of cropland is needed for a 500 Animal Unit pork operation.

Pork producers with over 1,000 Animal Units are now required to submit a Nutrient Utilization Plan showing the fields where plant food will be applied.

*For more information, contact:*

**Mike Jensen**

Executive Vice President  
Kansas Pork Producers Council  
2601 Farm Bureau Road  
Manhattan, KS 66502  
(785) 224-0374 Cellular  
(785) 776-0442 Office  
(785) 776-9897 Fax  
E-mail - [kppc@flinthills.com](mailto:kppc@flinthills.com)



Mr. Chairman and members of the committee. My name is Gary Stanford. My swine operation is in northern Lyon County in the Marias des Cygnes basin. I have been involved in the swine industry for over 30 years. Along with my father, Melvin, our family operates a farrow to finish swine operation along with the grain operation.

We have always strived to be good environmental stewards and have worked closely with our consultants in animal nutrition, agricultural engineering and agronomy. Our goal is to maximize the productivity of our farm while keeping the protection of our watershed as our barometer. My wife and our two boys live "downstream" from our hog operation and I can assure you, we do the best possible management practices to ensure our water quality.

In 1998, I served as President of the KPPC. At that time we were heavily involved in working with legislators and regulators in the passage of HB 2950. Then as now, there has never been any need for any of this type of "bonding or insurance". All this bill does is take money from my pocket and put it in the pocket of a insurance company or a bonding agent or a banker. I do not even know if I can get this coverage locally, but what I do know is I will have to pay money for it. Money that could have stayed in my community, helped finance my sons college, or could have been invested in our family operation.

My operation is well below the current 3725 threshold. However, public policy, without any substance for doing it, will move that level lower and lower. Soon, if not already, my sons will feel that they should not trust their own government enough to hold any interest in returning to the farm.

As you evaluate this legislation, please remember that this impacts real lives, real people and families, and has no basis in need.

Senate Energy & Natural Resources

Attachment: 7

Date: 2-15-2000

7-1

HARON SCHWARTZ  
REPRESENTATIVE, 106TH DISTRICT  
GEARY, MARSHALL, REPUBLIC,  
RILEY, AND WASHINGTON COUNTIES  
2051 20TH ROAD  
WASHINGTON, KANSAS 66968  
(785) 325-2568

STATE OF KANSAS



TOPEKA

HOUSE OF  
REPRESENTATIVES

STATE CAPITOL  
ROOM 110-S  
TOPEKA, KANSAS 66612-1504  
(785) 296-7632  
1-800-432-3924

COMMITTEE ASSIGNMENTS  
VICE-CHAIR: HOUSE AGRICULTURE  
MEMBER: HOUSE APPROPRIATIONS  
HOUSE AGRICULTURE &  
NATURAL RESOURCES BUDGET  
HOUSE ENVIRONMENT

February 15, 2000

SB 562

Chairman Corbin and members of the committee

I am appearing before you today to voice my opposition to SB 562. Two years ago legislation was passed that provided for the most stringent environment requirements for confined swine operations in the U.S. I served on the sub committee that dealt with the specifications of HB2950. At that time we did discuss closure requirements but were informed that very little research had been done to address the question. Now less than two years later, you are considering amending the act to require pork producers with 1000 animal units to comply with closure requirements that have not been proven today to be necessary to protect the groundwater.

Obviously the intentions are to make it difficult for the average producer to be competitive today by including all producers permitted for 2500 pigs. We can play with numbers all day long. Most systems are designed today for pig flow that fills a barn with 2400 to 2500 pigs. Producers committed to stay in the business will just apply for permits with fewer than 999 animal units to avoid the added burden of cost to comply. That means more lagoons to produce the same amount of pork. These same producers are just recovering from a year of receiving the lowest prices for pork in over 40 years.

If the intent is to regulate producers out of business with costly requirements that have not been proven necessary today, this will accomplish the mission.

Senate Energy & Natural Resources

Attachment: 8

Date: 3-15-2000

8-1