

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Senator David Corbin at 8:00 a.m. on March 9, 2000 in 245-N of the Capitol.

All members were present except: Senator Vratil who was excused.

Committee staff present:

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

Conferees appearing before the committee:

Bill Bider, Kansas Department Health and Environment, (KDHE)
Representative JoAnn Freeborn
Randy Allen, Kansas Association of Counties
Rick Brown, Harvey County
Jack Bruner, Marian County Commissioner
Jim Kaup, Counsel, for Marian County
John Bottenberg, D. Sean White, Deffenbaugh Industries, Inc.
Dan Harden, Riley County Public Works
Woody Moses, Kansas Aggregate Producers Assn
Charlie Sedlock, N. R. Hamm, Perry, KS

Others attending:

See attached list.

With a motion from Senator Stephens and a second by Senator Morris the minutes of March 7 were adopted as written.

Chairperson Corbin opened the hearing on **HB 2860**—Utilization of solid waste management fund.

Bill Bider, Kansas Department of Health and Environment, said the bill was drafted by KDHE to make several necessary changes in the sections of the solid waste law related to the payment of landfill tipping fees and how the collected fees are used. All of the changes fall into five areas which are listed and explained in his testimony (Attachment 1).

Representative JoAnn Freeborn supported the bill because it provides for some uses for the solid waste management fund that would provide for some innovative waste processing technologies. She also requested the committee consider amending, **HB 2831**—Solid waste collection and disposal; service reinstatement fee, into **HB 2860**. She responded to several questions.

Randy Allen, Executive Direct, Kansas Association of Counties, testified they particularly liked the language in Section 1 (b) of the bill, which would broaden the use of solid waste competitive grant funds to include innovative waste processing technologies. He also liked the flexibility it provided to KDHE to award grants for worthy projects (Attachment 2).

Rick Brown, Harvey County, KS, supported the bill as it would allow counties, cities, and private organizations to further their waste reduction programs in the state both financially and with cooperation of KDHE (Attachment 3).

Jack Bruner, Marion County Commissioner and Jim Kaup, Counsel, Marion County, said they did not have a position on **HB 2860**, but they asked the committee to consider accepting their amendments to K.S.A. 65-3410, which were approved and amended into **HB 2831**. A copy of **HB 2831** as amended was attached to their testimony (Attachment 4).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

Representative JoAnn Freeborn responded to several questions as to why **HB 2831** was not worked on the House side.

John Bottenberg, representing Deffenbaugh Industries, Inc., presented testimony signed by D. Sean White opposing the bill. He urged the committee to reconsider increased spending from the Solid Waste Fund for grants; strengthen grant eligibility criteria; efforts to minimize or eliminate fraudulent misuse of grant funds; and opposed increased spending from the solid waste fund to cleanup problems caused by illegal dump operators - the responsible parties should be made to pay (Attachment 5)

Conferees responded to questions concerning the units of recycling being done in Kansas, also regarding grants being made to counties that are transferring their waste to Oklahoma.

The hearing on **HB 2860** was closed.

The hearing was opened on **HB 2861** regarding the waste tire program.

Bill Bider, Kansas Department of Health and Environment, said they drafted the bill to update the waste tire statutes with respect to certain obsolete grant provisions; clarify KDHE's regulatory authority relating to the accumulations of tires on rims; and confirm that KDHE can use the waste tire management fund to directly contract for the disposal of waste tires collected through county-coordinated amnesty collection programs (Attachment 6).

Dan Harden, Riley County engineer, supported the bill as it would address the matter of cleaning up waste tire accumulations (Attachment 7).

Woody Moses, Kansas Aggregate Producers Assn., introduced, Charlie Sedlock, Hamm Waste Management, Perry, KS, said the legislation would improve the laws governing the management of waste tires (Attachment 8).

KDHE responding to questions regarding the use of cut tires in landfills, said they are already used and they were not really in favor of the donut cut or two part cut as purposed by one of the conferees. Charlie Sedlock, Hamm Waste Management, Perry, Kansas, said they have discussed this amendment with KDHE and they probably were more in favor of current law which requires the tires to be cut in smaller pieces.

The hearing was closed on **HB 2861**.

The meeting adjourned at 9:00 a.m. The next scheduled meeting will be on Monday, March 13, 2000.

SENATE ENERGY & NATURAL RESOURCES
COMMITTEE GUEST LIST

DATE: 3/9/00

NAME	REPRESENTING
Randy Allen	Kansas Association of Counties
DAN HARDEN	RILEY County
Bill Bider	KDHE
Don Seifert	City of Olathe
Howard Starvey	Harvey County
Rick Brown	HARVEY COUNTY
Charlie Sedlock	Hamm Companies
Woody Moss	KAPPA
Tom Hammer & Schmitt	KDHE
Dane Holthaus	Western Kansas
John C. Bottenberg	Deffenbaugh Inc
Kathy Hammond	" "
Aaron J. Bechard	UMX
Jim Kauf	Marion County Commission
Marcie Liss	Sedgewick County
PAT BROWNES	Ks. Automobile Dealers Assoc.
Don McNeely	Ks. Automobile Dealer Assoc.



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

Testimony presented to

Senate Energy and Natural Resources Committee
on March 9, 2000

by

William L. Bider, Director, Bureau of Waste Management
Kansas Department of Health and Environment

House Bill 2860

The Kansas Department of Health and Environment is pleased to have this opportunity to present testimony in support of House Bill 2860 as amended by the House. This bill was drafted by the department to make several necessary changes in the sections of the solid waste law related to the payment of landfill tipping fees and the uses for the collected fees.

A recent analysis of landfill tipping fee revenues and expenditures from the solid waste management fund shows that an increase to the current \$1.00 per ton tipping fee is not necessary to maintain solid waste programs at or near existing funding levels. Two charts are attached to this testimony showing that projected tipping fee revenue should adequately support all necessary solid waste programs for at least the next two or three years.

This determination of adequacy assumes solid waste imports will not change significantly during this period. Total tipping fee revenue is very dependent on the quantity of solid waste imported to Kansas. In recent years, \$750,000 to \$1,000,000 has been received for waste imported to Kansas. However, in the past few months, there has been a major decrease in the amount of waste imported to landfills in southeast Kansas (perhaps as much as \$300,000 per year). This reduction has been factored into the attached charts.

Overview of HB 2860

This bill makes several changes to statutes which address the payment of tipping fees and expenditures from the solid waste management fund. All of the changes fall into the following five areas which are listed and explained on the following pages:

- Applicability of the Tipping Fee
- Uses for the Solid Waste Management Fund
- Eligibility for Grants
- New Enforcement Authority for Users of the Fund
- KDHE Reporting Requirements Related to the Fund

Applicability of the Tipping Fee

This bill would apply the tipping fee to some solid waste which does not currently pay the fee and establish new exemptions to the fee for other wastes. These changes are listed below:

- (1) The tipping fee would be applied to solid waste which is exported from Kansas through permitted transfer stations. Exporting counties have received grants from these funds even though they do not pay tipping fees.
- (2) Unpermitted disposal as authorized by KDHE for emergencies would not be subject to the tipping fee.
- (3) The secretary would have the authority to waive the tipping fee for disposal in permitted facilities when large quantities of waste are produced by natural disasters.
- (4) All government units would be exempt from the payment of tipping fees for construction and demolition waste not just cities, counties, and the state as now exists. Federal attorneys have pointed out the discriminatory nature of the current law and refused to pay based upon provisions in current federal law.

Uses for the Solid Waste Management Fund

Several new uses and clarification of uses for the fund are proposed as listed below:

- (1) The types of projects eligible for solid waste plan implementation grants would be expanded to include innovative waste processing technologies which demonstrate non-traditional methods to reduce waste volume by recovering materials or energy.
- (2) The household hazardous waste grant program would be expanded to allow grants for the “enhancement” of existing programs and for public education when the nature of the local operations change.
- (3) The fund could be used to perform corrective actions at “active” or “closed” solid waste processing or disposal facilities if a threat to human health or the environment exists due to past waste management practices.
- (4) The fund could be used for the removal or stabilization of waste which has been illegally dumped when the responsible party is unknown, unwilling, or unable to perform the necessary corrective action (requires a 25% local city or county match and the spending limit per site is \$10,000).

- (5) The bill confirms that the fund can be used for statewide waste collection events coordinated by KDHE for potentially dangerous materials such as mercury, dioxin, or other chemical wastes.
- (6) The fund would be used for the disposal of household hazardous waste generated as a result of community clean-up projects associated with natural disasters like tornados, floods, fires, etc. as long as federal funds are not available for such emergencies.

Eligibility for Grants

The section of law dealing with the eligibility to receive grants needs to be expanded to ensure that grants are appropriately awarded. Two new eligibility criteria are recommended. First, since the grants are primarily designed to help communities implement their solid waste management plans, county or regional plans would need to be up-to-date with respect to the annual and five year reviews specified in the law. If a county or region has not completed its review and submitted documentation to KDHE, no public or private entity covered by that county's or region's plan would be eligible for a grant. Second, no public or private entity that is operating in substantial violation of applicable solid or hazardous waste laws or regulations would be eligible for any solid waste program grants.

New Enforcement Authority for Users of the Fund

Current law does not specify the secretary's enforcement authority when the recipient of a grant misuses awarded funds. This bill would allow the secretary to order repayment of improperly used funds and initiate a civil action in district court to recover any unapproved and non-reimbursed expenditures.

The bill also authorizes KDHE to enter private property to perform necessary corrective measures. Prior to initiating any corrective action on private property, KDHE must: (1) make a finding that the illegal disposal activity presents a nuisance or threat to public health and (2) follow the Kansas Administrative Procedures Act including a notice and hearing opportunity for the property owner.

KDHE Reporting Requirements Related to the Fund

The bill establishes a requirement for KDHE to submit an annual report to the legislature before the first day of each session. These reports will summarize solid waste management fund revenues and expenditures for the previous fiscal year and evaluate the adequacy of the fund to satisfy all necessary program functions in the future.

Costs and Benefits of Recommended Changes to the Laws

The costs of the recommended changes will affect the few cities and counties which export their solid waste from Kansas to another state through a permitted transfer station. At the present time, this

is Cowley, Sumner, and Harper Counties. In total, these counties would pay about \$30,000 to \$40,000 per year. Some decrease in fee payments would result from the new exemptions explained above.

The new approved uses for the solid waste management fund will compete with existing uses. Overall expenditures should not increase. The department must balance all needs and set priorities utilizing public input and the recommendations of the governor's grants advisory committee.

The statutory amendments set forth in this bill will bring several benefits to Kansas and allow the continuation of waste reduction grants which help hundreds of communities conserve landfill space. Unsightly and dangerous illegal dumps will be eligible for clean-up using the fund, facilitating such work when responsible parties cannot or will not take care of such problems. Also, clean-up of the massive waste problems associated with natural disasters could include the removal of dangerous chemical products allowing the remaining waste to more safely enter construction and demolition landfills or even be burned.

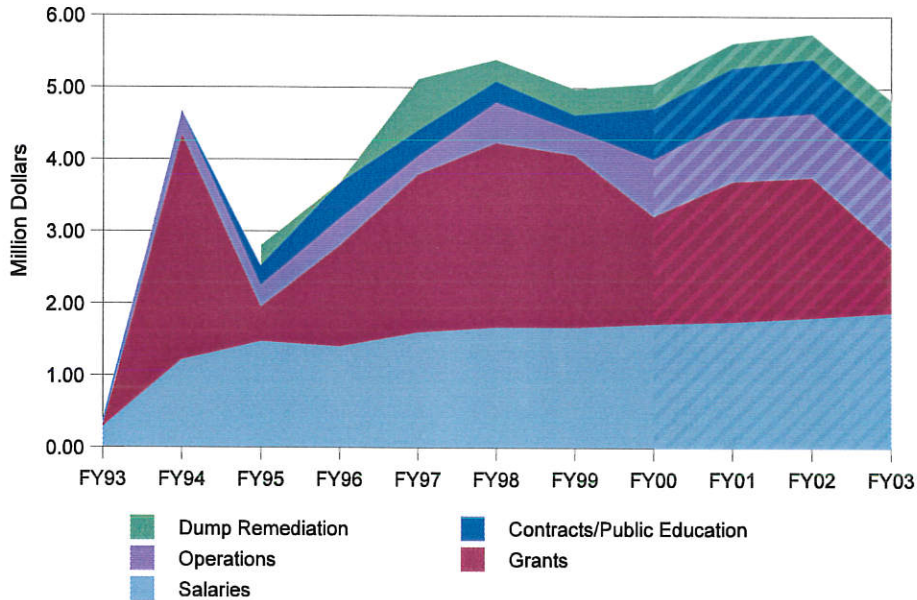
Finally, the suggested changes improve the accountability of KDHE and the users of the funds through new eligibility restrictions, enforcement authorities, and reporting requirements. As funds become more limited, it is very important to ensure that all expenditures yield tangible benefits to Kansans.

Thank you for allowing KDHE to provide testimony on HB 2860.

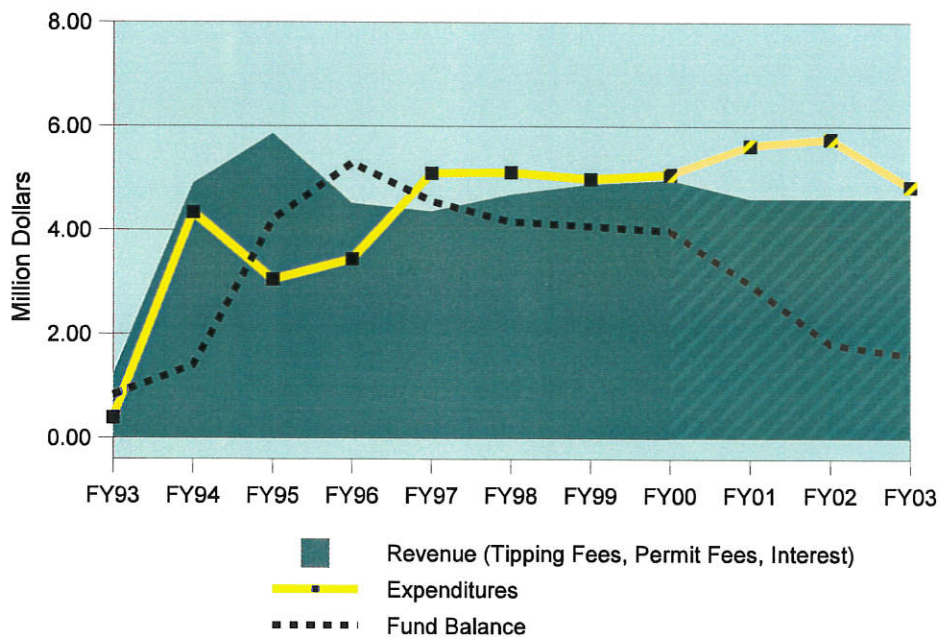


**Kansas Department of Health and Environment
Bureau of Waste Management**

**Expenditures from the
Solid Waste Management Fund**
Tipping Fee Remains at \$1.00 per Ton



**Solid Waste Management Fund
Revenue - Expenditures - Balance**
Tipping Fee Remains at \$1.00 per Ton





KANSAS
ASSOCIATION OF
COUNTIES

Testimony concerning HB 2860
Senate Energy and Natural Resources Committee
March 9, 2000
Presented by Randy Allen, Executive Director
Kansas Association of Counties

Mr. Chairman and members of the committee, my name is Randy Allen, Executive Director of the Kansas Association of Counties. Thank you for the opportunity to testify *in support of HB 2860*, and in particular the language in Section 1 (b) to broaden the use of solid waste competitive grant funds to include projects which implement "innovative waste processing technologies which demonstrate nontraditional methods to reduce waste volume by recovering materials or by converting the waste into usable by-products or energy..."

As you know, communities express their solid waste goals and action strategies for achieving such goals ~~stated~~ in their solid waste management plans. These plans are submitted to the Secretary of Health and Environment for review and approval. For a grant to be directed to "innovative waste processing technologies which demonstrate nontraditional methods to reduce waste volume," it would have to be consistent with the entity's solid waste management plan.

Naturally, some counties are more interested in innovative waste reduction strategies than others. HB 2860 would merely provide some flexibility to KDHE to award grants for worthy projects. Local matching funds (at least 25% of eligible costs) would still be required. As counties and others seek ways to extend the useful lives of existing landfills and avoid the lengthy, often controversial process of siting landfills in Kansas, this change makes sense to us.

We urge your favorable consideration of HB 2860. If you have questions, I would be happy to respond.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. Inquiries concerning this testimony should be directed to Randy Allen or Judy Moler by calling (785) 272-2585.

6206 SW 9th Terrace
Topeka, KS 66615
785•272•2585
Fax 785•272•3585
email kac@ink.org

Senate Energy & Natural Resources

Attachment: 2

Date: 3-9-2000 2-1

Testimony of Rick Brown, Harvey County, Ks.
For the Senate Committee of Energy and Environment
On House Bill 2860
March 9, 2000

Thank you Mr. Chairman and Senate Committee members for this opportunity to speak to you this morning. My name is Rick Brown and I am here with Howard Harvey who is the Harvey County Solid Waste Director and we officially represent Harvey County, Kansas. I am also a board member of the Central Kansas Regional Solid Waste Authority that makes up Harvey, McPherson, Marion and Dickinson Counties. I'm also the new president of the Kansas Sunflower Chapter of the Solid Waste Association of North America otherwise known as SWANA. I am here in support of HB 2860-Utilization of Solid Waste Management Fund.

This bill would allow counties, cities, and private organizations to further their waste reduction programs going on within this state both financially and with cooperation of KDHE.

There are many different ways to reduce the waste from being buried in a landfill:

- Reuse – railroad ties, wood scraps, metal goods
- Recycle – paper products(cardboard,newspaper), plastic containers, metal cans
- Shredding – metal/white goods, shingles
- Crushing - concrete
- Buying in Bulk – consumer buy large quantities instead of buying (1) item each time
- Incinerating or Burn – limbs/brush, most everything else (waste to energy)
- Composting – grass/leaves, brush, sawdust, manure, organic municipal solid waste

In Harvey County, like many places in Kansas, our landfill is closing and is faced with what to do with all of our waste. Our county commissioners have come up with a (3)-prong approach of how to alleviate this problem. The first is a countywide ban on certain recyclables from our landfill and send these recyclables through our recycling center to get baled and sent to market. The second is a transfer station that will send our trash to a landfill outside of Harvey County. The third is a municipal solid waste (msw) composting operation in which we pull out the organic waste from the transfer station, grind it, compost it and eventually put this compost back in the ground as a soil amendment.

Our county commissioners and county representatives have visited several sites that deal with msw composting such as Lexington, Neb. (reference the bag of msw compost being passed around the committee); Pinetop, Az.; Truman, Minn.; Austin, Minn. and Cobb County, Ga. There are several more that we have not visited. To my knowledge, there is not a msw composting operation in this state and that is why we feel that with the passage of this bill that counties, such as ours, will get the cooperation and financial help from KDHE that is needed to further our waste reduction efforts.

I have passed out some general information on some waste reduction programs going on in the United States and around the world. Just inside the first page is the breakdown of Harvey County solid waste. In 1999, we increased total tonnage, over 1998, by almost 1400 tons yet the percentage of waste we buried was less. This year our goal will be to reduce waste by more than 40% and in 2001, with the introduction of municipal solid waste composting, our goal will be over 50% reduction. Although Kansas has no state recycling mandates or waste reduction goals, Harvey County has stepped forward in hope that other counties will follow in waste reduction efforts. KDHE has been very cooperative and is very willing to work with us and that shows with the introduction of this bill and with their "Kansas: Don't Spoil It" campaign and the many seminars they put on through out the year.

Thank You



Senate Energy & Natural Resources

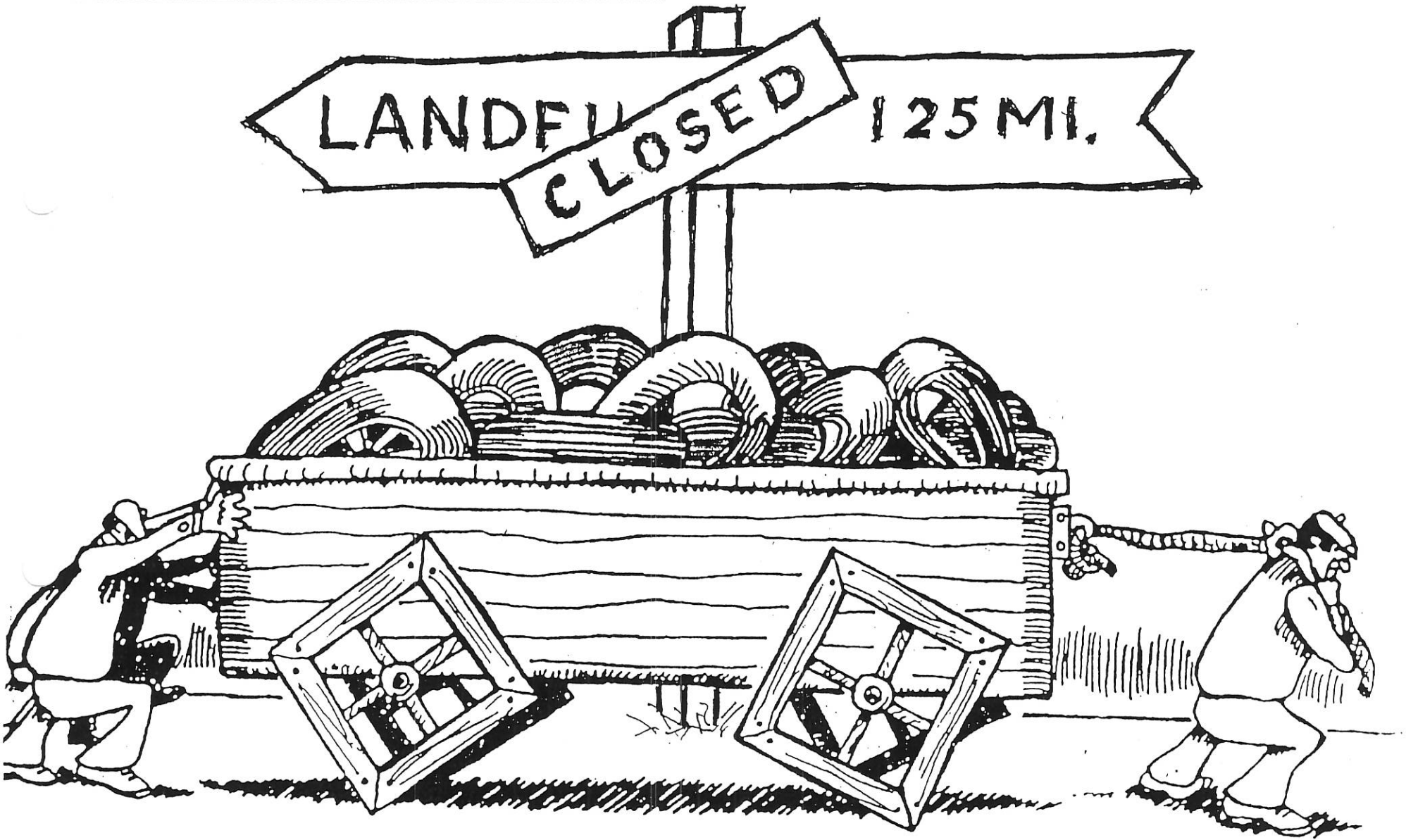
Attachment: 3

Date: 3-9-2000

3-1

*Prolonging Our Landfills
How Do We Proceed?*

3-
3-2



HARVEY COUNTY SOLID WASTE

<u>Description</u>	<u>1998</u> (tons)	<u>%</u>	<u>1999</u> (tons)	<u>%</u>
Construction/Demolition	16979	31	18196	32
Separated Limbs/Brush	2006	4	2331	4
Separated Grass/Leaves	502	1	539	1
Tires	54	<1	70	<1
Recycling	n/a	n/a	180	<1 (11/29/99-12/31/99)
Metal/White Goods	n/a	n/a	144	<1
Special Waste	437	1	334	<1
Municipal Solid Waste	35588	63	35140	62
TOTAL Tonnage	55566	100	56933	100

NOTE: In 1999, we increased total tonnage by almost 1400 tons yet the percentage of waste that we buried was less. In 2000 we will be reducing waste by more than 40% with our recycling program and all of the other waste reduction programs that we have on going. In 2001 our goal will be over 50% total reduction with the introduction of municipal solid waste composting.

TABLE I - E
**MUNICIPAL SOLID WASTE GENERATION
 TYPICAL COMPOSITION**

COMPONENT	1988	2000 (PROJECTED)
Durable Goods	13.9%	14.5%
Major Appliances	1.7%	1.5%
Furniture and Furnishings	4.2%	4.6%
Rubber Tires	1.2%	1.0%
Batteries, Lead Acid	0.9%	1.0%
Miscellaneous Durables	5.9%	6.4%
Non-durable Goods	28.1%	31.6%
Newspapers	7.4%	7.6%
Books and Magazines	3.0%	3.8%
Office Papers	4.1%	5.5%
Commercial Printing Paper	2.3%	3.1%
Tissue paper and Paper Towels	1.7%	1.9%
Paper Plates and Cups	0.4%	0.3%
Plastic Plates and Cups	0.2%	0.3%
Disposable Diapers	1.5%	1.1%
Other Non-packaging Paper	2.9%	3.0%
Clothing and Footwear	2.2%	2.3%
Other Miscellaneous Non-durables	2.5%	2.8%
Containers and Packaging	31.6%	30.4%
Glass Packaging	6.3%	4.1%
Steel Packaging	1.6%	1.1%
Aluminum Packaging	1.0%	1.2%
Paper & Paperboard Packaging	18.3%	19.3%
Plastics Packaging	3.1%	3.8%
Wood Packaging	1.2%	1.0%
Other Miscellaneous Packaging	0.1%	0.1%
Total Nonfood Product Waste	73.6%	76.6%
Total Other Wastes	26.4%	23.4%
Food Wastes	7.3%	6.2%
Yard Wastes	17.6%	15.9%
Miscellaneous Organic Wastes	1.5%	1.3%
Total Wastes Discarded:	100.0%	100.0%

SOURCE: USEPA CHARACTERIZATION OF MUNICIPAL SOLID WASTE IN THE UNITED STATES - 1990 UPDATE

0101Z-13
 07/13/94

**LEGISLATIVE TESTIMONY TO SENATE
ENERGY AND NATURAL RESOURCES COMMITTEE
MARION COUNTY BOARD OF COUNTY COMMISSIONERS**

TO: Chairman Corbin and Members, Senate Energy and Natural Resources Committee

FROM: Jack Bruner, Marion County Commissioner

DATE: March 9, 2000

RE: **Proposed Amendments to HB 2860; Relating to Authority to Impose Recycling Fees as Contained in HB 2831**

Thank you for this opportunity to appear, on behalf of the Marion County Board of County Commissioners, to respectfully request this Committee's consideration of an amendment to HB 2860. Our amendment will correct an unintended consequence of a law passed in 1992 which removed the authority of cities and counties to use the Solid and Hazardous Waste Act to impose fees to fund recycling programs and services.

Let me take just a moment to explain how this problem with K.S.A. 65-3410 of the Solid and Hazardous Waste Act came to our County's attention.

Last Fall, Marion County entered into an agreement with a local business, which was already involved in the business of solid waste, to also provide recycling services countywide. At that time, it was the intent of the County Board to finance the cost of the recycling service through a recycling fee which would be imposed on all real property capable of generating recyclable waste, and to do so under the authority of K.S.A. 65-3410. The County Board wanted to use K.S.A. 65-3410 because it allows solid waste fees to be assessed against property and collected in the same manner as property taxes. It then came to the County's attention that a 1992 legislation (L. 1992, ch. 316, sec. 2) to K.S.A. 65-3402 of the Solid and Hazardous Waste Act excluded recyclables from the definition of "solid waste" at K.S.A. 65-3402(a). This 1992 amendment then created a new definition for "recyclables" at K.S.A. 65-3202(r). Unfortunately, because the 1992 legislation did not also amend K.S.A. 65-3410 (the statute authorizing solid waste fees and charges by cities and counties) this changed definition has had the consequence of taking away the Act as legal authority for imposing fees for recycling programs and services. In other words, because K.S.A. 65-3410 was not amended in 1992 to reflect the new definition of solid waste and recyclables in K.S.A. 65-3402, we concluded that K.S.A. 65-3410 was no longer proper authority for levying a fee for recycling services and programs.

The concerns the County had for the consequences of the 1992 amendments were communicated to KDHE. The County also received sought confirmation of our reading of the law in the form of Attorney General Opinion No. 2000-14. The Attorney General, in that opinion, agreed that K.S.A. 65-3410 was not authority for a county or city to establish a recycling program and charge a fee.

Unfortunately AGO No. 2000-14 was not released before turnaround day—which may be a reason why HB 2831 was not taken up by the full House. Nonetheless, the problem has now been fully recognized and amending HB 2860 is our best hope of correcting it.

Marion County does not have a position on HB 2860, nor do we offer any testimony on HB 2831 as introduced. It is only our amendments to K.S.A. 65-3410, which were approved by the House Committee, that we bring before you today.

We are asking this Committee to put our amendments to HB 2831 into HB 2860 not only to make the Solid and Hazardous Waste Act proper legal authority for financing of Marion County's recycling program, but also to help out the unknown number of cities and counties across Kansas which have used the Solid and Hazardous Waste Act since 1992 as the legal authority for their funding of recycling programs.

The attached version of HB 2831 shows how we would propose to amend HB 2860. The amendments to page 1, lines 18 and 30, and page 3, lines 4:5, 7 and 11 all simply insert the term "recycling" or "recyclables."

The wording at page 2, lines 1:2, is a proposed amendment to the sentence which authorizes a county to bill a solid waste fee on the annual ad valorem property tax statement. The proposed amendment is consistent with the "may" in this sentence, and simply notes that the collection of fees may be done by some alternative means.

Finally, subsection (f) (page 3, lines 12:15) of HB 2831 as approved by the House Committee was a response to the 1990 Blevins v. Hiebert Home Rule decision of the Kansas Supreme Court involving Douglas County. In that decision, the Court said that the mere existence of enabling legislation, such as K.S.A. 65-3410, precluded local governments from using Home Rule to enact legislation on the same subject without first "exempting" that local government from the provisions of the enabling legislation. The language in subsection (f) of HB 2831 simply states that the legal authority to impose solid waste and recycling fees and charges under K.S.A. 65-3410 is not the exclusive authority for such fees and charges--that just because a county or city could use K.S.A. 65-3410 does not preempt the use of any other legal authority by which to regulate solid waste and recyclables.

On behalf of the County Commission, thank you for your consideration of our amendment to HB 2860.

Attachment: HB 2831, as amended by House Committee

As Amended by House Committee

Session of 2000

HOUSE BILL No. 2831

By Committee on Environment

2-2

10 AN ACT concerning solid waste; relating to fees and charges for the
11 collection and disposal thereof; amending K.S.A. 65-3410 and repeal-
12 ing the existing section.

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

15 Section 1. K.S.A. 65-3410 is hereby amended to read as follows: 65-
16 3410. (a) Each city or county or combination of such cities and counties
17 may provide for the storage, collection, transportation, processing and
18 disposal of solid wastes **and recyclables** generated within its boundaries;
19 ~~and~~ *Such cities or counties* shall have the power to purchase all necessary
20 equipment, acquire all necessary land, build any necessary buildings, in-
21 cinerators, transfer stations, or other structures, lease or otherwise ac-
22 quire the right to use land or equipment and to do all other things nec-
23 essary for a proper effective solid waste management system including
24 the levying of fees and charges upon persons receiving service. On or
25 before the first day of July of each calendar year, the board of county
26 commissioners of any county, ~~may~~, by resolution, *may* establish a schedule
27 of fees to be imposed on real property within any county solid waste
28 service area. Revenue from such fees ~~to shall~~ be used for the acquisition,
29 operation and maintenance of county waste disposal sites and/or for fi-
30 nancing waste collection, storage, processing, reclamation, **recycling** and
31 disposal services, where such services are provided. In establishing the
32 schedule of fees, the board of county commissioners shall classify the real
33 property within the county solid waste service area based upon the various
34 uses to which the real property is put, the volume of waste occurring from
35 the different land uses and any other factors that the board determines
36 would reasonably relate the waste disposal fee to the real property upon
37 which it would be imposed.

38 The board shall set a reasonable fee for each category established and
39 divide the real property within the county service areas according to cat-
40 egories and ownership. The board shall impose the appropriate fee upon
41 each division of land and provide for the billing and collection of such
42 fees. The fees may be established, billed, and collected on a monthly,
43 quarterly or yearly basis. Fees collected on a yearly basis may be billed

1 on the ad valorem tax statement **or as otherwise provided by the**
2 **board.** Prior to the collection of any fees levied on real property by the
3 board under this section, the board shall notify affected property owners
4 by causing a copy of the schedule of fees to be mailed to each property
5 owner to whom tax statements are mailed in accordance with K.S.A. 79-
6 2001, ~~or any~~ and amendments thereto.

7 Any fees authorized pursuant to this section which remain unpaid for
8 a period of ~~sixty (60)~~ 60 or more days after the date upon which they
9 were billed may be collected thereafter by the county as provided herein.

10 (1) At least once a year, the board of county commissioners shall
11 cause to be prepared a report of delinquent fees. The board shall fix a
12 time, date, and place for hearing the report and any objections or protests
13 thereto.

14 (2) The board shall cause notice of the hearing to be mailed to the
15 property owners listed on the report not less than ~~ten (10)~~ 10 days prior
16 to the date of the hearing.

17 (3) At the hearing, the board shall hear any objections or protests of
18 property owners liable to be assessed for delinquent fees. The board may
19 make such revisions or corrections to the report as it deems just, after
20 which, by resolution, the report shall be confirmed.

21 (4) The delinquent fees set forth in the report as confirmed *and any*
22 *administrative fee imposed pursuant to subsection (b)* shall constitute as-
23 sessments against the respective parcels of land and are a lien on the
24 property for the amount of such delinquent fees. A certified copy of the
25 confirmed report shall be filed with the county clerk for the amounts of
26 the respective assessments against the respective parcels of land as they
27 appear on the current assessment roll. The lien created attaches upon
28 recordation, in the office of the county clerk of the county in which the
29 property is situated, of a certified copy of the resolution of confirmation.
30 The assessment may be collected at the same time and in the same man-
31 ner as ordinary county ad valorem property taxes are collected and shall
32 be subject to the same penalties and the same procedure and sale in case
33 of delinquency as provided for such taxes. All laws applicable to the levy,
34 collection, and enforcement of county ad valorem property taxes shall be
35 applicable to such assessment.

36 (b) *Each city or county may impose an administrative fee in an*
37 *amount not to exceed \$25 on any property for which the fees imposed*
38 *pursuant to subsection (a) which remain unpaid for a period of 60 days*
39 *or more after the date upon which such fees were billed. The adminis-*
40 **trative fee shall be imposed only once per delinquency and shall**
41 **be paid by the person or entity to whom the bill is sent.**

42 (c) Any city collecting solid waste fees or charges may collect delin-
43 quent fees or charges for garbage and trash storage, collection and dis-

1 posal in the manner provided for counties.

2 ~~(b)~~ (d) In carrying out its responsibilities, any such city or county may
3 adopt ordinances, resolutions, regulations and standards for the storage,
4 collection, transportation, processing and disposal of solid wastes **and**
5 **recyclables** which shall be in conformity with the rules, regulations, stan-
6 dards and procedures adopted by the secretary for the storage, collection,
7 transportation, processing and disposal of solid wastes **and recyclables**.

8 ~~(c)~~ (e) Cities or counties may contract with any person, city, county,
9 other political subdivision or state agency in this or other states to carry
10 out their responsibilities for the collection, transportation, processing and
11 disposal of solid wastes **and recyclables**.

12 (f) **This section is enabling legislation for the regulation of solid**
13 **waste and recycling and is not intended to prevent the enactment**
14 **and enforcement of additional laws on the same subject which are**
15 **not in conflict with the provisions of this section.**

16 Sec. 2. K.S.A. 65-3410 is hereby repealed.

17 Sec. 3. This act shall take effect and be in force from and after its
18 publication in the statute book.

DEFFENBAUGH INDUSTRIES, IC.

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

March 8, 2000

The Honorable Senator Dave Corbin, Chairman
Committee on Energy and Natural Resources
Kansas Senate
State of Kansas
Topeka, KS 66612

RE: House Bill No. 2860

Dear Mr. Chairman and Members of the Committee:

I want to share with you my company's position on House Bill No. 2860. Deffenbaugh Industries, headquartered in Shawnee, has been a leader in solid waste management in Kansas for over 25 years. Deffenbaugh and its affiliate companies employ over 1,200 people at various locations in Kansas. We take great pride in our ability to provide efficient, cost-effective, and environmentally protective solid waste management and recycling services to the citizens and businesses of our state. Deffenbaugh has invested millions of dollars in recycling infrastructure in Kansas over the last several years. Our investments were made without grant funds and while bearing the largest share of the current tipping fee. These investments have resulted in Deffenbaugh Industries emerging as the leading recycler in Kansas.

1. Deffenbaugh Opposes Increased Spending from the Solid Waste Fund for Grants .

Given that \$6.8M in competitive implementation grants were awarded during State fiscal years 1996 to 1999, Deffenbaugh opposes any increase in grant spending beyond current funding levels.

2. Deffenbaugh Supports Efforts to Strengthen Grant Eligibility Criteria.

Ensuring that grant applicants and/or recipients are generally in compliance with applicable solid waste planning and regulatory requirements makes common sense.

3. Deffenbaugh Supports Efforts to Minimize or Eliminate Fraudulent Misuse of Grant Funds.

Information prepared by the Department for the 1998 Legislative Session suggested that questionable expenditures may have been made with grant funds¹. In order to fully assess this

¹ Kansas Solid Waste Program Report, An Assessment of State Needs and Program Expenditures. Prepared for the 1998 Legislature, 1998, Appendix D, pg. D-3, KDHE-BWM

Senate Energy & Natural Resources

Attachment: 5

Date: 3-9-2000

51

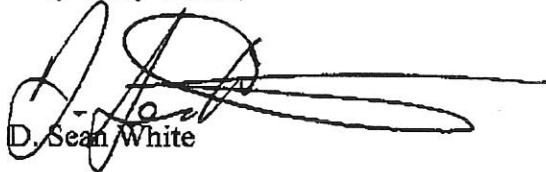
issue, the Department may want to conduct an audit of grant funds awarded to date and identify those areas where misuse or misappropriation may have occurred.

4. Deffenbaugh Opposes Increased Spending from the Solid Waste Fund to Cleanup Problems Caused by Illegal Dump Operators - Responsible Parties Should be Made to Pay.

Deffenbaugh believes those responsible for illegal dumping should be held accountable and should be compelled to cleanup the problems they cause. However, KDHE already has adequate statutory and regulatory authority to compel responsible parties to perform cleanups. By making Solid Waste Fund dollars more "easily accessible" for cleanups, we may actually be creating a disincentive for responsible parties to spend their own money to cleanup their messes. The mind set may develop that it is easier to spend Solid Waste Fund dollars up front and then spend more time and Fund dollars on attorney's fees seeking recovery of those costs. This method of fund management clearly has not worked with the Federal "Superfund" program and most likely will cause more problems than it solves in Kansas.

For these reasons, Deffenbaugh Industries urges the Committee to reconsider these key provisions of House Bill No. 2860. We appreciate the Committee's thoughtful consideration of our concerns regarding this bill. Please call me at 913-631-3300, xt. 116 if you have any questions regarding Deffenbaugh's position on these issues.

Very Truly Yours,



D. Sean White



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

Testimony presented to

Senate Energy and Natural Resources Committee
on March 9, 2000

by

William L. Bider, Director, Bureau of Waste Management
Kansas Department of Health and Environment

House Bill 2861

The Kansas Department of Health and Environment is pleased to have this opportunity to present testimony in support of House Bill 2861. This bill was drafted by KDHE to:

- (1) Update the waste tire statutes with respect to certain obsolete grant provisions
- (2) Clarify KDHE's regulatory authority related to accumulations of tires on rims
- (3) Confirm that KDHE can use the waste tire management fund to directly contract for the disposal of waste tires collected through county-coordinated amnesty collection programs

Each of the three areas are briefly explained below.

Delete Obsolete Grant Provisions

The provisions of K.S.A. 65-3424f related to base grants and competitive market development grants are deleted. The base grants provided counties with financial aid to fully inventory their counties to identify all tire piles. This work was carried out in 1997 and 1998 by about 60 counties which took advantage of this grant program.. The market development grant program was available during fiscal years 1997 and 1998. Only one grant was awarded to a tire recycler in Wichita (Mid-Continent Resource Recovery). An additional portion of the abatement grant section which refers to the market development grants should also be deleted.

Regulation of Tire Accumulations on Rims

Most illegal or unwanted tire piles contain a mixture of tires on rims and off rims. For the purposes of the statewide clean-up project currently being administered by KDHE, all of the tires at abatement sites have been considered "waste tires," regardless of whether they are on or off rims. The

current statutory definition of “waste tire” does not specify whether a “waste tire” is on or off of a rim; thus, KDHE has been given the discretion to classify all tires in a pile as “waste tires.” However, the Waste Tire Law also establishes the category of “used tire” which includes only tires that have been removed from rims. This limitation can cause problems for people who are storing tires on rims because KDHE’s cannot apply the more lenient “used tire” requirements. The department must assume an accumulation of tires removed from vehicles but still on rims are “waste tires.” The accumulation site is subject to storage standards and permitting requirements if greater than 1000 tires are stored (tire retailers may store up to 1500 waste tires with a permit). If the tires could be classified as “used,” the owner would have the option of demonstrating that the tires have value (to be reused as tires) in accordance with the sales and inventory test in existing regulations. If the “value test” can be satisfied, the owner could avoid permitting requirements, but some storage requirements would still exist for outdoor accumulations of greater than 500 used tires.

KDHE proposes to expand the definitions of both “used tire” and “waste tire” to clarify that tires on rims can fall into either category depending upon whether the tires have value. From a big picture perspective, the waste tire regulatory program must be able to consider tires on rims the same as tires which are not on rims because they are often stored together or found in the same illegal piles. It would be impractical and ineffective to have separate rules governing tires on rims from those off rims.

Direct KDHE Contracting for Disposal of Waste Tires Collected During Amnesty Programs

Existing law gives KDHE authority to directly contract for the disposal of waste tires found in piles. Existing grant provisions authorize KDHE to award grants to counties to dispose of the waste tires collected during local amnesty collection programs. The law is silent as to whether KDHE can dispose of the piles of tires which are made during an amnesty collection event. The proposed change will confirm that KDHE may directly contract to dispose of these tires.

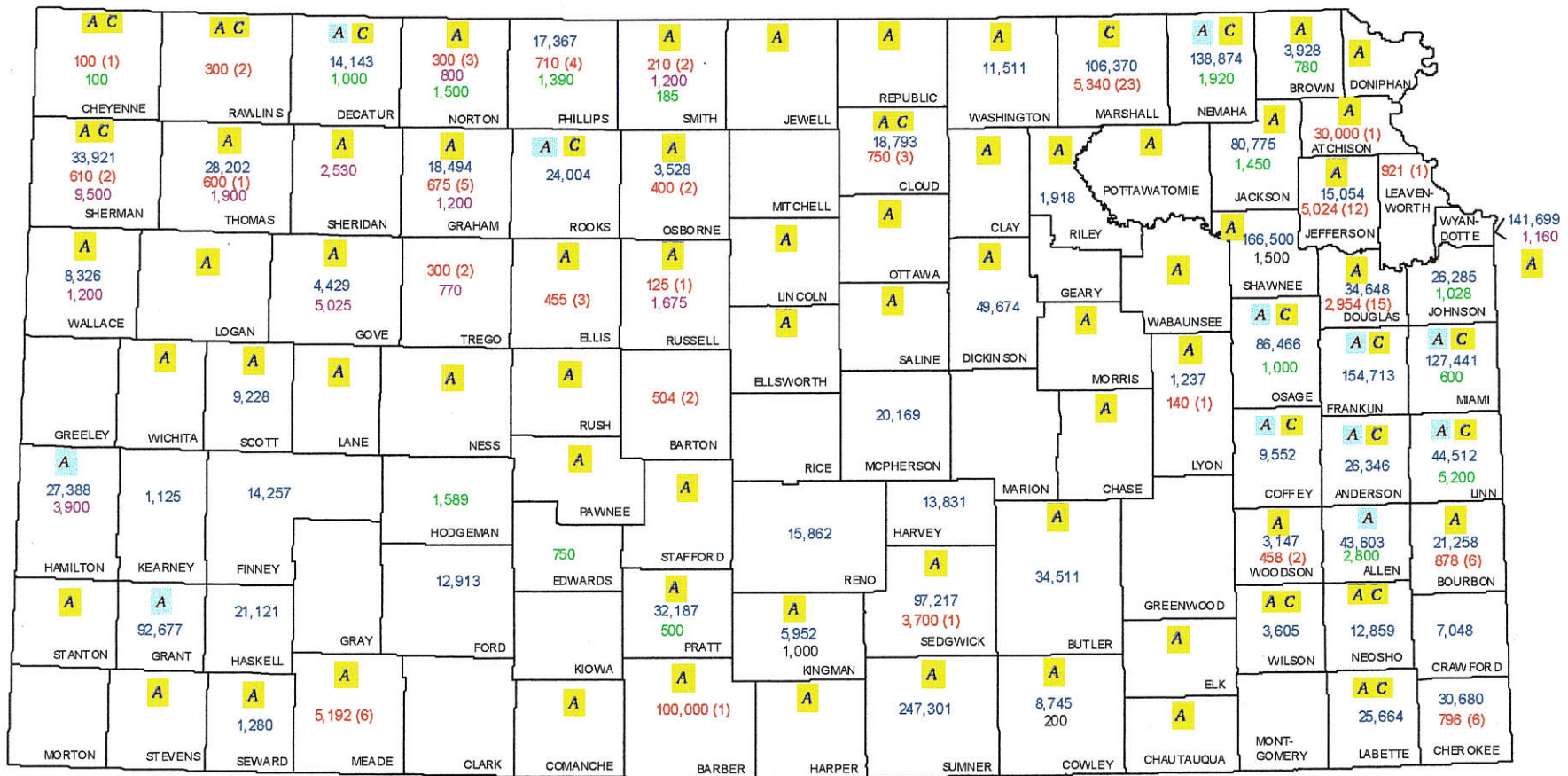
Over the past several months, county amnesty programs have taken place and KDHE has allowed the statewide tire pile clean-up contractor to dispose of the tires collected during the amnesty events. This decision has allowed the overall program to be implemented in a efficient and cost effective manner. Using the state contractor has yielded several benefits including: (1) state and local staff save time in developing and managing grant contracts, (2) counties and regions avoid the complex and time-consuming bid process, and (3) the average cost for tire disposal is lower than if multiple small disposal contracts were bid due to the economies gained by one large contract. KDHE’s involvement in promoting and implementing the amnesty events in cooperation with county staff has worked very well in the 10 to 15 counties which have now completed this step in the tire clean-up process.

A copy of a map showing the status of our statewide waste tire clean-up project is attached. At this time, it appears that the statewide clean-up program will probably last through the end of the time period authorized by statute (July 1, 2001).

Thank you for this opportunity to provide testimony in support of HB 2861.

STATEWIDE WASTE TIRE CLEAN UP STATUS

6-3



Data Sources:
 county boundaries - KGS/KCDB
 tire information - KDHE/BWM
 created by KDHE/BWM
 updated February 18, 2000

2,202,338 Waste Tires Cleaned Up

161,442 Inventory to be Cleaned Up
 (the number in parenthesis represents
 the number of piles)

30,860 Exempt Due to Beneficial Use

2,700 Enforcement Sites

21,792 Ineligible

- A = Applied for Amnesty Event
- A = Completed Amnesty Event
- C = Approved for Consolidation

Testimony of Dan Harden
Before the Senate Energy and Natural Resources
Committee

Regarding House Bill 2861

9 March 2000

Senator David Corbin, Chair

Senator David Corbin, and members of the Senate Energy and Natural Resources Committee; my name is Dan Harden. I am a registered professional engineer, and have been employed for the past 25 years as the Riley County engineer. It is a pleasure today to address the committee regarding House Bill 2861.

I am here today to support House Bill 2861. My support is founded on 2 notions.

The first is waste tire base grant programs have worked well in the past. Riley County has participated in 2 of the waste tire base grant programs in the recent years. These programs have given several communities a good start on cleaning up the local waste tire problem. House Bill 2861 addresses the next logical step in the waste tire clean up effort. That is the matter of cleaning up waste tire accumulations. Under the tire base grant program, waste tire accumulations were not effectively addressed. This legislation, in my opinion, will eventually clean up tire accumulations.

The second reason I support this legislation is that it allows us "government folks" to shed our "dirty polluter" image with the public. With the term "government folks" I mean the legislature, the KDHE and counties. The public is not fond of waste tire accumulations. The owner is clearly seen as a "dirty polluter". When the public's appeals to clean up these accumulations go unheeded due to lack of a mechanism to fund the clean up, all of us "government folks" get lumped together with owner. The public sees us all then (the owner, the legislature, the KDHE, and the counties) as "dirty polluters" too. This legislation absolutely turns that perception around. We become the good guys and gals, the environment gets cleaned up and the public is pleased that we all worked together to do something positive.

It is for these reasons I urge the committee to favorably pass out of committee House Bill 2861.



QUARRIES
 CONSTRUCTION
 ASPHALT
 WASTE MANAGEMENT

609 Perry Place
 PO Box 17
 Perry, KS 66073-0017
 Telephone 785-597-5111
 FAX 785-597-5117

Date: 09 March 2000
 To: Senate Energy and Natural Resources Committee
 From: Charlie M. Sedlock
 Re: Tire Bill

Chairman Corbin and Members of the Energy and Natural Resources Committee:

I am Charlie Sedlock, Division Manager, Hamm Waste Management, Hamm Companies Perry, Kansas. Hamm Companies has been involved in the treatment of solid waste for the last 19 years. Our operations require the handling of over 1000 tons of waste per day from cities/counties in northeast Kansas. As a part of this operation, we are required to provide daily cover for approximately 2.5 acres/week as a part of our environmental management program.

HB2861, concerning waste tires, is a bill provided to improve our laws governing the management of waste tires. I would like to offer the following proposal to further improve the bill. Specifically it is suggested that K.S.A. 65-3424a (b)(3)(B) to the following:

(B) the use of waste tires ~~material~~ which has *have* been cut into ~~sufficiently small~~ *two or more* parts as daily cover material for a landfill; or

If adopted, this amendment would allow for use of cut tires as alternate daily cover at municipal solid waste landfills. Currently cut tires must be disposed of at tire monofills, which can be many miles away for many people and businesses. For such tire disposers, these disposals sites are too few and too far away; thus adding to the cost of tire disposal and encouraging illegal tire disposal. In order to improve this situation and increase competition in the tire disposal business, I recommend that cut tires be allowed for re-use as alternate daily cover at landfills.

I support the use of cut tires as an alternate daily cover at landfills for the following reasons. First, utilizing cut tires for alternate daily cover is a beneficial, secondary use of used tires. After a tire's life is expended through vehicle usage, the tire can be processed and used as alternate daily cover in it's altered, second life. Second, traditional landfill cover materials such as soil can, and will ultimately, be a scarce commodity. For a landfill employing soil daily cover, it must use a "borrow" area with a finite lifespan. This process uses valuable on site material, which could be better utilized to line or cap the landfill. If on-site soil is not available, then the landfill must import soil cover from another area. If a soil borrow site is exhausted then another must be found or created. The use of additional "greenfield" borrow pits create unsightly areas and alters the best or original land use which is oftentimes agricultural. The same

Senate Energy & Natural Resources

Attachment: 8

Date: 3-9-2000

is true when cover soil is imported from a distant area. Also, borrow area development and soil hauling add greatly to disposal cost which is ultimately borne by all Kansans.

This much needed change in tire disposal serves two purposes:

1. It allows Kansas residents/business a local, cost-efficient, environmentally-safe disposal option, and
2. it reduces landfills dependence on existing cover materials.

Your favorable consideration of this proposal is urged. Thank you for your attention and I will be happy to respond to any questions you may have on this subject.

Sincerely,



Charlie M. Sedlock