

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT.

The meeting was called to order by Chairperson Joann Freeborn at 3:30 p.m. on February 8, 2001 in Room 231-N of the Capitol.

All members were present except: Representative Tom Sloan - excused

Committee staff present: Emalene Correll, Kansas Legislative Research Department  
Raney Gilliland, Kansas Legislative Research Department  
Mary Torrence, Revisor of Statute's Office  
Mary Ann Graham, Committee Secretary

Conferees appearing before the committee: Tom Gross, Section Chief, Air Monitoring Services Section, KDHE, Bldg. 283, Forbes, Topeka, KS 66620  
Bill Bider, Director, Bureau of Waste Management, KDHE, Bldg. 740, Forbes, Topeka, KS 66620  
George McGrew, General Council, Deffenbaugh Industries, PO Box 3220, Shawnee, KS 66203  
Nick Phillippi, General Manager, Kansasland Tire, PO Box 8479, Topeka, KS 66608  
Randy Allen, Exec. Director, KS Assoc. of Counties, 6206 SW 9<sup>th</sup> Terrace, Topeka, KS 66615

Others attending: See Attached Sheet

Chairperson Joann Freeborn called the meeting to order at 3:30 p.m. She welcomed staff members of the Kansas Department of Health and Environment to the committee.

Tom Gross, Section Chief, Air Monitoring Services Section, KDHE, was welcomed. He briefed the committee on the Equus Beds Data Collection in response to the Governor's Executive Order 00-04. The briefing was presented by way of the Internet, with the assistance of Terry Franklin, KDHE. The Equus Beds Information Resource can be accessed at [www.equusinfo.org](http://www.equusinfo.org) Mr. Gross discussed "what's on the site"; Information about the Equus Beds; Executive Order; Pollution Prevention Programs (Federal, State, and Local); Actual Pollution Sources; and Potential Pollution Sources. Interactive Mapping System was reviewed; Identified Contaminated Sites; Leaking Storage Tank Sites; Oil and Gas Production; Hazardous Material and Petroleum; Solid Waste Facilities; Wastewater Facilities; Confined Animal Feeding Operations; and Federal, State, and Local Government Facilities. (See attachment 1) Questions and discussion followed.

The Chairperson thanked Mr. Gross for the presentation. She opened the hearing on **HB2134**.

**HB2134: An act concerning solid waste.**

Bill Bider, Director, Bureau of Waste Management, KDHE, was welcomed to the committee. He testified in support of the bill and explained changes that had been made. This bill was drafted and introduced at the request of the Department of Health and Environment and updates several sections of the solid waste statutes. Some changes clarify existing requirements; other changes improve the efficiency and effectiveness of the state regulatory and grant programs. Since initially drafting the bill, KDHE has worked with several interested persons representing businesses and government units to address comments and concerns which they have raised. Some recommended amendments are attached to their testimony to improve the initial proposal. Also presented, but not recommended, an additional amendment which the committee may want to consider to address some concerns raised by private landfill owners. (See attachment 2) A balloon to the bill was distributed for review. (See attachment 3)

George McGrew, General Council, Deffenbaugh Industries, was welcomed to the committee. He presented testimony in opposition to the bill. Deffenbaugh Industries, Inc. has concerns regarding a proposed

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENVIRONMENT, Room 231-N of the Capitol at 3:30 p.m. on February 8, 2001.

amendment contained in the bill. The amendment seeks to make it unlawful for any person to: (8) Divide, sell, transfer, divest or otherwise encumber any portion of the real property in a permitted solid waste disposal area or solid waste processing facility without receiving prior approval from the secretary (KDHE). In their case, this provision would impact three full quarter sections of land making up their permitted solid waste disposal area. They believe this proposed legislation vests the Kansas Department of Health and Environment with unwarranted control over private business decisions and will result in unreasonable interference with a permittee's ability to make timely decisions regarding its business operations. (See attachment 4) Questions and discussion followed.

Written only testimony in opposition to the bill, from Steve Kearney, Waste Management of Kansas, was distributed to the committee. (SEE ATTACHMENT 5)

Chairperson Freeborn announced that she was appointing a sub-committee to do further research on **HB2134**. The sub-committee members are Representative Bill Light, Representative Dan Thimesch and Chairperson Joann Freeborn. She closed the hearing on **HB2134** and opened the hearing on **HB2131**.

**HB2131: An act concerning waste tires.**

The Chairperson welcomed Bill Bider, Director, Bureau of Waste Management, KDHE, to the committee. He provided testimony in support of the bill, a waste tire bill drafted and introduced by the department. Most of the proposed amendments to the waste tire statutes proposed in the bill were developed following a public meeting held in May 2000 in Salina. About 100 people representing tire retailers, the waste tire management industry, and local governments provided KDHE with their ideas about how to update the state law to yield an effective long-term state waste tire program. Consensus was reached on most points leading to a comprehensive bill which addresses everything from compliance and enforcement to grants. (See attachment 6) A balloon to the bill was distributed. (See attachment 7) Questions and discussion by committee and committee staff followed.

Nick Phillippi, General Manager, Kansasland Tire, was welcomed to the committee. He addressed the committee on behalf Mid America Tire Dealers Association in support of the bill. They believe tire dealers in Kansas realize a need to address the scrap tire disposal problem, and support all reasonable efforts to remedy this ongoing management issue. The continued mishandling of scrap tires gives their industry a "black eye", and upstanding dealers must compete with those who refuse to play by the rules. This bill, if passed, would maintain a 50 cent excise tax on the sale of new tires instead of changing to 25 cents on July 1, 2001. Their membership is comfortable with maintaining the 50 cent excise tax. They have found that their customers are now accustomed to the charge and rarely object to the nominal expense to help keep the environment clean. Amendments to the bill are attached. (See attachment 8)

Randy Allen, Executive Director, Kansas Association of Counties, was welcomed. He testified in support of the bill. Currently, KDHE finances four major activities using the tire disposal excise tax (currently \$.50). These include (1) the cleanup of illegal tire piles; (2) compliance and enforcement work with regard to waste tire piles; (3) a business and public education program to promote waste tire management; and (4) waste tire recycling grants. Without legislative action, the responsibility for policing waste tire piles would shift from the state to counties. At the KAC annual meeting last fall, the membership unanimously approved a statement urging extension of the state's waste tire fund, continuation of the current excise tax rate of \$.50 after July 1, 2001, and continued placement of responsibility for the waste tire program at the state level. (See attachment 9) Questions and discussion followed.

Written only testimony in opposition to the bill, from Steve Kearney, Waste Management of Kansas, was distributed to the committee. (SEE ATTACHMENT 10)

The Chairperson closed the hearing on **HB2131**. She announced the bill will be put into the sub-committee with **HB2134** for further research. She reviewed the agenda for Tuesday, February 13.

The meeting adjourned at 5:30 p.m. The next meeting is scheduled for Tuesday, February 13, 2001.

# HOUSE ENVIRONMENT COMMITTEE GUEST LIST

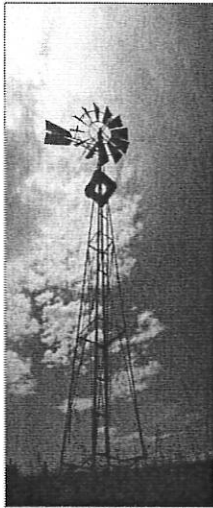
DATE: February 8, 2001

NAME	REPRESENTING
Nick Phillippi	Mid America Tire Dealers
Randy Allen	Kansas Assoc. of Counties
John Mitchell	KDHE
Jim Kang	Cities of Hays / Gonda City
Dave Holthaus	WR
John C. Botterby	Daffenbaugh
GEORGE R. MCGREW	Daffenbaugh Ind.
Steve Kinard	WASTE MANAGEMENT
Larry Kleiman	LKM
Stacy King	KS Soc. of Prof. Eng.
Tom Brown	Jim Allen & Assoc.
Wendy Matthews	KAPA
David Miller	DOB
Rebecca Reed	KDA
Martin Burke	KDHE
Jamie Clover Adams	KDA
Charlie Sedlock	Hamm
Shawn Hamlin	Mid America Tire Dealers Assn.
PHIL WITTEK	JOHNSON CO. KS (ENVIRONMENTAL DEPT)

# HOUSE ENVIRONMENT COMMITTEE GUEST LIST

DATE: Feb 8, 2001

NAME	REPRESENTING
Bill Bider	KDFE
Rylan Martin	KLLI



# EQUUS BEDS

## Information Resource

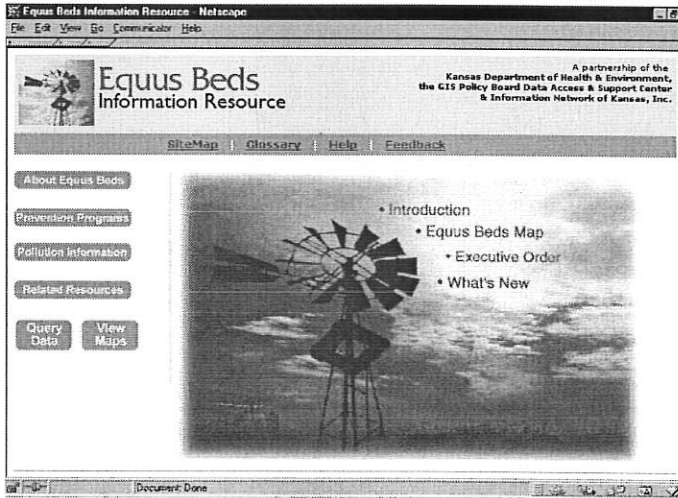
www.equusinfo.org

## What's on the site?

- ▶ Information about the Equus Beds
- ▶ Executive Order
- ▶ Pollution Prevention Programs
  - Federal
  - State
  - Local
- ▶ Actual Pollution Sources
- ▶ Potential Pollution Sources

## Interactive Mapping System

- ▶ Identified Contaminated Sites
- ▶ Leaking Storage Tank Sites
- ▶ Oil and Gas Production
- ▶ Hazardous Material and Petroleum
- ▶ Solid Waste Facilities
- ▶ Wastewater Facilities
- ▶ Confined Animal Feeding Operations
- ▶ Federal, State, and Local Government Facilities



Equus Beds Information Resource - Netscape

Equus Beds Information Resource

A partnership of the Kansas Department of Health & Environment, the GIS Policy Board Data Access & Support Center & Information Network of Kansas, Inc.

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About Equus Beds

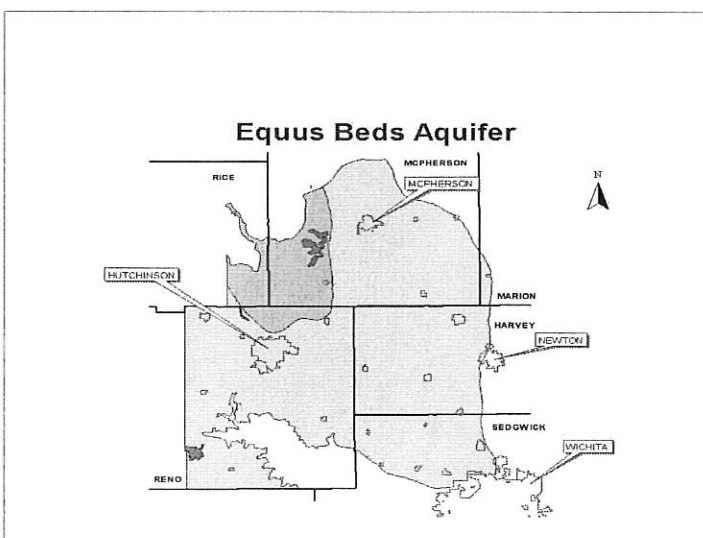
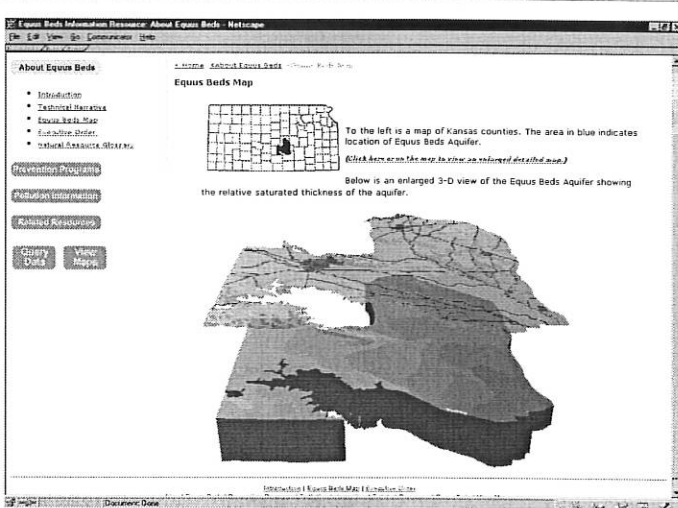
- Introduction
- Equus Beds Map
- Executive Order
- What's New

Prevention Programs

Pollution Information

Related Resources

Query Data | View Maps

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About Equus Beds

- Introduction
- Equus Beds Map
- Executive Order
- What's New

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Equus Beds Map

To the left is a map of Kansas counties. The area in blue indicates location of Equus Beds Aquifer.

Below is an enlarged 3-D view of the Equus Beds Aquifer showing the relative saturated thickness of the aquifer.

House Environment  
2-8-01  
Attachment 1

Equus Beds Information Resource: About Equus Beds - Netscape

Equus Beds Information Resource

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About Equus Beds

Introduction  
 Technical Narrative  
 Equus Beds Map  
 Equus Beds Data  
 Related Resources

Technical Narrative

The equus beds aquifer is the eastern most extension of the high plains aquifer system. The aquifer is composed of Quaternary sand, silts, clay, sand and gravel deposits. The formation of the equus beds was the direct result of erosion and structural geologic processes, whereby rapidly flowing rivers and streams, in combination with solutioning and subsidence of underlying bedrock units formed deep, broad channels which were filled with alluvial and windblown sediments. The thick alluvial deposits, over time, were saturated by infiltration from precipitation, bedrock units and streams and rivers. The large saturated alluvial deposits known as the equus beds, is underlain by bedrock of the Nepeawa and Sumner Group, both of Permian Age.

The excellent quality of the water in the equus beds aquifer, its relatively shallow depth, widespread lateral extent and the large saturated thickness, make the equus beds aquifer an extraordinary source of groundwater in South Central Kansas. The equus beds aquifer is an important source of water for municipal, domestic, irrigation and industrial uses. Large water users tend to be clustered in areas with the greatest yield and high quality water. The map water rights over 100 acre feet per year shows the three clusters of greatest withdrawals. Protecting the quality of the water in the equus beds from both man-made and natural problems is also an important consideration. The water quality map shows the total dissolved solids (TDS) and water type for the counties that where the equus beds aquifer is located. The majority of the equus beds area has TDS concentrations less than 500 mg/L.

The total saturated thickness of the aquifer ranges from less than 50 feet to 250 feet. Saturated thickness is the vertical thickness of an aquifer in which the pore spaces of the rock forming the aquifer are filled with water. It can be used to calculate the potential extractable water from an aquifer and is therefore commonly used as an indicator of available resources in setting management and use policies and regulations.

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About Equus Beds

Prevention Programs

Local Agency and Prevention and Protection Programs

Prevention Programs

- Local
- State
- Federal

Related Resources

Query Data View Maps

State Regulatory, Tech Assistance, Research & Education Programs

- Chemigation
- Confined Animal Feeding Operations
- Contaminated Sites
- Equine Contamination
- Sporewater Absorption Network
- Hazardous Chemical Regulations
- Hazardous Waste Management
- Household Hazardous Waste
- Industrial Wastewater
- Remediation Remediation the Control Areas
- Local Environmental Protection Program
- Kansas Rural Water Association
- Municipal Wastewater
- Natural Gas Storage - Underground Facilities
- Non-Point Source Pollution Management
- Non-Point Source Pollution Planning - Local and County
- Oil and Gas Pipelines and other Transport of Oil and Liquid Gases
- Pesticides Use
- Pesticide Management Plans
- Subsidence Prevention and Environmental Compliance Assessment Programs
- Public Water Supplies
- Right-of-Way and Wellhead Protection
- Sanitary Land Environmental Code
- Solid Waste Management
- Solid Waste Management Plans
- Soil Phosphorus
- State Water Plan
- Storage Tanks
- Total Maximum Daily Loads
- Underground Injection Wells
- Wastewater Management Plans

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Local County Information

Prevention Programs

- Local
- State
- Federal

Related Resources

Query Data View Maps

MARION COUNTY

Activity	Agency	Activity Type
Abandoned Wells	County Conservation District	Education, Technical Assistance, Cost-share
	County Health Department	Education, Technical Assistance
	County Research & Extension	Education
Household Hazardous Waste	County Health Department	Education, Technical Assistance
	County Noxious Weed Department	Education, Technical Assistance
Livestock Waste Systems	County Conservation District	Education, Technical Assistance, Cost-share
Onsite Wastewater Disposal	County Conservation District	Education, Technical Assistance, Cost-share
	County Health Department	Education, Technical Support, Regulatory
Public Information & Education	County Health Department	Education
Real Estate Evaluations	County Health Department	Technical Support
Solid Waste Management	County Health Department	Education, Regulatory

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Equus Beds Information Resource: State Prevention Programs - Netscape

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State Regulatory, Technical Assistance, Research and Educational Programs

Prevention Programs

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- State
- Federal

Related Resources

Query Data View Maps

Chemigation

The chemigation program issues permits, establishes criteria for anti-pollution devices and regulates applications of pesticides, fertilizers and livestock wastes through irrigation systems. The activities of chemigation equipment operators are monitored to ensure compliance with the standards. The program also monitors chemigation wells to identify changes in water quality and determine efficacy of anti-pollution devices. These activities are conducted pursuant to the authority contained in K.S.A. 2-2301 et seq. The program responsible for conducting the activities is the Kansas Department of Agriculture.

Confined Animal Feeding Operations

The confined animal feeding operation (CAFO) program regulates waste collection, treatment and disposal practices at confined animal feeding facilities. These activities are conducted pursuant to the authority contained in K.S.A. 65-161, 164, 165, 166, 167, 170 and 171. The program responsible for conducting the activities is the Bureau of Water in the Kansas Department of Health and Environment.

Contaminated Sites

Contaminated sites are investigated to confirm contamination and to identify the contaminant, source and responsible party if possible. The site is then evaluated to determine the appropriate monitoring or remediation actions necessary to minimize risks to the public and water resources of the state. These activities are conducted pursuant to the authority contained in K.S.A. 65-111v and 65-2409, 2411 and 3441. The program responsible for conducting the activities is the Bureau of Environmental Remediation in the Kansas Department of Health and Environment.

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Equus Beds Information Resource: Natural Resources - Netscape

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Natural Resources

Related Resources

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Federal

Environmental Protection Agency (EPA) website that provides the public with direct access to the wealth of information contained in EPA's databases.

EPA Region VII - Web site for Region VII of the U.S. Environmental Protection Agency covering Iowa, Kansas, Missouri and Nebraska.

U.S. Geological Survey - Provides maps, reports and information on water, energy, mineral and land resources.

State

Kansas Department of Health and Environment - Web site for Kansas environmental regulatory agency including information on state environmental programs.

Kansas Water Office - Web site for Kansas state water planning and marketing agency.

Kansas Department of Agriculture - Web site for Kansas state agency with water rights and fertilizer and pesticide regulatory programs.

Division of Water Resources (DWR) - Division of the Kansas Department of Agriculture that administers the use of Kansas water supplies through the Water Appropriations Act. Also responsible for laws concerning irrigation, drainage, stream alterations, flood control and the safety of dams.

Plant Protection and Weed Control Program - Division of the Kansas Department of Agriculture that administers programs to ensure proper use of pesticides and fertilizers.

Kansas Geological Survey (KGS) - Web site provides information on research and

Document Done

Equus Beds Information Resource: Query Data - Netscape

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About Equus Beds

Query Data

Step 1: Select the data you want to Query.

Contaminated Sites  required

Step 2: (Optional) Narrow your results by selecting one of the following choices then press the "View Report" button.

City: McPherson  or

County:  or

Zip:  or

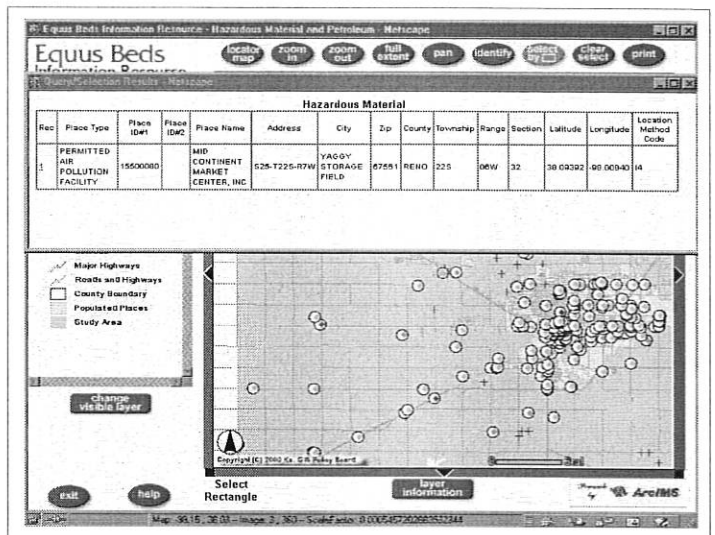
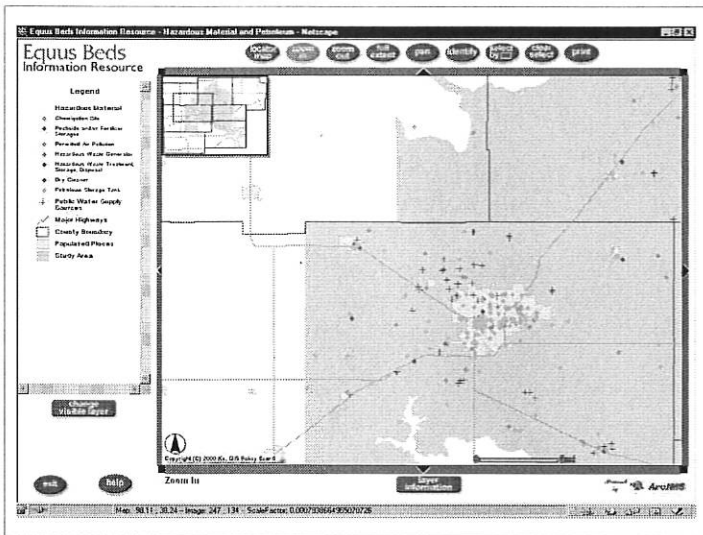
Township:  select a township, range and section

Range:  or

Section:  or

Document Done





**Equus Beds Information Resource**

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**View Maps**

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Select a topic from one of the following map application options:

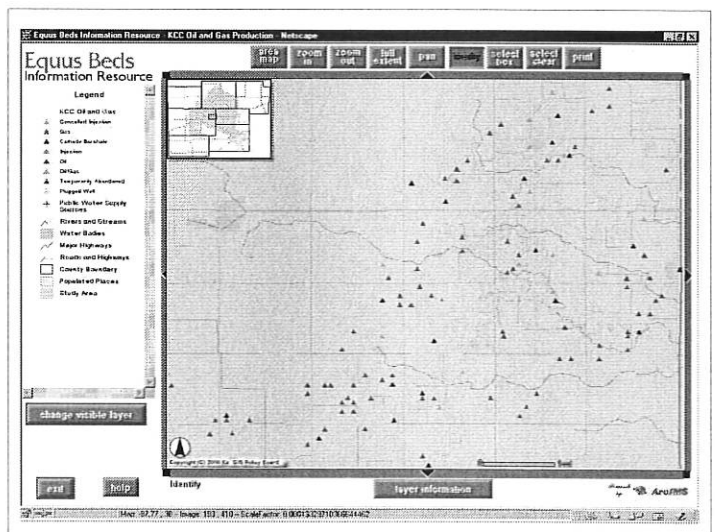
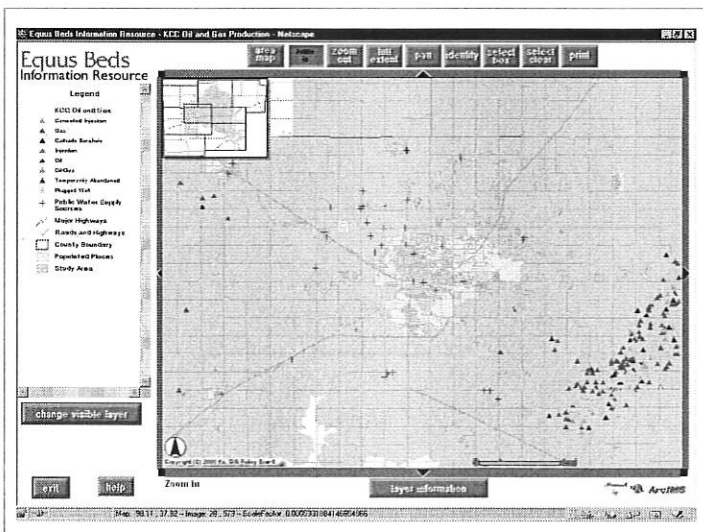
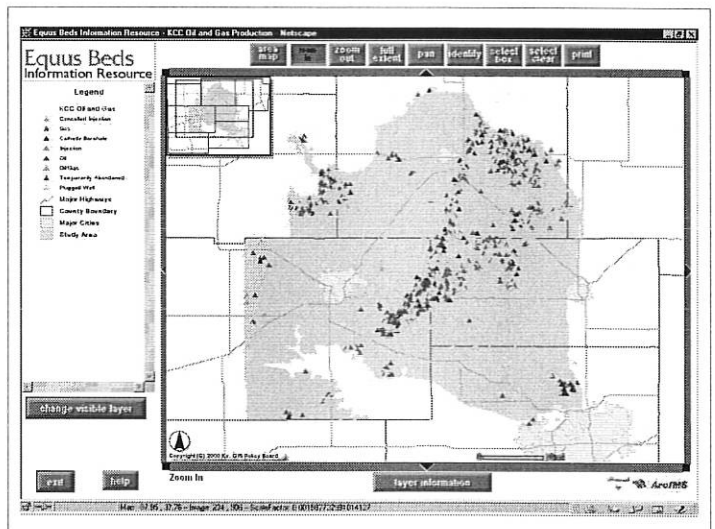
Oil and Gas Production

Advanced: Recommended browser is Microsoft Internet Explorer 4.0@ and above, longer load time, increased functionality.

View Advanced Map

Basic: Compatible with most browsers, shorter load time, reduced functionality.

View Basic Map







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

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**Testimony on House Bill 2134**  
**Miscellaneous Solid Waste Amendments**  
**to**  
**House Environment Committee**

presented by  
Bill Bider, Director, Bureau of Waste Management

February 8, 2001

The Department of Health and Environment appreciates this opportunity to present testimony in support of House Bill 2134, a bill drafted and introduced at the request of the department. This bill updates several sections of the solid waste statutes. Some changes clarify existing requirements; other changes improve the efficiency and effectiveness of the state regulatory and grant programs. Since initially drafting this bill, KDHE has worked with several interested persons representing businesses and government units to address comments and concerns which they have raised. Some recommended amendments are attached to our testimony to improve the initial proposal. Also, we are presenting, but not recommending, an additional amendment which the committee may want to consider to address some concerns raised by private landfill owners.

The proposed changes to the law are related to permits, enforcement, and grants. Some statutory definitions also need to be changed to accomplish the desired outcomes. A brief overview of the changes proposed for each section of law follow:

**K.S.A. 65-3402 : Definitions**

- The definition of "solid waste" is revised to include "waste tires." This change is needed to confirm the department's enforcement authority related to the illegal disposal of waste tires. The department's position has always been that the solid waste enforcement authorities did apply to waste tires, but that authority has not been explicitly stated.
- The definition of "solid waste disposal area" is revised to clarify that it includes the entire permitted area, not just the disposal cells. This supports another proposed change to the law prohibiting the breaking up of permitted sites as explained in the following section.

**K.S.A. 65-3407 and 65-3407c: Permit Requirements**

- KDHE authority to revoke solid waste permits is expanded to include the revocation of permits for violations of all “unlawful” solid waste acts or for violations of waste tire permit laws. Currently permits can only be revoked for violations of solid waste permit laws (K.S.A. 65-3407).
- KDHE is given new authority to waive permitting requirements for solid waste transfer stations or temporary solid waste storage sites used to manage waste generated by natural disasters such as tornados, floods, fires, etc.

**K.S.A. 65-3409: Enforcement**

- The list of “unlawful acts” is expanded to include the following: (1) transporting waste tires without a permit, (2) acting as a mobile processor of waste tires without a permit, (3) violating any provision of the waste tire permit laws specified in K.S.A. 65-3424b, and (4) an action by a solid waste permit holder to break up the real property of a permitted “solid waste disposal area” for the purpose of selling or transferring a portion of the site without receiving KDHE approval.

**Note:** KDHE is submitting new language to address the prohibition on dividing an existing permitted site as given in paragraph (8). The amendment clarifies that the problem of concern to the department is the “dividing,” or breaking up, of “real property” which is covered by a solid waste permit without KDHE oversight and approval. The suggested new provision gives KDHE authority to approve of such actions, when appropriate, without requiring one or more new permit applications. The amendment also clarifies that the secretary’s approval requirement does not apply to the transfer of landfills used for waste generated on-site at industrial facilities.

**K.S.A. 65-3415: Grants**

- The entities eligible to receive solid waste reduction grants for recycling, composting, and public education is expanded to include schools, colleges, universities, and state agencies.
- Grant eligibility criteria are clarified to ensure that no grant funds will be disbursed to any applicant or entity that has already received a grant unless they have paid all applicable tonnage fees. Currently the law only applies this criteria to owners or operators of municipal solid waste landfills. It should also apply to transfer station owners or other landfill owners who may be required to pay fees.

KDHE is requesting another amendment to HB 2134 related to the purchase of Kansas landfills by private companies. It has come to our attention that there is a loophole in the current law which could allow the transfer of a privately-owned municipal solid waste landfill permit when a parent company sells all of the landfill assets and/or stock to a new parent, but maintains the old landfill name. We believe this

type of transaction is inconsistent with the legislative intent to prohibit such transfers as incorporated into law several years ago. This loophole could allow a private company to transfer the control and operation of a landfill to another private company which has very different plans for the use of the facility. A new owner could greatly increase the daily tonnage coming to the site or change the sources of the solid waste. These types of changes could significantly impact the landfill life expectancy. Such changes could impact the validity of county solid waste plans which were developed assuming the availability of the landfill for many years. Another major concern associated with this loophole is the fact that new controlling owners would exist who have not had to comply with the permit application requirements dealing with background checks, business disclosure statements, and compliance history.

KDHE believes that it has always been the legislature's intent to prohibit the change in the owner of a commercial landfill without requiring a review of the transaction by local officials and KDHE which is accomplished by the processing of a new permit application. For this reason, KDHE is requesting the addition of a new paragraph (j) to K.S.A. 65-3407 to provide the secretary with the authority to require that a new permit application be submitted whenever a change in control or ownership occurs. The new application process would require county commission review and approval for consistency with the county solid waste plan. An exception to this requirement is being maintained for the change in ownership of a landfill used only for the disposal of waste generated on-site, such as a landfill for power plant combustion residues.

Some private companies have expressed concerns with both the existing prohibition on the transfer of permits and the new clarifying proposal offered as new paragraph (j). Private companies have stated that the value of their landfill as a company asset is reduced by having a statutory requirement to implement a new permit process whenever the owner of the landfill changes. Any buyer knows that there is some risk that they will not be granted a new permit. While landfill value may be affected by these provisions, the state must ensure that any person that owns and operates a municipal solid waste landfill is qualified and financially able to assume the responsibilities. In response to industry's concerns, KDHE is providing an additional statutory change for the committee's consideration. The change, provided as an attachment to this testimony, allows the secretary to approve of the transfer of a solid waste permit, if the proposed purchaser provides the department with all of the necessary information to carry out a background investigation and financial assurance evaluation before the business transaction takes place. This option would eliminate the risk that the purchaser may not obtain a permit, thus maximizing the value of the landfill to the seller. KDHE does not prefer this option even though the state's primary concerns are satisfied because it does not consider the interests of local government to evaluate the implications of transferring landfills which they use and depend upon to a new owner.

KDHE appreciates this opportunity to appear before the committee in support of HB 2134.

2-4

**Alternate Proposal to Address  
Industry Concerns  
(not KDHE's preferred alternate)**

1 the financial responsibility of the permittee for accidental occurrences at  
 2 the site of the facility or area. Any such liability insurance as may be  
 3 required pursuant to this subsection or pursuant to the rules and regu-  
 4 lations of the secretary shall be issued by an insurance company author-  
 5 ized to do business in Kansas or by a licensed insurance agent operating  
 6 under authority of K.S.A. 40-246b, and amendments thereto, and shall  
 7 be subject to the insurer's policy provisions filed with and approved by  
 8 the commissioner of insurance pursuant to K.S.A. 40-216, and amend-  
 9 ments thereto, except as authorized by K.S.A. 40-246b, and amendments  
 10 thereto. Nothing contained in this subsection shall be deemed to apply  
 11 to any state agency or department or agency of the federal government.

12 (i) Permits granted by the secretary, as provided in this act: (1) Shall  
 13 not be transferable except ~~that a permit for a solid waste disposal area~~ : (A) A  
 14 may be transferred if ~~both of the following conditions are met. (A) The~~  
 15 ~~area is permitted for only solid waste produced on site from manufactur-~~ t  
 16 ~~ing and industrial processes or on-site construction or demolition activi-~~  
 17 ~~ties; and (B) the only change in the permit is a name change resulting~~  
 18 ~~from a merger, acquisition, sale, corporate restructuring or other business~~  
 19 ~~transaction; and (2) shall be revocable or subject to suspension whenever~~  
 20 ~~the secretary shall determine that the solid waste processing or disposal~~  
 21 ~~facility or area is, or has been constructed or operated in violation of this~~  
 22 ~~act or the rules and regulations or standards adopted pursuant to the act,~~  
 23 ~~or is creating or threatens to create a hazard to persons or property in~~  
 24 ~~the area or to the environment, or is creating or threatens to create a~~  
 25 ~~public nuisance, or upon the failure to make payment of any fee required~~  
 26 ~~under this act. The secretary also may revoke, suspend or refuse to issue~~  
 27 ~~a permit when the secretary determines that past or continuing violations~~  
 28 ~~of the provisions of K.S.A. 65-3409, subsection (c)(3) of K.S.A. 65-3407~~  
 29 ~~or K.S.A. 65-3424b, and amendments thereto, have been committed by~~  
 30 ~~a permittee, or any principal, shareholder or other person capable of~~  
 31 ~~exercising partial or total control over a permittee.~~

or (B) a permit for a solid waste disposal area or a solid waste processing facility may be transferred if the secretary approves of the transfer based upon information submitted to the secretary to conduct a background investigation of the new owner as specified in K.S.A. 65-3407(c) and (d), and amendments, thereto, and a financial assurance evaluation as specified in K.S.A. 65-3407(h), and amendments, thereto, at least 60 days prior to a change in ownership or control,

32 ~~(j)~~ In case any permit is denied, suspended or revoked the person,  
 33 city, county or other political subdivision or state agency may request a  
 34 hearing before the secretary in accordance with K.S.A. 65-3412, and  
 35 amendments thereto.  
 36 ~~(k)~~ (1) No permit to construct or operate a solid waste disposal area  
 37 shall be issued on or after the effective date of this act if such area is  
 38 located within 1/2 mile of a navigable stream used for interstate commerce  
 39 or within one mile of an intake point for any public surface water supply  
 40 system.

(j) Except as otherwise provided by K.S.A. 65-3407(i), and amendments hereto, the secretary may require a new permit application to be submitted for a solid waste processing facility or a solid waste disposal area in response to any change in ownership or control of the permitted real property or the existing permittee, either directly or indirectly.

41 (2) Any permit, issued before the effective date of this act, to con-  
 42 struct or operate a solid waste disposal area is hereby declared void if  
 43 such area is not yet in operation and is located within 1/2 mile of a navi-

**HOUSE BILL No. 2134**

By Committee on Environment

1-23

AN ACT concerning solid waste; amending K.S.A. 2000 Supp. 65-3402, 65-3407, 65-3407c, 65-3409 and 65-3415 and repealing the existing sections.

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

Section 1. K.S.A. 2000 Supp. 65-3402 is hereby amended to read as follows: 65-3402. As used in this act, unless the context otherwise requires:

(a) "Solid waste" means garbage, refuse, waste tires as defined by K.S.A. 65-3424, and amendments thereto, and other discarded materials, including, but not limited to, solid, semisolid, sludges, liquid and contained gaseous waste materials resulting from industrial, commercial, agricultural and domestic activities. Solid waste does not include hazardous wastes as defined by subsection (f) of K.S.A. 65-3430, and amendments thereto, recyclables or the waste of domestic animals as described by subsection (a)(1) of K.S.A. 65-3409, and amendments thereto.

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

(c) "Solid waste processing facility" means incinerator, composting facility, household hazardous waste facility, waste-to-energy facility, transfer station, reclamation facility or any other location where solid wastes are consolidated, temporarily stored, salvaged or otherwise processed prior to being transported to a final disposal site. This term does not include a scrap material recycling and processing facility.

(d) "Solid waste disposal area" means any area used for the disposal of solid waste from more than one residential premises, or one or more commercial, industrial, manufacturing or municipal operations. "Solid waste disposal area" includes all property described or included within any permit issued pursuant to K.S.A. 65-3407, and amendments thereto.

(e) "Person" means individual, partnership, firm, trust, company, association, corporation, individual or individuals having controlling or majority interest in a corporation, institution, political subdivision, state agency or federal department or agency.

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2 (f) "Waters of the state" means all streams and springs, and all bodies  
3 of surface or groundwater, whether natural or artificial, within the bound-  
4 aries of the state.

5 (g) "Secretary" means the secretary of health and environment.

6 (h) "Department" means the Kansas department of health and  
7 environment.

8 (i) "Disposal" means the discharge, deposit, injection, dumping, spill-  
9 ing, leaking or placing of any solid waste into or on any land or water so  
10 that such solid waste or any constituent thereof may enter the environ-  
11 ment or be emitted into the air or discharged into any water.

12 (j) "Open dumping" means the disposal of solid waste at any solid  
13 waste disposal area or facility which is not permitted by the secretary  
14 under the authority of K.S.A. 65-3407, and amendments thereto, or the  
15 disposal of solid waste contrary to rules and regulations adopted pursuant  
16 to K.S.A. 65-3406, and amendments thereto.

17 (k) "Generator" means any person who produces or brings into ex-  
18 istence solid waste.

19 (l) "Monitoring" means all procedures used to (1) systematically in-  
20 spect and collect data on the operational parameters of a facility, an area  
21 or a transporter, or (2) to systematically collect and analyze data on the  
22 quality of the air, groundwater, surface water or soils on or in the vicinity  
23 of a solid waste processing facility or solid waste disposal area.

24 (m) "Closure" means the permanent cessation of active disposal op-  
25 erations, abandonment of the disposal area, revocation of the permit or  
26 filling with waste of all areas and volume specified in the permit and  
27 preparing the area for the long-term care.

28 (n) "Postclosure" means that period of time subsequent to closure of  
29 a solid waste disposal area when actions at the site must be performed.

30 (o) "Reclamation facility" means any location at which material con-  
31 taining a component defined as a hazardous substance pursuant to K.S.A.  
32 65-3452a and amendments thereto or as an industrial waste pursuant to  
33 this section is processed.

34 (p) "Designated city" means a city or group of cities which, through  
35 interlocal agreement with the county in which they are located, is dele-  
36 gated the responsibility for preparation, adoption or implementation of  
37 the county solid waste plan.

38 (q) "Nonhazardous special waste" means any solid waste designated  
39 by the secretary as requiring extraordinary handling in a solid waste dis-  
40 posal area.

41 (r) "Recyclables" means any materials that will be used or reused, or  
42 prepared for use or reuse, as an ingredient in an industrial process to  
43 make a product, or as an effective substitute for a commercial product.  
44 "Recyclables" includes, but is not limited to, paper, glass, plastic, munic-

ipal water treatment residues, as defined by K.S.A. 65-163 and amendments thereto, and metal, but does not include yard waste.

3 (s) "Scrap material processing industry" means any person who ac-  
4 cepts, processes and markets recyclables.

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

8 (u) "Construction and demolition waste" means solid waste resulting  
9 from the construction, remodeling, repair and demolition of structures,  
10 roads, sidewalks and utilities; untreated wood and untreated sawdust from  
11 any source; solid waste consisting of motor vehicle window glass; and solid  
12 waste consisting of vegetation from land clearing and grubbing, utility  
13 maintenance, and seasonal or storm-related cleanup. Such wastes include,  
14 but are not limited to, bricks, concrete and other masonry materials, roof-  
15 ing materials, soil, rock, wood, wood products, wall or floor coverings,  
16 plaster, drywall, plumbing fixtures, electrical wiring, electrical compo-  
17 nents containing no hazardous materials, nonasbestos insulation and con-  
18 struction related packaging. "Construction and demolition waste" shall  
19 not include waste material containing friable asbestos, garbage, furniture,  
20 appliances, electrical equipment containing hazardous materials, tires,  
21 drums and containers even though such wastes resulted from construction  
22 and demolition activities. Clean rubble that is mixed with other construc-  
23 tion and demolition waste during demolition or transportation shall be  
24 considered to be construction and demolition waste.

25 (v) "Construction and demolition landfill" means a permitted solid  
26 waste disposal area used exclusively for the disposal on land of construc-  
27 tion and demolition wastes. This term shall not include a site that is used  
28 exclusively for the disposal of clean rubble.

29 (w) "Clean rubble" means inert uncontaminated construction and  
30 demolition waste which includes concrete and concrete products, rein-  
31 forcing steel, asphalt pavement, brick, soil or rock.

32 (x) "Industrial waste" means all solid waste resulting from manufac-  
33 turing, commercial and industrial processes which is not suitable for dis-  
34 charge to a sanitary sewer or treatment in a community sewage treatment  
35 plant or is not beneficially used in a manner that meets the definition of  
36 recyclables. Industrial waste includes, but is not limited to: Mining wastes  
37 from extraction, beneficiation and processing of ores and minerals unless  
38 those minerals are returned to the mine site; fly ash, bottom ash, slag and  
39 flue gas emission wastes generated primarily from the combustion of coal  
40 or other fossil fuels; cement kiln dust; waste oil and sludges; waste oil  
41 filters; and fluorescent lamps.

42 (y) "Composting facility" means any facility that composts wastes and  
43 has a composting area larger than one-half acre.

1 (z) "Household hazardous waste facility" means a facility established  
2 for the purpose of collecting, accumulating and managing household haz-  
3 ardous waste and may also include small quantity generator waste or ag-  
4 ricultural pesticide waste, or both. Household hazardous wastes are con-  
5 sumer products that when discarded exhibit hazardous characteristics.

6 (aa) "Waste-to-energy facility" means a facility that processes solid  
7 waste to produce energy or fuel.

8 (bb) "Transfer station" means any facility where solid wastes are  
9 transferred from one vehicle to another or where solid wastes are stored  
10 and consolidated before being transported elsewhere, but shall not in-  
11 clude a collection box provided for public use as a part of a county-op-  
12 erated solid waste management system if the box is not equipped with  
13 compaction mechanisms or has a volume smaller than 20 cubic yards.

14 (cc) "Municipal solid waste landfill" means a solid waste disposal area  
15 where residential waste is placed for disposal. A municipal solid waste  
16 landfill also may receive other nonhazardous wastes, including commer-  
17 cial solid waste, sludge and industrial solid waste.

18 (dd) "Construction related packaging" means small quantities of  
19 packaging wastes that are generated in the construction, remodeling or  
20 repair of structures and related appurtenances. "Construction related  
21 packaging" does not include packaging wastes that are generated at retail  
22 establishments selling construction materials, chemical containers gen-  
23 erated from any source or packaging wastes generated during mainte-  
24 nance of existing structures.

25 Sec. 2. K.S.A. 2000 Supp. 65-3407 is hereby amended to read as  
26 follows: 65-3407. (a) Except as otherwise provided by K.S.A. 2000 Supp.  
27 65-3407c and amendments thereto, no person shall construct, alter or  
28 operate a solid waste processing facility or a solid waste disposal area of  
29 a solid waste management system, except for clean rubble disposal sites,  
30 without first obtaining a permit from the secretary.

31 (b) Every person desiring to obtain a permit to construct, alter or  
32 operate a solid waste processing facility or disposal area shall make ap-  
33 plication for such a permit on forms provided for such purpose by the  
34 rules and regulations of the secretary and shall provide the secretary with  
35 such information as necessary to show that the facility or area will comply  
36 with the purpose of this act. Upon receipt of any application and payment  
37 of the application fee, the secretary, with advice and counsel from the  
38 local health authorities and the county commission, shall make an inves-  
39 tigation of the proposed solid waste processing facility or disposal area  
40 and determine whether it complies with the provisions of this act and any  
41 rules and regulations and standards adopted thereunder. The secretary  
42 also may consider the need for the facility or area in conjunction with the  
43 county or regional solid waste management plan. If the investigation re-



1 veals that the facility or area conforms with the provisions of the act and  
2 the rules and regulations and standards adopted thereunder, the secretary  
3 shall approve the application and shall issue a permit for the operation of  
4 each solid waste processing or disposal facility or area set forth in the  
5 application. If the facility or area fails to meet the rules and regulations  
6 and standards required by this act the secretary shall issue a report to the  
7 applicant stating the deficiencies in the application. The secretary may  
8 issue temporary permits conditioned upon corrections of construction  
9 methods being completed and implemented.

10 (c) Before reviewing any application for permit, the secretary shall  
11 conduct a background investigation of the applicant. The secretary shall  
12 consider the financial, technical and management capabilities of the ap-  
13 plicant as conditions for issuance of a permit. The secretary may reject  
14 the application prior to conducting an investigation into the merits of the  
15 application if the secretary finds that:

16 (1) The applicant currently holds, or in the past has held, a permit  
17 under this section and while the applicant held a permit under this section  
18 the applicant violated a provision of subsection (a) of K.S.A. 65-3409, and  
19 amendments thereto; or

20 (2) the applicant previously held a permit under this section and that  
21 permit was revoked by the secretary; or

22 (3) the applicant failed or continues to fail to comply with any of the  
23 provisions of the air, water or waste statutes, including rules and regula-  
24 tions issued thereunder, relating to environmental protection or to the  
25 protection of public health in this or any other state or the federal gov-  
26 ernment of the United States, or any condition of any permit or license  
27 issued by the secretary; or if the secretary finds that the applicant has  
28 shown a lack of ability or intention to comply with any provision of any  
29 law referred to in this subsection or any rule and regulation or order or  
30 permit issued pursuant to any such law as indicated by past or continuing  
31 violations; or

32 (4) the applicant is a corporation and any principal, shareholder, or  
33 other person capable of exercising total or partial control of such corpo-  
34 ration could be determined ineligible to receive a permit pursuant to  
35 subsection (c)(1), (2) or (3) above.

36 (d) Before reviewing any application for a permit, the secretary may  
37 request that the attorney general perform a comprehensive criminal back-  
38 ground investigation of the applicant; or in the case of a corporate appli-  
39 cant, any principal, shareholder or other person capable of exercising total  
40 or partial control of the corporation. The secretary may reject the appli-  
41 cation prior to conducting an investigation into the merits of the appli-  
42 cation if the secretary finds that serious criminal violations have been  
43 committed by the applicant or a principal of the corporation.

1 (e) The fees for a solid waste processing or disposal permit shall be  
2 established by rules and regulations adopted by the secretary. The fee for  
3 the application and original permit shall not exceed \$5,000. The annual  
4 permit renewal fee shall not exceed \$2,000. No refund shall be made in  
5 case of revocation. In establishing fees for a construction and demolition  
6 landfill, the secretary shall adopt a differential fee schedule based upon  
7 the volume of construction and demolition waste to be disposed of at  
8 such landfill. All fees shall be deposited in the state treasury and credited  
9 to the solid waste management fund. A city, county, other political sub-  
10 division or state agency shall be exempt from payment of the fee but shall  
11 meet all other provisions of this act.

12 (f) Plans, designs and relevant data for the construction of solid waste  
13 processing facilities and disposal sites shall be prepared by a professional  
14 engineer licensed to practice in Kansas and shall be submitted to the  
15 department for approval prior to the construction, alteration or operation  
16 of such facility or area. In adopting rules and regulations, the secretary  
17 may specify sites, areas or facilities where the environmental impact is  
18 minimal and may waive such preparation requirements provided that a  
19 review of such plans is conducted by a professional engineer licensed to  
20 practice in Kansas.

21 (g) Each permit granted by the secretary, as provided in this act, shall  
22 be subject to such conditions as the secretary deems necessary to protect  
23 human health and the environment and to conserve the sites. Such con-  
24 ditions shall include approval by the secretary of the types and quantities  
25 of solid waste allowable for processing or disposal at the permitted  
26 location.

27 (h) As a condition of granting a permit to operate any processing  
28 facility or disposal area for solid waste, the secretary shall require the  
29 permittee to: (1) Provide a trust fund, surety bond guaranteeing pay-  
30 ment, irrevocable letter of credit or insurance policy, to pay the costs of  
31 closure and postclosure care; or (2) pass a financial test or obtain a finan-  
32 cial guarantee from a related entity, to guarantee the future availability  
33 of funds to pay the costs of closure and postclosure care. The secretary  
34 shall prescribe the methods to be used by a permittee to demonstrate  
35 sufficient financial strength to become eligible to use a financial test or a  
36 financial guarantee procedure in lieu of providing the financial instru-  
37 ments listed in (1) above. Solid waste processing facilities or disposal  
38 areas, except municipal solid waste landfills, may also demonstrate finan-  
39 cial assurance for closure and postclosure care costs by use of ad valorem  
40 taxing power. In addition, the secretary shall require the permittee to  
41 provide liability insurance coverage during the period that the facility or  
42 area is active, and during the term of the facility or area is subject to  
43 postclosure care, in such amount as determined by the secretary to insure

1 the financial responsibility of the permittee for accidental occurrences at  
 2 the site of the facility or area. Any such liability insurance as may be  
 3 required pursuant to this subsection or pursuant to the rules and regu-  
 4 lations of the secretary shall be issued by an insurance company author-  
 5 ized to do business in Kansas or by a licensed insurance agent operating  
 6 under authority of K.S.A. 40-246b, and amendments thereto, and shall  
 7 be subject to the insurer's policy provisions filed with and approved by  
 8 the commissioner of insurance pursuant to K.S.A. 40-216, and amend-  
 9 ments thereto, except as authorized by K.S.A. 40-246b, and amendments  
 10 thereto. Nothing contained in this subsection shall be deemed to apply  
 11 to any state agency or department or agency of the federal government.

12 (i) Permits granted by the secretary, as provided in this act: (1) Shall  
 13 not be transferable except that a permit for a solid waste disposal area  
 14 may be transferred if both of the following conditions are met: (A) The  
 15 area is permitted for only solid waste produced on site from manufactur-  
 16 ing and industrial processes or on-site construction or demolition activi-  
 17 ties; and (B) the only change in the permit is a name change resulting  
 18 from a merger, acquisition, sale, corporate restructuring or other business  
 19 transaction; and (2) shall be revocable or subject to suspension whenever  
 20 the secretary shall determine that the solid waste processing or disposal  
 21 facility or area is, or has been constructed or operated in violation of this  
 22 act or the rules and regulations or standards adopted pursuant to the act,  
 23 or is creating or threatens to create a hazard to persons or property in  
 24 the area or to the environment, or is creating or threatens to create a  
 25 public nuisance, or upon the failure to make payment of any fee required  
 26 under this act. The secretary also may revoke, suspend or refuse to issue  
 27 a permit when the secretary determines that past or continuing violations  
 28 of the provisions of K.S.A. 65-3409, subsection (c)(3) of K.S.A. 65-3407  
 29 or K.S.A. 65-3424b, and amendments thereto, have been committed by  
 30 a permittee, or any principal, shareholder or other person capable of  
 31 exercising partial or total control over a permittee.

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

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

41 (2) Any permit, issued before the effective date of this act, to con-  
 42 struct or operate a solid waste disposal area is hereby declared void if  
 43 such area is not yet in operation and is located within 1/2 mile of a navi-

(j) Except as otherwise provided by K.S.A. 65-3407(i), and amendments hereto, the secretary may require a new permit application to be submitted for a solid waste processing facility or a solid waste disposal area in response to any change in ownership or control of the permitted real property or the existing permittee, either directly or indirectly.

(k)

(l)

1 gable stream used for interstate commerce or within one mile of an intake  
2 point for any public surface water supply system.

3 (3) The provisions of this subsection shall not be construed to pro-  
4 hibit: (A) Issuance of a permit for lateral expansion onto land contiguous  
5 to a permitted solid waste disposal area in operation on the effective date  
6 of this act; (B) issuance of a permit for a solid waste disposal area for  
7 disposal of a solid waste by-product produced on-site; (C) renewal of an  
8 existing permit for a solid waste area in operation on the effective date  
9 of this act; or (D) activities which are regulated under K.S.A. 65-163  
10 through 65-165 or 65-171d, and amendments thereto.

11 ~~(4)~~ Before reviewing any application for a solid waste processing fa- (m)  
12 cility or solid waste disposal area, the secretary shall require the following  
13 information as part of the application:

14 (1) Certification by the board of county commissioners or the mayor  
15 of a designated city responsible for the development and adoption of the  
16 solid waste management plan for the location where the processing facility  
17 or disposal area is or will be located that the processing facility or disposal  
18 area is consistent with the plan. This certification shall not apply to a solid  
19 waste disposal area for disposal of only solid waste produced on site from  
20 manufacturing and industrial processes or from on-site construction or  
21 demolition activities.

22 (2) If the location is zoned, certification by the local planning and  
23 zoning authority that the processing facility or disposal area is consistent  
24 with local land use restrictions or, if the location is not zoned, certification  
25 from the board of county commissioners that the processing facility or  
26 disposal area is compatible with surrounding land use.

27 (3) For a solid waste disposal area permit issued on or after July 1,  
28 1999, proof that the permittee owns the land where the disposal area will  
29 be located, if the disposal area is: (A) A municipal solid waste landfill; or  
30 (B) a solid waste disposal area that has: (i) A leachate or gas collection or  
31 treatment system; (ii) waste containment systems or appurtenances with  
32 planned maintenance schedules; or (iii) an environmental monitoring sys-  
33 tem with planned maintenance schedules or periodic sampling and anal-  
34 ysis requirements. This requirement shall not apply to a permit for lateral  
35 or vertical expansion contiguous to a permitted solid waste disposal area  
36 in operation on July 1, 1999, if such expansion is on land leased by the  
37 permittee before April 1, 1999.

38 Sec. 3. K.S.A. 2000 Supp. 65-3407c is hereby amended to read as  
39 follows: 65-3407c. (a) The secretary may authorize persons to carry out  
40 the following activities without a solid waste permit issued pursuant to  
41 K.S.A. 65-3407, and amendments thereto:

42 (1) Dispose of solid waste at a site where the waste has been accu-  
43 mulated or illegally dumped. Disposal of some or all such waste must be

1 identified as an integral part of a site cleanup and closure plan submitted  
2 to the department by the person responsible for the site. No additional  
3 waste may be brought to the site following the department's approval of  
4 the site cleanup and closure plan.

5 (2) Perform temporary projects to remediate soils contaminated by  
6 organic constituents capable of being reduced in concentration by biod-  
7 egradation processes or volatilization, or both. Soil to be treated may be  
8 generated on-site or off-site. A project operating plan and a site closure  
9 plan must be submitted to the department as part of the project approval  
10 process.

11 (3) Dispose of demolition waste resulting from demolition of an en-  
12 tire building or structure if such waste is disposed of at the site where  
13 the building or structure was located. Prior to the department's authori-  
14 zation, written approval for the disposal must be obtained from the land-  
15 owner and the local governmental or zoning authority having jurisdiction  
16 over the disposal site. The disposal area must be covered with a minimum  
17 of two feet of soil and seeded, rocked or paved. The final grades for the  
18 disposal site must be compatible with and not detract from the appear-  
19 ance of adjacent properties.

20 (4) Dispose of solid waste generated as a result of a transportation  
21 accident if such waste is disposed of on property adjacent to or near the  
22 accident site. Prior to the department's authorization, written approval  
23 for the disposal must be obtained from the landowner and the local gov-  
24 ernmental or zoning authority having jurisdiction over the disposal site.  
25 A closure plan must be submitted to the department as part of the au-  
26 thorization process.

27 (5) Dispose of whole unprocessed livestock carcasses on property at,  
28 adjacent or near where the animals died if: (A) Such animals died as a  
29 result of a natural disaster or their presence has created an emergency  
30 situation; and (B) proper procedures are followed to minimize threats to  
31 human health and the environment. Prior to the department's authori-  
32 zation, written approval for the disposal must be obtained from the land-  
33 owner and the local governmental or zoning authority having jurisdiction  
34 over the disposal site.

35 (6) Dispose of solid waste resulting from natural disasters, such as  
36 storms, tornadoes, floods and fires, or other such emergencies, when a  
37 request for disposal is made by the local governmental authority having  
38 jurisdiction over the area. Authorization shall be granted by the depart-  
39 ment only when failure to act quickly could jeopardize human health or  
40 the environment. Prior to the department's authorization, written ap-  
41 proval for the disposal must be obtained from the landowner and the local  
42 governmental or zoning authority having jurisdiction over the disposal  
43 site. The local governmental authority must agree to provide proper clo-

3-10

1 sure and postclosure maintenance of the disposal site as a condition of  
2 authorization.

3 (7) *Store solid waste resulting from natural disasters, such as storms,*  
4 *tornadoes, floods and fires, or other such emergencies, at temporary waste*  
5 *transfer sites, when a request for storage is made by the local govern-*  
6 *mental authority having jurisdiction over the area. Authorization shall be*  
7 *granted by the department only when failure to act quickly could jeop-*  
8 *ardize human health or the environment. Prior to the department's au-*  
9 *thorization, written approval for the storage must be obtained from the*  
10 *landowner and the local governmental or zoning authority having juris-*  
11 *isdiction over the storage site. The local governmental authority must agree*  
12 *to provide proper closure of the storage and transfer site as a condition*  
13 *of authorization.*

14 (b) The secretary shall consider the following factors when determin-  
15 ing eligibility for an exemption to the solid waste permitting requirements  
16 under this section:

- 17 (1) Potential impacts to human health and the environment.
- 18 (2) Urgency to perform necessary work compared to typical permit-
- 19 ~~ting~~ timeframes.
- 20 (3) Costs and impacts of alternative waste handling methods.
- 21 (4) Local land use restrictions.
- 22 (5) Financial resources of responsible parties.
- 23 (6) Technical feasibility of proposed project.
- 24 (7) Technical capabilities of persons performing proposed work.

25 (c) The secretary may seek counsel from local government officials  
26 prior to exempting activities from solid waste permitting requirements  
27 under this section.

28 Sec. 4. K.S.A. 2000 Supp. 65-3409 is hereby amended to read as  
29 follows: 65-3409. (a) It shall be unlawful for any person to:

30 (1) Dispose of any solid waste by open dumping, but this provision  
31 shall not prohibit: (A) The use of solid wastes, *except for waste tires, as*  
32 *defined by K.S.A. 65-3424, and amendments thereto*, in normal farming  
33 operations or in the processing or manufacturing of other products in a  
34 manner that will not create a public nuisance or adversely affect the public  
35 health; or (B) an individual from dumping or depositing solid wastes re-  
36 sulting from such individual's own residential or agricultural activities  
37 onto the surface of land owned or leased by such individual when such  
38 wastes do not create a public nuisance or adversely affect the public health  
39 or the environment.

40 (2) Except as otherwise provided by K.S.A. 2000 Supp. 65-3407c, *and*  
41 *amendments thereto*, construct, alter or operate a solid waste storage,  
42 processing or disposal facility ~~or area of a solid waste management system~~  
43 *or act as a waste tire transporter or mobile waste tire processor, as defined*

1 by K.S.A. 65-3424, and amendments thereto, without a permit or be in  
2 violation of the rules and regulations, standards or orders of the secretary.

3 (3) Violate any condition of any permit issued under K.S.A. 65-3407  
4 or 65-3424b, and amendments thereto.

5 (4) Conduct any solid waste burning operations in violation of the  
6 provisions of the Kansas air quality act.

7 (5) Store, collect, transport, process, treat or dispose of solid waste  
8 contrary to the rules and regulations, standards or orders of the secretary  
9 or in such a manner as to create a public nuisance.

10 (6) Refuse or hinder entry, inspection, sampling and the examination  
11 or copying of records related to the purposes of this act by an agent or  
12 employee of the secretary after such agent or employee identifies and  
13 gives notice of their purpose.

14 (7) Violate subsection (b) of K.S.A. 65-3424a, subsection (c) of K.S.A.  
15 65-3424b or K.S.A. 65-3424i, and amendments thereto.

16 ~~(8) Divide, sell, transfer, divest or otherwise encumber any portion~~  
17 ~~of the real property included in a permitted solid waste disposal area or~~  
18 ~~solid waste processing facility without receiving prior approval from the~~  
19 ~~secretary.~~

20 (b) No person shall be held responsible for failure to secure a permit  
21 under the provisions of this section for the dumping or depositing of any  
22 solid waste on land owned or leased by such person without such person's  
23 expressed or implied consent, permission or knowledge.

24 (c) Any person who violates any provision of subsection (a) shall be  
25 guilty of a class A misdemeanor and, upon conviction thereof, shall be  
26 punished as provided by law.

27 Sec. 5. K.S.A. 2000 Supp. 65-3415 is hereby amended to read as  
28 follows: 65-3415. (a) The secretary is authorized to assist counties, des-  
29 ignated cities or regional solid waste management entities by administer-  
30 ing grants to pay up to 60% of the costs of preparing and revising official  
31 plans for solid waste management systems in accordance with the require-  
32 ments of this act and the rules and regulations and standards adopted  
33 pursuant to this act, and for carrying out related studies, surveys, inves-  
34 tinations, inquiries, research and analyses.

35 (b) The secretary is authorized to assist counties, designated cities,  
36 municipalities, regional solid waste management entities that are part of  
37 an interlocal agreement entered into pursuant to K.S.A. 12-2901 et seq.  
38 and amendments thereto or other applicable statutes, colleges, universi-  
39 ties, schools, state agencies or private entities, by administering compet-  
40 itive grants that pay up to 75% of eligible costs incurred by such a county,  
41 city, regional entity, college, university, school, state agency or private  
42 entity pursuant to an approved solid waste management plan, for any  
project related to the development and operation of recycling, source

(8) Divide a solid waste disposal area which has been issued a permit pursuant to K.S.A. 65-3407, and amendments, thereto, into two or more parcels of real property for the purpose of selling or transferring a portion of the permitted area to a new owner without receiving prior approval from the secretary. Such approval shall not be necessary for the transfer of a permitted solid waste disposal area as allowed by K.S.A. 65-3407(i).

1 reduction, waste minimization and solid waste management public edu-  
2 cation programs. Such projects shall include, but not be limited to, the  
3 implementation of innovative waste processing technologies which dem-  
4 onstrate nontraditional methods to reduce waste volume by recovering  
5 materials or by converting the waste into usable by-products or energy  
6 through chemical or physical processes. To be eligible for competitive  
7 grants awarded pursuant to this section, a county, designated city, regional  
8 entity, *college, university, school, state agency* or private entity must be  
9 implementing a project which is part of a solid waste management plan  
10 approved by the secretary or implementing a project with statewide sig-  
11 nificance as determined by the secretary with the advice and counsel of  
12 the solid waste grants advisory committee.

13 (c) The secretary is authorized to assist counties, cities or regional  
14 solid waste management entities that are part of an interlocal agreement  
15 entered into pursuant to K.S.A. 12-2901 et seq. and amendments thereto  
16 or other applicable statutes, by administering grants that pay up to 60%  
17 of costs incurred by such a county, city or regional entity for:

18 (1) The development or enhancement of temporary and permanent  
19 household hazardous waste programs operated in accordance with K.S.A.  
20 65-3460 and amendments thereto;

21 (2) the first year of operation following initial start-up of temporary  
22 and permanent household hazardous waste programs; and

23 (3) educating the public regarding changes in household hazardous  
24 waste collection program operations or services.

25 (d) The secretary is authorized to assist counties, cities or regional  
26 solid waste management entities that are part of an interlocal agreement  
27 entered into pursuant to K.S.A. 12-2901 et seq. and amendments thereto  
28 or other applicable statutes, by administering grants that pay up to 75%  
29 of costs incurred by such a county, city or regional entity to develop and  
30 implement temporary agricultural pesticide collection programs.

31 (e) The secretary is authorized to assist counties, cities or regional  
32 solid waste management entities that are part of an interlocal agreement  
33 entered into pursuant to K.S.A. 12-2901 et seq. and amendments thereto  
34 or other applicable statutes, by administering grants that pay up to 75%  
35 of costs incurred by such a county, city, or regional entity to develop and  
36 implement exempt small quantity hazardous waste generator waste col-  
37 lection programs, subject to the following:

38 (1) The aggregate amount of all such grants made for a fiscal year  
39 shall not exceed \$150,000; and

40 (2) no grantee shall receive any such grants in an aggregate amount  
41 exceeding \$50,000.

42 (f) (1) Failure of a *any* public or private entity ~~owning a municipal~~  
43 ~~solid waste landfill~~ to pay solid waste tonnage fees ~~on wastes disposed in~~



1 ~~Kansas~~ as required pursuant to K.S.A. 65-3415b, and amendments  
2 thereto, shall bar receipt of any grant funds by such entity until fees and  
3 related penalties have been paid.

4 (2) Failure of a county or regional authority to perform annual solid  
5 waste plan reviews and five year public hearings, and submit appropriate  
6 notification to the secretary that such actions have been carried out pur-  
7 suant to K.S.A. 65-3405, and amendments thereto, shall bar receipt of  
8 any grant funds by any entity within the jurisdiction of such county or  
9 regional authority unless the grant would support a project expected to  
10 yield benefits to counties outside the jurisdiction of such county or re-  
11 gional authority.

12 (3) A city, county, regional authority or private entity shall not be  
13 eligible to receive grants authorized in K.S.A. 65-3415, and amendments  
14 thereto, if the department determines that such city, county, regional  
15 authority or private entity is operating in substantial violation of applicable  
16 solid and hazardous waste laws or rules and regulations. , college, university, school, state agency,

17 (4) The secretary may establish additional minimum requirements for  
18 grant eligibility. , college, university, school, state agency,

19 (g) If the secretary determines that a grant recipient has utilized grant  
20 moneys for purposes not authorized in the grant contract, the secretary  
21 may order the repayment of such moneys and cancel any remaining de-  
22 partment commitments under the grant. If the grant recipient fails to  
23 comply with the secretary's order, the secretary may initiate a civil action  
24 in district court to recover any unapproved expenditures, including ad-  
25 ministrative and legal expenses incurred to pursue such action. Recovered  
26 grant moneys or expenses shall be remitted to the state treasurer, who  
27 shall deposit the entire amount in the state treasury and credit it to the  
28 solid waste management fund.

29 (h) All grants shall be made in accordance with appropriation acts  
30 from moneys in the solid waste management fund created by K.S.A. 65-  
31 3415a and amendments thereto.

32 (i) Local match requirements for all solid waste grant programs may  
33 be met by in-kind contributions from counties, designated cities, regional  
34 ~~solid waste management entities or private entities.~~ } delete

35 Sec. 6. K.S.A. 2000 Supp. 65-3402, 65-3407, 65-3407c, 65-3409 and  
36 65-3415 are hereby repealed.

37 Sec. 7. This act shall take effect and be in force from and after its  
38 publication in the statute book.

39  
40  
41  
42  
43

P.O. Box 3220  
Shawnee, Kansas 66203  
Telephone (913) 631-3300  
Fax (913) 631-6647

George R. McGrew  
General Counsel

February 8, 2001

House Environment Committee  
Attn: Joann Freeborn, Chair  
State Capitol, Room 273-W  
Topeka, Kansas 66612

Re: House Bill 2134

To the House Environment Committee:

Deffenbaugh Industries, Inc. wishes to express concern regarding a proposed amendment to K.S.A. 65-3409(a) contained in House Bill No. 2134 (Session of 2001). In relevant part, that amendment seeks to make it unlawful for any person to:

(8) Divide, sell, transfer, divest or otherwise encumber any portion of the real property in a permitted solid waste disposal area or solid waste processing facility without receiving prior approval from the secretary.

In our case, this provision would impact three full quarter sections of land making up our permitted solid waste disposal area.

This proposed legislation vests the Kansas Department of Health and Environment ("KDHE") with unwarranted control over private business decisions and will result in unreasonable interference with a permittee's ability to make timely decisions regarding its business operations. For the reasons discussed more fully below, the proposed legislation should be rejected.

Our first fundamental objection to the proposed legislation is that KDHE is given unfettered veto power over virtually any business decision that involves a division, sale, transfer, divestiture or other encumbrance (collectively hereinafter "Transfer") of the real property, in whole or in part, in a permitted solid waste disposal area or solid waste processing facility. Such power is an unwarranted intrusion into otherwise private business transactions and will only serve to unreasonably interfere with a company's ability to operate effectively and efficiently. For example, if the secretary must approve the encumbrance of landfill property with a

mortgage, does that mean the secretary has the right to examine the intricate financing details that the landfill property owner is attempting to arrange with the lender that will take that mortgage? If a landfill property owner is asked to grant an easement to a public utility and the secretary decides the easement should not be granted, will the landfill property owner then be forced to contest any condemnation proceeding subsequently instituted by the utility to obtain the easement? As proposed, the legislation contains no limits on the secretary's power to investigate and approve a proposed Transfer.

This brings us to our second fundamental objection. The proposed legislation contains no standard by which the secretary is to evaluate and approve a proposed Transfer of the real property in a permitted solid waste disposal area or solid waste processing facility. For instance, what criteria will the secretary use to evaluate whether to allow a landfill property owner to mortgage its real property? Does it make a difference whether the financial institution the landfill property owner wants to borrow from is a bank headquartered in Topeka, Kansas or an insurance company headquartered in Delaware? Additionally, who within the KDHE will be responsible for evaluating whether a proposed Transfer may occur – the secretary, senior managers or fresh, inexperienced college graduates? As a practical matter, what mechanisms are in place to protect a landfill property owner from purely arbitrary decisions by the secretary? This question becomes more problematic when considering that decisions involving property Transfers often need to be made within a short timeframe, which typically will not tolerate delays associated with appealing the secretary's decision.

This brings us to our third and final fundamental objection. The proposed legislation provides the secretary with an unknown amount of time to approve a proposed Transfer. The proposed legislation contains no limit on the time within which the secretary must act. In today's business world, business owners must act quickly. Requiring a landfill property owner to seek and obtain the secretary's approval each time it decides to Transfer landfill property will make it impossible to timely respond, effectively operate and take advantage of business opportunities. Landfill owners already spend a significant amount of time waiting agency approval of plans, proposals and permit applications.

In closing, we believe that the current statutory and regulatory scheme provides the KDHE with adequate mechanisms to deal with any proposed Transfer of landfill property which it deems poses a threat to human health or the environment. For example, the Johnson County, Kansas permit for Deffenbaugh Industries, Inc.'s Johnson County Landfill includes the following notification provision:

The permittee agrees to notify the County in writing prior to making any change in ownership or operating lease or contract responsibility at least thirty (30) days in advance of the date of transfer. (Permit No. 01-05, General Conditions, paragraph six, for the period January 1, 2001 through December 31, 2001).

This provision protects the County by providing it with thirty (30) days advance notice of the proposed transfer of landfill real property. If the County deems the proposed transfer a threat to human health or the environment, it may take appropriate administrative or legal action to stop the transaction. Such a provision in the permit does not unreasonably interfere with the permittee's ability to make timely business decisions regarding its operations.

Rather than including a similar notification provision in state permits, as it has done in the past<sup>1</sup>, KDHE proposes legislation providing it with unfettered veto power over business decisions involving the fundamental right to freely alienate one's property without opportunity for effective redress by the landfill property owner. The proposed legislation, if enacted, will shift the burden to timely respond to the landfill property owner's notification of intent to transfer landfill property from the KDHE to the landfill property owner who must seek and wait indefinitely for the secretary's approval.

We respectfully submit that this proposed legislation weighs against public policy and, since there is a less intrusive alternative available, request that the proposed legislation be rejected.

Sincerely,

DEFFENBAUGH INDUSTRIES, INC.

A handwritten signature in black ink, appearing to read "George R. McGrew", written over a horizontal line.

George R. McGrew  
General Counsel

GRM:me

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<sup>1</sup> Kansas Permit No. 263 for Johnson County Landfill, Inc., November 13, 1984, General Conditions, paragraph 6.

February 8, 2001

To: Chairperson Freeborn and Members of the House Environment Committee  
From: Steve Kearney, Lobbyist, Waste Management  
Re: HB 2131

Madam Chair and Members of the Committee:

Thank you for taking the time to allow me to present testimony regarding HB 2131 on behalf of Waste Management. I would like to present the following questions and concerns about this bill.

1. Has concrete data supporting the seriousness of a waste tire problem in Kansas been gathered? We would like to know if there really is a serious problem or if this bill is in response to one isolated incident.
2. Is it necessary to leave the excise tax at the \$.50 level to address a problem that does not appear to be sufficiently documented?
3. It appears the reason for leaving the fee at the \$.50 level instead of reducing it as the law would require would only serve to expand state grant programs and also expand the operational moneys for KDHE enforcement personnel without a clearly stated need.
4. Has the Department demonstrated a need to enter onto private property without the property owner's consent, as set forth on page 9, lines 9-14?

Sincerely,

Steve Kearney  
Lobbyist  
Waste Management

*House Environment  
2-8-01  
Attachment 5*



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

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**Testimony on House Bill 2131**  
**KDHE Waste Tire Bill**  
**to**  
**House Environment Committee**

presented by  
Bill Bider, Director, Bureau of Waste Management

February 8, 2001

The Department of Health and Environment appreciates this opportunity to provide testimony in support of House Bill 2131, a waste tire bill drafted and introduced by the department. Most of the proposed amendments to the waste tire statutes proposed in this bill were developed following a public meeting held in May 2000 in Salina. About 100 people representing tire retailers, the waste tire management industry, and local governments provided KDHE with their ideas about how to update the state law to yield an effective long-term state waste tire program. Consensus was reached on most points leading to a comprehensive bill which addresses everything from compliance and enforcement to grants.

The key recommendations received from the public and included in this bill follow:

- The tire excise tax of \$.50 per tire should be retained rather than decrease the tax to \$.25 per tire on July 1, 2001 as currently established in state law.
- The state should maintain authority to clean up waste tire sites, but only when the sites are illegal and when the responsible party is unknown, or unwilling or unable to perform the clean-up. This is the same authority that the state has to clean-up illegal solid waste dumps.
- Enhanced compliance and enforcement should continue to be a goal of the waste tire program, but the method to achieve this goal should be shifted from grants to local governments only to a combination of grants and additional KDHE staff. Only counties with populations above 100,000 would be eligible for grants. Smaller counties will be more efficiently addressed by four new KDHE staff members.

- A new competitive waste tire recycling grant program should be implemented to stimulate the formation of in-state businesses which process waste tires or utilize tire-derived material to manufacture consumer products. The grant program should provide financial assistance to the purchasers of products made from tire-derived rubber such as schools, parks, or other parties responsible for building and maintaining playgrounds or other recreational facilities.
- Waste tire disposal in municipal solid waste landfills should be allowed as long as the tires are processed. Market forces should determine disposal decisions rather than state laws.

A summary of the proposed statutory amendments in each section of law follows:

**K.S.A. 65-3424 : Definitions** - Several definitions are deleted because they also exist in the solid waste statutes which immediately precede these sections and which have legal applicability to the tire provisions since waste tires are a type of solid waste. The definition of “processing” is amended to clarify that “baling” can be for disposal or for a beneficial use.

**K.S.A. 65-3424a : Restrictions on Disposal** - The prohibition on processed waste tire disposal in municipal solid waste landfills is eliminated.

**K.S.A. 65-3424f : Grants** - The obsolete abatement grant program is eliminated. Enforcement grants will be limited to counties with populations above 100,000 people. A new competitive grant program to stimulate the formation of businesses to process and utilize tire-derived material will be established.

**Note:** KDHE is submitting an amendment to this section to delete wording which implies that regional enforcement grants are allowable. KDHE is proposing that only individual county grants be awarded to enhance local enforcement of tire laws and regulations.

**K.S.A. 65-3424g : The Waste Tire Management Fund** - KDHE expenditure authority for administrative expenses will be increased to allow for enhanced compliance and enforcement efforts in lieu of a broader enforcement grant program, as currently allowed by law. Four new KDHE staff are needed to cover the 100 counties which would not be eligible for enforcement grants. New authority is added to utilize money from this fund to clean-up illegal tire piles or illegal activities at permitted sites when the responsible party is unknown, or unwilling or unable to perform required work. New spending authority is also added for contractual services related to the education of the companies which handle waste tires and the general public.

**Note:** KDHE is submitting an amendment to the bill to make a deletion which was included in the draft submitted to the revisor’s office, but omitted from the bill.

**K.S.A. 65-3424k: Abatement and Enforcement Actions** - Department authority to spend state funds for the abatement of “pre-law” tire piles is eliminated. Clean-up authority will be limited to illegal sites where health or environmental impacts or risks have been identified and where the responsible party is unknown, or unwilling or unable to perform required clean-up. Procedures are established for KDHE to implement clean-up work at eligible sites.

**K.S.A. 65-3426 : Solid Waste Grants Advisory Committee** - The governor’s solid waste grants advisory committee will add the review of the new waste tire recycling grant applications to its current responsibilities. The committee will make recommendations to the secretary regarding grant awards.

**Note:** KDHE has identified the need to revise the reference to another subsection of law as it appears in this section. In paragraph (e), the referral to “subsection (c)” should be revised to “subsection (b)”

KDHE is requesting an additional amendment to clarify retailer recordkeeping requirements as specified in **K.S.A. 65-3424b**. Currently, the law requires retailers to use only permitted companies to transport, process, or dispose of the waste tires they generate. The law also requires retailers to keep records of the permitted companies they utilize to collect or store their waste tire. There is no recordkeeping requirement to document transportation or final disposal. This does not allow KDHE to assess compliance with the requirement to use only permitted companies, especially when a retailer claims to have transported their own tires to a local processor or landfill. The proposed revisions to this section of law, to correct this problem, are attached.

If the excise tax is retained at its current level of \$.50 per tire, approximately \$700,000 more in revenue will be generated each year. This money will be used to support the following three activities in order of priority: (1) the clean-up of illegal tire piles, (2) the enhancement of KDHE’s compliance and enforcement program, (3) business and public education regarding proper waste tire management, and (4) waste tire recycling grants. The money available to support the grant program will be evaluated each year and the governor’s grants committee will be informed of a budget allocation prior to their meetings to review grant applications and recommend grant awards.

Thank you for this opportunity to appear before the committee in support of HB 2131.



**HOUSE BILL No. 2131**

By Committee on Environment

1-23

AN ACT concerning waste tires; amending K.S.A. 2000 Supp. 65-3424, 65-3424a, ~~65-3424d~~, 65-3424f, 65-3424g, 65-3424k and 65-3426 and repealing the existing sections. 65-3424b,

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

Section 1. K.S.A. 2000 Supp. 65-3424 is hereby amended to read as follows: 65-3424. As used in K.S.A. 65-3424 through 65-3424i, and amendments thereto, unless the context otherwise requires:

(a) *Terms have the meaning provided by K.S.A. 65-3402, and amendments thereto.*

(b) "Abatement" means the processing or removing to an approved storage site of waste tires which are creating a danger or nuisance.

~~(b)~~ (c) "Beneficial use" means the use or storage of waste tires in a way that creates an on-site economic benefit, ~~other than from processing or recycling,~~ to the owner of the tires.

~~(e)~~ (d) "Contaminated waste tire" means a tire which, as determined in accordance with rules and regulations adopted by the secretary, is recovered in a project to abate a waste tire accumulation and is so coated by or filled with dirt, mud, sludge or other natural substances as to render the tire substantially unsuitable for processing.

~~(d)~~ (e) "Landfill" means a disposal site in which the method of disposing of solid waste is by landfill, dump or pit and which has a solid waste disposal area permit issued under K.S.A. 65-3401 et seq., and amendments thereto.

~~(e)~~ (f) "Mobile waste tire processor" means a person who processes waste tires at other than a fixed site.

~~(f)~~ "Municipal landfill" means a landfill where residential waste, or residential and other nonhazardous waste, is placed for disposal.

~~(g)~~ "Person" means any individual, association, partnership, limited partnership, corporation or other entity.

~~(h)~~ (g) "Process" means ~~bale or:~~ (1) Cut or otherwise alter whole waste tires so that they are no longer whole; or (2) *bale for disposal or beneficial use.*

~~(i)~~ "Secretary" means the secretary of health and environment.

~~(j)~~ (h) "Store" or "storage" means the placing of waste tires in a man-

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Attachment 7*

1 ner that does not constitute disposal of the waste tires. Storage includes  
2 the beneficial use of waste tires as silo covers and such other beneficial  
3 uses as the secretary determines do not create health or environmental  
4 risks.

5 ~~(k)~~ (i) "Tire" means a continuous solid or pneumatic rubber covering  
6 used to encircle the wheel of a vehicle or aircraft, or an innertube of such  
7 a covering.

8 ~~(h)~~ (j) "Tire retailer" means a person in the business of selling new or  
9 used replacement tires at retail.

10 ~~(m)~~ (k) "Used tire" means a tire that: (1) Has been removed from a  
11 wheel following a period of use or remains on a wheel removed from a  
12 vehicle or aircraft following a period of use; and (2) has been determined  
13 to have value in accordance with rules and regulations established pur-  
14 suant to subsection (e)(7) of K.S.A. 65-3424b, and amendments thereto.

15 ~~(n)~~ (l) "Vehicle" has the meaning provided by K.S.A. 8-1485 and  
16 amendments thereto and includes implements of husbandry, as defined  
17 by K.S.A. 8-1427 and amendments thereto.

18 ~~(o)~~ (m) "Waste tire" means a whole tire that: (1) Has been removed  
19 from a wheel following a period of use or remains on a wheel removed  
20 from a vehicle or aircraft following a period of use; and (2) is no longer  
21 suitable for its original intended purpose because of wear, damage or  
22 defect.

23 ~~(p)~~ (n) "Waste tire collection center" means a site where used or  
24 waste tires are collected from the public or from customers of a business  
25 prior to being offered for recycling or disposal.

26 ~~(q)~~ (o) "Waste tire processing facility" means a fixed site where equip-  
27 ment is used to process waste tires.

28 ~~(r)~~ (p) "Waste tire site" means a site at which 1,000 or more whole  
29 waste tires are accumulated. "Waste tire site" does not include: (1) A site  
30 that is an integral part of a permitted waste tire processing facility; (2) an  
31 accumulation of tires on the premises of a tire retreading business, for  
32 use in the business; (3) an accumulation of tires on the premises of a  
33 business that, in the ordinary course of business, removes tires from mo-  
34 tor vehicles; ~~(4)~~ (4) an accumulation of tires on the premises of a tire  
35 retailer, accumulated in the normal course of the tire retailer's business;  
36 or (5) an accumulation of tires which has a beneficial use approved by  
37 statute or rules and regulations adopted by the secretary, or by the sec-  
38 retary pursuant to statute or rules and regulations.

39 Sec. 2. K.S.A. 2000 Supp. 65-3424a is hereby amended to read as  
40 follows: 65-3424a. (a) The owner or operator of any waste tire site shall  
41 provide the department with information concerning the site's location  
42 and size and the approximate number of waste tires that are accumulated  
43 at the site.

- 1 (b) No person shall:
- 2 (1) Maintain a waste tire site unless such person holds a valid permit
- 3 issued for such site pursuant to K.S.A. 65-3424b and amendments
- 4 thereto;
- 5 (2) dispose of waste tires in the state unless the waste tires are dis-
- 6 posed of for processing, or collected for processing, at a solid waste proc-
- 7 essing facility, a waste tire site which is an integral part of a waste tire
- 8 processing facility, a waste tire processing facility or a waste tire collection
- 9 center or are made available to: (A) The department of wildlife and parks
- 10 for use by the department; or (B) a person engaged in a farming or ranch-
- 11 ing activity, including the operation of a feedlot as defined by K.S.A. 47-
- 12 1501, and amendments thereto, as long as the accumulation has a bene-
- 13 ficial use to the person accumulating the tires and (i) the secretary
- 14 determines that the use has no adverse environmental effects and (ii) the
- 15 accumulation is in accordance with all applicable zoning regulations;
- 16 (3) deposit waste tires in a landfill as a method of ultimate disposal,
- 17 except that the secretary *may authorize*, by rules and regulations, ~~may~~
- 18 ~~authorize or by permits issued pursuant to K.S.A. 65-3407, and amend-~~
- 19 ~~ments thereto:~~ (A) The final disposal, ~~before July 1, 1999, of uncontami-~~
- 20 ~~nated of processed waste tires at a municipal landfill if the tires have been~~
- 21 ~~cut into sufficiently small parts to assure their proper disposal;~~ (B) the
- 22 ~~final disposal of processed waste tires at a permitted waste tire monofill;~~
- 23 ~~(C) permitted municipal solid waste landfills and permitted waste tire~~
- 24 ~~monofills;~~ (B) the final disposal of contaminated whole, unprocessed
- 25 waste tires at ~~a municipal landfill or permitted waste tire monofill;~~ ~~(D)~~
- 26 ~~permitted municipal solid waste landfills and permitted waste tire mon-~~
- 27 ~~ofills;~~ (C) the use of waste tires in their original state as part of a proven
- 28 and approved leachate collection system at a landfill; or ~~(E)~~ (D) the use
- 29 of waste tires which have been cut into two or more parts as daily cover
- 30 material for a landfill; or
- 31 (4) receive money in exchange for waste tires unless: (A) The person
- 32 holds a permit issued by the secretary pursuant to K.S.A. 65-3424b, and
- 33 amendments thereto; or (B) the person is a tire retailer who collects waste
- 34 tires from the public in the ordinary course of business.
- 35 <sup>1</sup>Sec. 3. K.S.A. 2000 Supp. 65-3424d is hereby amended to read as
- 36 follows: 65-3424d. (a) In addition to any other tax imposed upon the retail
- 37 sale of new vehicle tires, there is hereby imposed on retail sales of new
- 38 vehicle tires (excluding innertubes), including new tires mounted on a
- 39 vehicle sold at retail for the first time, an excise tax ~~at the following rate:~~
- 40 ~~(1) Before July 1, 2001, of \$ .50 per vehicle tire; and (2) on or after July~~
- 41 ~~1, 2001, \$.25.~~ Such tax shall be paid by the purchaser of such tires and
- 42 collected by the retailer thereof.
- 43 (b) The tax imposed by this section collected by the retailer shall

See K.S.A. 65-3424b attached

1 become due and payable as follows: When the total tax for which any  
2 retailer is liable under this act does not exceed the sum of \$80 in any  
3 calendar year, the retailer shall file an annual return on or before January  
4 25 of the following year; when the total tax liability does not exceed \$1,600  
5 in any calendar year, the retailer shall file returns quarterly on or before  
6 the 25th day of the month following the end of each calendar quarter;  
7 when the total tax liability exceeds \$1,600 in any calendar year, the retailer  
8 shall file a return for each month on or before the 25th day of the follow-  
9 ing month. Each person collecting the tax imposed pursuant to this sec-  
10 tion shall make a true report to the department of revenue, on a form  
11 prescribed by the secretary of revenue, providing such information as may  
12 be necessary to determine the amounts of taxes due and payable here-  
13 under for the applicable month or months, which report shall be accom-  
14 panied by the tax disclosed thereby. Records of sales of new tires shall be  
15 kept separate and apart from the records of other retail sales made by  
16 the person charged to collect the tax imposed pursuant to this section in  
17 order to facilitate the examination of books and records as provided  
18 herein.

19 (c) The secretary of revenue or the secretary's authorized represen-  
20 tative shall have the right at all reasonable times during business hours  
21 to make such examination and inspection of the books and records of the  
22 person required to collect the tax imposed pursuant to this section as may  
23 be necessary to determine the accuracy of such reports required  
24 hereunder.

25 (d) The secretary of revenue is hereby authorized to administer and  
26 collect the tax imposed by this section and to adopt such rules and reg-  
27 ulations as may be necessary for the efficient and effective administration  
28 and enforcement of the collection thereof. Whenever any person liable  
29 to collect the taxes imposed hereunder refuses or neglects to pay them,  
30 the amount, including any penalty, shall be collected in the manner pre-  
31 scribed for the collection of the retailers' sales tax by K.S.A. 79-3617 and  
32 amendments thereto.

33 (e) The secretary of revenue shall remit daily to the state treasurer  
34 all revenue collected under the provisions of this section. The state trea-  
35 surer shall deposit the entire amount of each remittance in the state  
36 treasury and credit it to the waste tire management fund.

37 (f) Whenever, in the judgment of the secretary of revenue, it is nec-  
38 essary, in order to secure the collection of any taxes, penalties or interest  
39 due, or to become due, under the provisions of this act, the secretary may  
40 require any person charged with the collection of such tax to file a bond  
41 with the director of taxation under conditions established by and in such  
42 form and amount as prescribed by rules and regulations adopted by the  
43 secretary.

(g) The secretary of revenue and the secretary of health and environment shall cooperate to: (1) Ensure that retailers required to collect the tax imposed by this section collect such tax on sales of tires for all vehicles, as defined by K.S.A. 65-3424 and amendments thereto; and (2) develop and distribute to tire retailers educational materials that emphasize appropriate waste tire management practices.

Sec. 4. K.S.A. 2000 Supp. 65-3424f is hereby amended to read as follows: 65-3424f. (a) ~~The secretary shall establish a program to make abatement grants to private companies, cities and counties which, individually or collectively, submit to the secretary plans approved by the secretary. Abatement grants shall be used for: (1) Projects to abate waste tire accumulations in existence before July 1, 1990, but no grants for such projects shall be used for any tires accumulated, or added to an existing accumulation, on or after July 1, 1990; and (2) programs to allow free lawful disposal of waste tires not generated in the ordinary course of a business, but not more than one such program shall be conducted per county. Not more than one abatement grant shall be awarded to abate the same waste tire accumulation unless it can be demonstrated by the applicant that the waste tire accumulation exceeded initial quantity estimates or that unknown circumstances, identified by the applicant, increased project difficulty and cost. No abatement grant payment shall be made on or after July 1, 2002. In awarding abatement grants, the secretary shall give preference to projects which include waste tire recycling or energy recovery. The secretary may authorize waste tire landfilling under abatement grant projects if the waste tires are contaminated or if no practical in-state markets are identified.~~

~~(b) The secretary shall establish a program to make enforcement grants to counties having populations of more than 100,000 which, individually or collectively, submit to the secretary plans approved by the secretary. Enforcement grants shall be used to pay the county's or counties' costs of assessing and enforcing compliance with this act and rules and regulations adopted under this act and to educate the public on the provisions and purposes of this act. Enforcement grants shall be for an amount not exceeding 75% of the costs incurred by the county or counties for eligible costs.~~

*(b) The secretary shall establish a competitive waste tire recycling grant program to stimulate the processing of waste tires and the use and purchase of tire-derived products. Recycling grants under such program may be made to cities, counties, schools, colleges, universities, regional entities that are part of an interlocal agreement entered into pursuant to K.S.A. 12-2901 et seq., and amendments thereto, and nonprofit organizations to purchase tire-derived products for playgrounds, running tracks, hiking trails or other uses approved by the secretary to stimulate in-state*

\_\_\_\_\_ delete

1 *businesses and institutions to process waste tires and utilize tire-derived*  
2 *material to manufacture and market consumer products. Waste tire re-*  
3 *cycling grants shall be in an amount not exceeding 75% of the cost of the*  
4 *approved purchase. Approved purchases may be from in-state and out-*  
5 *of-state companies in fiscal years 2002 and 2003. After July 1, 2003, ap-*  
6 *proved purchases shall be only from companies which are located in Kan-*  
7 *sas and which recycle waste tires generated in Kansas at a minimum rate*  
8 *of 50% of total waste tire throughput. Applications for waste tire recycling*  
9 *grants shall be reviewed by the solid waste grants advisory committee*  
10 *established pursuant to K.S.A. 65-3426, and amendments thereto, which*  
11 *shall make recommendations to the secretary regarding project eligibility*  
12 *and funding.*

13 (c) ~~Private companies;~~ Cities and counties may join together, pooling  
14 their financial resources, when utilizing their grants for the purposes de-  
15 scribed in subsection (a).

16 (d) The secretary may provide technical assistance, upon request, to  
17 ~~a private company, city, county or group of private companies, cities or~~  
18 ~~counties desiring assistance~~ *any eligible entity* in applying for waste tire  
19 grants ~~or choosing a method of waste tire management which would be~~  
20 ~~an eligible use of the grant funds~~ *described in subsections (a) and (b).*

21 (e) The secretary shall submit to the legislature, on or before the first  
22 day of the regular legislative session each year, a report of all grants made  
23 pursuant to this section. The report shall include: (1) The total contract  
24 amounts awarded for each type of grant in each fiscal year and, of those  
25 amounts, the total amount awarded to individual counties, groups of  
26 counties and private entities; and (2) with respect to each grant awarded,  
27 the contract amount and type of grant, the recipient, a description of the  
28 project for which the grant was awarded, the number of tires involved  
29 and the amount actually spent. The secretary shall submit the report by  
30 filing it with the secretary of the senate, the chief clerk of the house of  
31 representatives and the chairperson and ranking minority member of each  
32 of the senate and house committees on energy and natural resources.

33 Sec. 5. K.S.A. 2000 Supp. 65-3424g is hereby amended to read as  
34 follows: 65-3424g. (a) There is hereby established in the state treasury  
35 the waste tire management fund.

36 (b) Money from the following sources shall be credited to the waste  
37 tire management fund:

38 (1) Revenue collected from the excise tax by K.S.A. 65-3424d and  
39 amendments thereto;

40 (2) permit application and renewal fees provided for by K.S.A. 65-  
41 3424b and amendments thereto;

42 (3) interest provided for by subsection (e);

43 (4) additional sources of funding such as reimbursements and appro-

- 1 priations intended to be used for the purposes of the fund;
- 2 (5) any recoveries from abatement and enforcement actions provided
- 3 for by K.S.A. 2000 Supp. 65-3424k and amendments thereto;
- 4 (6) any interagency fund transfers relevant to providing business de-
- 5 velopment grants for businesses engaged in recycling or utilizing waste
- 6 tires in resource recovery programs provided for by K.S.A. 65-3424f and
- 7 amendments thereto; and
- 8 (7) any other moneys provided by law.

9 (c) Moneys in the waste tire management fund shall be used only for  
 10 the purpose of:

11 (1) Making grants as provided by K.S.A. 65-3424f, and amendments  
 12 thereto;

13 (2) paying compensation and other expenses of employing personnel  
 14 to carry out the duties of the secretary pursuant to K.S.A. 65-3424 through  
 15 65-3424h, and amendments thereto, but not more than the following shall  
 16 be used for such purpose: (A) For fiscal years beginning before July 1,  
 17 2002, 16% or \$200,000 35% or \$500,000, whichever amount is less, of  
 18 the moneys credited to the fund during the preceding fiscal year; and (B)  
 19 for fiscal years beginning on or after July 1, 2002, 32% or \$200,000, which  
 20 ever amount is less, of the moneys credited to the fund during the pre-  
 21 ceding fiscal year;

delete

22 (3) action by the department before July 1, 2001, to abate waste tires  
 23 accumulated prior to July 1, 1990, or to abate a nuisance or risk to the  
 24 public health or the environment created or which could be created by  
 25 waste tires accumulated after July 1, 1990, if the owner or operator of the  
 26 site has not been identified or has not abated the nuisance;

27 (4) action by the department before July 1, 2001, to abate waste tires  
 28 accumulated by a city or county as a result of a temporary waste tire  
 29 amnesty collection program, authorized by the department, to allow res-  
 30 idents of the city or county free disposal of waste tires generated by  
 31 farming and ranching activities and waste tires not generated in the or-  
 32 dinary course of any other business, provided that not more than one  
 33 such amnesty program is conducted by the city or county after January  
 34 1999; and

35 (5) action by the department after July 1, 2001, to implement interim  
 36 measures to minimize nuisances or risks to public health or the environ-  
 37 ment that are or could be created by waste tire accumulations, until the  
 38 responsible party or county can fully abate the site

39 (3) with the consent of the city or county, payment for the removal  
 40 and disposal or on-site stabilization of waste tires which have been ille-  
 41 gally accumulated or, with respect to the conditions of a permit issued by  
 42 the department pursuant to K.S.A. 65-3407 or 65-3424b, and amendments  
 43 thereto, illegally managed, when the responsible party is unknown or

1 *unwilling or unable to perform the necessary corrective action, provided*  
2 *moneys in the fund shall only be used to pay up to 75% of the costs of*  
3 *the required abatement action and the city or county shall pay the re-*  
4 *maining 25% of such costs; and*

5 *(4) the costs of using contractors to provide public education and*  
6 *technical training to persons involved with the management of waste tires.*

7 (d) All expenditures from the waste tire management fund shall be  
8 made in accordance with appropriations acts upon warrants of the direc-  
9 tor of accounts and reports issued pursuant to vouchers approved by the  
10 secretary.

11 (e) On or before the 10th of each month, the director of accounts  
12 and reports shall transfer from the state general fund to the waste tire  
13 management fund interest earnings based on: (1) The average daily bal-  
14 ance of moneys in the waste tire management fund for the preceding  
15 month; and (2) the net earnings rate for the pooled money investment  
16 portfolio for the preceding month.

17 Sec. 6. K.S.A. 2000 Supp. 65-3424k is hereby amended to read as  
18 follows: 65-3424k. (a) ~~Before July 1, 2001, the secretary may undertake~~  
19 ~~appropriate abatement action and may enter into contracts, including~~  
20 ~~grant contracts, for abatement of waste tire accumulations, utilizing funds~~  
21 ~~from the waste tire management fund. After July 1, 2001, the secretary's~~  
22 ~~actions shall be limited to contractual services to perform interim meas-~~  
23 ~~ures designed to minimize nuisances or risks to public health or the en-~~  
24 ~~vironment created by a waste tire accumulation.~~

25 ~~—(b) Any authorized representative of the secretary may enter, at rea-~~  
26 ~~sonable times and upon written notice, onto any property or premises~~  
27 ~~where an accumulation of waste tires is located to conduct an abatement~~  
28 ~~of the accumulation or to perform interim measures to minimize nui-~~  
29 ~~sances or risks: (1) An inspection and site assessment to determine whether~~  
30 ~~the accumulation creates a nuisance or risk to public health or and safety~~  
31 ~~or to the environment created by a waste tire accumulation; or (2) interim~~  
32 ~~measures to minimize risk to public health and safety or to the~~  
33 ~~environment.~~

34 ~~(c) (b) Whenever the secretary has reason to believe that an owner~~  
35 ~~or operator has accumulated waste tires that create accumulation of waste~~  
36 ~~tires creates a nuisance or risk to public health or and safety or to the~~  
37 ~~environment or is in violation of rules and regulations adopted by the~~  
38 ~~secretary or conditions of a permit issued by the secretary, the secretary~~  
39 ~~may require that owner or operator to abate the accumulation the person~~  
40 ~~or persons responsible for the accumulation to carry out abatement activ-~~  
41 ~~ities. Such abatement activities shall be performed in accordance with a~~  
42 ~~plan approved by the secretary. The secretary shall give notice, by letter,~~  
43 ~~to the property owner and operator responsible parties that the waste~~



1 tires constitute a nuisance or risk to public health or the environment,  
2 and that the waste tire accumulation must be abated within a specified  
3 period. Before July 1, 2001, The secretary may undertake abatement ac-  
4 tion utilizing funds from the waste tire management fund if the owner or  
5 operator fails responsible parties fail to take the required action within  
6 the specified time period. After July 1, 2001, the secretary's actions shall  
7 be limited to contractual services to perform interim measures designed  
8 to minimize nuisances or risks to public health or the environment created  
9 by a waste tire accumulation. *The department and its representatives are*  
10 *authorized to enter private property to perform abatement activities if*  
11 *the responsible party fails to perform required clean-up work, but no*  
12 *entry shall be made without the property owner's consent except upon*  
13 *notice and hearing in accordance with the Kansas administrative proce-*  
14 *dures act.*

15 (c) All costs incurred by the secretary in abatement of waste tires ac-  
16 cumulated after July 1, 1990, or in performing interim measures, includ-  
17 ing administrative and legal expenses, are recoverable from an owner or  
18 operator a responsible party or parties and may be recovered in a civil  
19 action in district court brought by the secretary. ~~Abatement costs recov-~~  
20 ~~ered under this section~~ *If any abatement costs are recovered under this*  
21 *section, the city or county that shared in the cost of the abatement action*  
22 *shall be reimbursed its costs not to exceed 25% of the amount recovered.*  
23 *The remaining amount recovered shall be remitted to the state treasurer,*  
24 *who shall deposit the entire amount in the state treasury and credit it to*  
25 *the waste tire management fund. An action to recover abatement or in-*  
26 *terim measures costs may be commenced at any stage of an abatement.*

27 (d) ~~In performing or entering contracts for abatement actions under~~  
28 ~~this section, the secretary shall give preference to actions that recycle the~~  
29 ~~waste tires or burn the waste tires for energy recovery. Direct abatement~~  
30 ~~expenditures may include landfilling when waste tires are contaminated~~  
31 ~~or when practical in-state markets cannot be identified.~~

32 (d) *Permits granted by the secretary pursuant to K.S.A. 65-3424b,*  
33 *and amendments thereto, shall not be transferable and may be revoked*  
34 *or suspended whenever the secretary determines that the permit holder*  
35 *is operating in violation of this act or rules and regulations adopted pur-*  
36 *suant to the act; is creating or threatens to create a hazard to persons,*  
37 *property or the environment; or is creating or threatens to create a public*  
38 *nuisance. The secretary may also revoke, suspend or refuse to issue a*  
39 *permit when the secretary determines that past or continuing violations*  
40 *of the provisions of K.S.A. 65-3409, and amendments thereto, have been*  
41 *committed by the applicant or permit holder.*

42 (e) Neither the state of Kansas nor the waste tire management fund  
43 shall be liable to any owner or, operator or responsible party for the loss

1 of business, damages or taking of property associated with any abatement  
2 or enforcement action taken pursuant to this section.

3 (f) *If the secretary determines that the recipient of a grant, awarded*  
4 *pursuant to K.S.A. 65-3424f, and amendments thereto, has utilized grant*  
5 *moneys for purposes not authorized in the grant contract, the secretary*  
6 *may order the repayment of such moneys and cancel any remaining de-*  
7 *partment commitments under the grant. If the grant recipient fails to*  
8 *comply with the secretary's order, the secretary may initiate a civil action*  
9 *in district court to recover any unapproved expenditures, including ad-*  
10 *ministrative and legal expenses incurred to pursue such action. Recovered*  
11 *grant moneys shall be remitted to the state treasurer, who shall deposit*  
12 *the entire amount in the state treasury and credit it to the waste tire*  
13 *management fund.*

14 Sec. 7. K.S.A. 2000 Supp. 65-3426 is hereby amended to read as  
15 follows: 65-3426. (a) There is hereby established within the department  
16 of health and environment the solid waste grants advisory committee,  
17 which shall be composed of seven members as follows:

18 (1) Six members appointed by the governor, two of whom shall rep-  
19 resent the interests of regional solid waste management entities, two of  
20 whom shall represent the interests of counties, one of whom shall rep-  
21 resent the interests of cities and one of whom shall represent the interests  
22 of the private sector;

23 (2) the secretary of health and environment or the secretary's  
24 designee.

25 (b) Appointive members of the solid waste grants advisory committee  
26 shall serve terms of two years. The secretary of health and environment  
27 or the person designated by the secretary shall serve as chairperson of  
28 the advisory committee.

29 (c) Members of the solid waste grants advisory committee shall re-  
30 ceive amounts provided by subsection (e) of K.S.A. 75-3223 and amend-  
31 ments thereto for each day of actual attendance at any meeting of the  
32 advisory committee or any subcommittee meeting authorized by the ad-  
33 visory committee.

34 (d) The secretary of health and environment shall provide technical  
35 support related to the activities of the solid waste grants advisory com-  
36 mittee, including but not limited to establishing project selection criteria,  
37 performing technology evaluations, assessing technical feasibility and de-  
38 termining consistency with the statewide solid waste management plan,  
39 the applicable county or regional solid waste management plan and re-  
40 gional activities.

41 (e) In accordance with schedules established by the secretary of  
42 health and environment, the solid waste grants advisory committee shall  
43 meet to review competitive grant applications submitted pursuant to sub-

7-11

1 section ~~(e)~~ of K.S.A. 65-3415 and K.S.A. 65-3424f, and amendments \_\_\_\_\_ (b)  
 2 thereto. The advisory committee shall establish a project priority list for  
 3 each fiscal year in each grant program based upon the availability of funds  
 4 as estimated by the secretary and shall make recommendations regarding  
 5 the selection of grantees and the disbursement of moneys. \_\_\_\_\_ 65-3424b,  
 6 Sec. 8. K.S.A. 2000 Supp. 65-3424, 65-3424a, 65-3424d, 65-3424f,  
 7 65-3424g, 65-3424k and 65-3426 are hereby repealed.  
 8 Sec. 9. This act shall take effect and be in force from and after its  
 9 publication in the statute book.

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65-3424b. Permits and standards. (a) The secretary shall establish a system of permits for mobile waste tire processors and waste tire processing facilities and permits for waste tire transporters and collection centers. Such permits shall be issued for a period of one year and shall require an application fee established by the secretary in an amount not exceeding \$250 per year.

(b) The secretary shall adopt rules and regulations establishing standards for mobile waste tire processors, waste tire processing facilities and associated waste tire sites, waste tire collection centers and waste tire transporters. Such standards shall include a requirement that the permittee file with the secretary a bond or other financial assurance in an amount determined by the secretary to be sufficient to pay any costs which may be incurred by the state to process any waste tires or dispose of any waste tires or processed waste tires if the permittee ceases business or fails to comply with this act.

(c) Any person who contracts or arranges with another person to collect or transport waste tires for storage, processing or disposal shall so contract or arrange only with a person holding a permit from the secretary. Any person contracting or arranging with a person, permitted by the secretary, to collect or transport waste tires for storage, processing or disposal, transfers ownership of those waste tires to the permitted person and the person contracting or arranging with the person holding such permit to collect or transport such tires shall be released from liability therefor. Any person contracting or arranging with any person, permitted by the secretary, for the collection, or transportation, storage, processing, or disposal of such tires shall maintain a record of such transaction for a period of not less than five years following the date of the transfer of such tires.

(d) No person shall:

(1) Own or operate a waste tire processing facility or waste tire collection center or act as a mobile waste tire processor or waste tire transporter unless such person holds a valid permit issued therefor pursuant to subsection (a); or

(2) own or operate a waste tire processing facility or waste tire collection center or act as a mobile waste tire processor or waste tire transporter except in compliance with the standards established by the secretary pursuant to subsection (b).

(e) The provisions of subsection (d)(1) shall not apply to:

(1) A tire retreading business where fewer than 1,000 waste tires are kept on the business premises;

(2) a business that, in the ordinary course of business, removes tires from motor vehicles if fewer than 1,500 of these tires are kept on the business premises;

(3) a retail tire-selling business which is serving as a waste tire collection center if fewer than 1,500 waste tires are kept on the business premises;

(4) the department of wildlife and parks;

(5) a person engaged in a farming or ranching activity, including the operation of a feedlot as defined by K.S.A. 47-1501, and amendments thereto, as long as the accumulation has a beneficial use;

(6) a waste tire collection center where fewer than 1,500 used tires are kept on the premises;

(7) a waste tire collection center where 1,500 or more used tires are kept on the premises, if the owner demonstrates through sales and inventory records that such tires have value, as established in accordance with standards adopted by rules and regulations of the secretary;

(8) local units of government operating solid waste processing facilities and solid waste disposal areas permitted by the secretary under the authority of K.S.A. 65-3407 and amendments thereto;

(9) a person transporting: (A) Waste tires mixed with other municipal solid waste; (B) fewer than five waste tires for lawful disposal; (C)

waste tires generated by the business, farming activities of the person or the person's employer; or (D) waste tires for a beneficial use approved by statute or rules and regulations adopted by the secretary; or

(10) a business engaged in processing, for resource recovery purposes, only waste tires generated by the business.

(f) All fees collected by the secretary pursuant to this section shall be remitted to the state treasurer. The state treasurer shall deposit the entire amount of the remittance in the state treasury and credit it to the waste tire management fund.

History: L. 1990, ch. 319, § 3; L. 1991, ch. 197, § 3; L. 1996, ch. 173, § 3; July 1.

**STATEMENT  
OF THE  
MID-AMERICA TIRE DEALERS ASSOCIATION**

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**BEFORE THE  
HOUSE ENVIRONMENT COMMITTEE**

**February 8, 2001**

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*House Environment  
2-8-01  
Attachment 8*

My name is Nick Phillippi, and I am the General Manager of Kansasland Tire. As a long-time member, President and on behalf of the Mid-America Tire Dealers Association, I appreciate the opportunity to be here today to express our position on House Bill 2131.

Tire dealers in Kansas realize a need to address the scrap tire disposal problem, and support all reasonable efforts to remedy this ongoing management issue. The continued mishandling of scrap tires gives our industry a "black eye," and upstanding dealers must compete with those who refuse to play by the rules.

HB 2131, if passed, would maintain a 50¢ excise tax on the sale of new tires instead of changing to 25¢ on July 1, 2001. Our membership is comfortable with maintaining the 50¢ excise tax. We have found that our customers are now accustomed to the charge and rarely object to the nominal expense to help keep the environment clean. The funds generated by this fee can help preserve a program that has been successful in managing a cumbersome waste stream and may help develop a good recycling venue for waste tires. Keeping the same fee would also eliminate a minor hassle of changing our point-of-sale software to reflect a change.

Conceptually, the 50¢ excise tax was originally collected, in part, to clean up years' worth of stockpiled waste tires in the state. For the most part, the majority of that goal has been reached. However, there are still some lessor piles of scrap tires in the state and there are still a few errant piles generated. Therefore, we feel that a portion of the extra funds collected by maintaining the 50¢ excise tax should be used to allow the state to continue some clean-up efforts. Some counties may not have the resources to maintain the level of clean-up that has nearly wiped out our Kansas waste tire blight.

We also feel that the enforcement grants should be spread proportionally among all counties in the state. Smaller counties should have smaller problems and need less funding. Additionally, by allowing the state to step in, it will alleviate a local government problem of state mandates without funding. It is felt that spending a large portion of the extra funds on salaries and other administrative expenses is counterproductive to the end goal of solving waste tire management issues. With less ongoing remediation, existing staff may be able to assume new responsibilities.

Noting that the majority of waste tire piles has been taken care of, it may be an opportune time to stimulate recycling with the extra funds generated by maintaining the 50¢ excise tax. This bill favors rubberized surfacing; a very good use for tire-derived products. In addition, however, our membership would recommend the use of tire chips as well and allowing other civil engineering projects. Also, private companies should have the opportunity to apply for grants as well as non-profits and local governments. Private companies have been involved in this effort for years and have proved themselves useful in helping to solve problems. These companies may need additional limitations, but eliminating their participation may prevent one of the best alternative uses for scrap tires from emerging. Also, the way the bill is written, a 50% throughput may be too aggressive for such a short term, although it is a good goal for the future.

Our membership has previously and still does support monofilling of waste tires because the state's small population prohibits major recycling outlets, and the high cost of transporting waste tires makes it cost prohibitive to totally ban landfilling of tires. However, allowing processed waste tires to be disposed of in municipal solid waste landfills seems in direct conflict to recycling goals. Also, given the expense of space in MSW landfills, it appears extravagant to use the space in this way.

Finally, our membership is aware that there have been some problems resulting in failures of baled whole tires when using them above ground. Apparently, once the bindings of the bale eventually break, one is left with a pile of whole tires again. There should be a way to prevent future problems and still allow the limited use of baled tires.

In conclusion, tire dealers feel that, given time, our waste tire problems will continue to diminish. Many states are having many more problems than Kansas, and our state is envied for our successful program. We should ensure that there are provisions for the ongoing management of this waste stream.

With these issues addressed, I would like to make it clear that the independent tire dealers, as an industry, do want to cooperate and help to be part of the solution to this problem. Thank you for allowing me to express my thoughts. Our suggested balloons are attached to my testimony, and I will try to answer any questions you may have.

8-2



HOUSE BILL No. 2131

By Committee on Environment

1-23

AN ACT concerning waste tires; amending K.S.A. 2000 Supp. 65-3424, 65-3424a, 65-3424d, 65-3424f, 65-3424g, 65-3424k and 65-3426 and repealing the existing sections.

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

Section 1. K.S.A. 2000 Supp. 65-3424 is hereby amended to read as follows: 65-3424. As used in K.S.A. 65-3424 through 65-3424i, and amendments thereto, unless the context otherwise requires:

(a) Terms have the meaning provided by K.S.A. 65-3402, and amendments thereto.

(b) "Abatement" means the processing or removing to an approved storage site of waste tires which are creating a danger or nuisance.

(c) "Beneficial use" means the use or storage of waste tires in a way that creates an on-site economic benefit, other than from processing or recycling, to the owner of the tires.

(d) "Contaminated waste tire" means a tire which, as determined in accordance with rules and regulations adopted by the secretary, is recovered in a project to abate a waste tire accumulation and is so coated by or filled with dirt, mud, sludge or other natural substances as to render the tire substantially unsuitable for processing.

(e) "Landfill" means a disposal site in which the method of disposing of solid waste is by landfill, dump or pit and which has a solid waste disposal area permit issued under K.S.A. 65-3401 et seq., and amendments thereto.

(f) "Mobile waste tire processor" means a person who processes waste tires at other than a fixed site.

(g) "Municipal landfill" means a landfill where residential waste, or residential and other nonhazardous waste, is placed for disposal.

(h) "Person" means any individual, association, partnership, limited partnership, corporation or other entity.

(i) "Process" means ~~bale or~~ (1) Cut or otherwise alter whole waste tires so that they are no longer whole; or (2) bale for disposal ~~or beneficial use.~~

(j) "Secretary" means the secretary of health and environment.

(k) "Store" or "storage" means the placing of waste tires in a man-

page 1 line 40-41 line out "or beneficial use."

1 ner that does not constitute disposal of the waste tires. Storage includes  
2 the beneficial use of waste tires as silo covers and such other beneficial  
3 uses as the secretary determines do not create health or environmental  
4 risks.

5 ~~(k)~~ (i) "Tire" means a continuous solid or pneumatic rubber covering  
6 used to encircle the wheel of a vehicle or aircraft, or an innertube of such  
7 a covering.

8 ~~(l)~~ (j) "Tire retailer" means a person in the business of selling new or  
9 used replacement tires at retail.

0 ~~(m)~~ (k) "Used tire" means a tire that: (1) Has been removed from a  
1 wheel following a period of use or remains on a wheel removed from a  
2 vehicle or aircraft following a period of use; and (2) has been determined  
3 to have value in accordance with rules and regulations established pur-  
4 suant to subsection (e)(7) of K.S.A. 65-3424b, and amendments thereto.

5 ~~(n)~~ (l) "Vehicle" has the meaning provided by K.S.A. 8-1485 and  
6 amendments thereto and includes implements of husbandry, as defined  
7 by K.S.A. 8-1427 and amendments thereto.

8 ~~(o)~~ (m) "Waste tire" means a whole tire that: (1) Has been removed  
9 from a wheel following a period of use or remains on a wheel removed  
0 from a vehicle or aircraft following a period of use; and (2) is no longer  
1 suitable for its original intended purpose because of wear, damage or  
2 defect.

3 ~~(p)~~ (n) "Waste tire collection center" means a site where used or  
4 waste tires are collected from the public or from customers of a business  
5 prior to being offered for recycling or disposal.

6 ~~(q)~~ (o) "Waste tire processing facility" means a fixed site where equip-  
7 ment is used to process waste tires.

8 ~~(r)~~ (p) "Waste tire site" means a site at which 1,000 or more whole  
9 waste tires are accumulated. "Waste tire site" does not include: (1) A site  
0 that is an integral part of a permitted waste tire processing facility; (2) an  
1 accumulation of tires on the premises of a tire retreading business, for  
2 use in the business; (3) an accumulation of tires on the premises of a  
3 business that, in the ordinary course of business, removes tires from mo-  
4 tor vehicles; ~~or~~ (4) an accumulation of tires on the premises of a tire  
5 retailer, accumulated in the normal course of the tire retailer's business;  
6 *or (5) an accumulation of tires which has a beneficial use approved by*  
7 *statute or rules and regulations adopted by the secretary, or by the sec-*  
8 *retary pursuant to statute or rules and regulations.*

9 Sec. 2. K.S.A. 2000 Supp. 65-3424a is hereby amended to read as  
0 follows: 65-3424a. (a) The owner or operator of any waste tire site shall  
1 provide the department with information concerning the site's location  
2 and size and the approximate number of waste tires that are accumulated  
3 at the site.

1 No person shall:

2 (1) Maintain a waste tire site unless such person holds a valid permit  
3 issued for such site pursuant to K.S.A. 65-3424b and amendments  
4 thereto;

5 (2) dispose of waste tires in the state unless the waste tires are dis-  
6 posed of for processing, or collected for processing, at a solid waste proc-  
7 essing facility, a waste tire site which is an integral part of a waste tire  
8 processing facility, a waste tire processing facility or a waste tire collection  
9 center or are made available to: (A) The department of wildlife and parks  
0 for use by the department; or (B) a person engaged in a farming or ranch-  
1 ing activity, including the operation of a feedlot as defined by K.S.A. 47-  
2 1501, and amendments thereto, as long as the accumulation has a benefi-  
3 cial use to the person accumulating the tires and (i) the secretary  
4 determines that the use has no adverse environmental effects and (ii) the  
5 accumulation is in accordance with all applicable zoning regulations;

6 (3) deposit waste tires in a landfill as a method of ultimate disposal,  
7 except that the secretary *may authorize*, by rules and regulations, ~~may~~  
8 ~~authorize or by permits issued pursuant to K.S.A. 65-3407, and amend-~~  
9 ~~ments thereto:~~ (A) The final disposal, ~~before July 1, 1999, of uncontami-~~  
0 ~~nated of processed waste tires at a municipal landfill if the tires have been~~  
1 ~~cut into sufficiently small parts to assure their proper disposal;~~ (B) the  
2 ~~final disposal of processed waste tires at a permitted waste tire monofill,~~  
3 ~~(C) permitted municipal solid waste landfills and permitted waste tire~~  
4 ~~monofills; (B) the final disposal of contaminated whole, unprocessed~~  
5 ~~waste tires at a municipal landfill or permitted waste tire monofill, (D)~~  
6 ~~permitted municipal solid waste landfills and permitted waste tire mon-~~  
7 ~~ofills; (C) the use of waste tires in their original state as part of a proven~~  
8 ~~and approved leachate collection system at a landfill; or (E) (D) the use~~  
9 ~~of waste tires which have been cut into two or more parts as daily cover~~  
0 ~~material for a landfill; or~~

1 (4) receive money in exchange for waste tires unless: (A) The person  
2 holds a permit issued by the secretary pursuant to K.S.A. 65-3424b, and  
3 amendments thereto; or (B) the person is a tire retailer who collects waste  
4 tires from the public in the ordinary course of business.

5 Sec. 3. K.S.A. 2000 Supp. 65-3424d is hereby amended to read as  
6 follows: 65-3424d. (a) In addition to any other tax imposed upon the retail  
7 sale of new vehicle tires, there is hereby imposed on retail sales of new  
8 vehicle tires (excluding innertubes), including new tires mounted on a  
9 vehicle sold at retail for the first time, an excise tax at the following rate:  
0 (1) Before July 1, 2001, of \$ .50 per vehicle tire, and (2) on or after July  
1 1, 2001, \$ .25. Such tax shall be paid by the purchaser of such tires and  
2 collected by the retailer thereof.

3 (b) The tax imposed by this section collected by the retailer shall

\* page 3 line 23 line out "permitted  
municipal solid waste landfills and"

\* page 3 line 29 line our "two or" insert four or  
more parts with no part being greater than 1/3  
of the original whole tire,"

1 become due and payable as follows: When the total tax for which any  
2 retailer is liable under this act does not exceed the sum of \$80 in any  
3 calendar year, the retailer shall file an annual return on or before January  
4 25 of the following year; when the total tax liability does not exceed \$1,600  
5 in any calendar year, the retailer shall file returns quarterly on or before  
6 the 25th day of the month following the end of each calendar quarter;  
7 when the total tax liability exceeds \$1,600 in any calendar year, the retailer  
8 shall file a return for each month on or before the 25th day of the follow-  
9 ing month. Each person collecting the tax imposed pursuant to this sec-  
0 tion shall make a true report to the department of revenue, on a form  
1 prescribed by the secretary of revenue, providing such information as may  
2 be necessary to determine the amounts of taxes due and payable here-  
3 under for the applicable month or months, which report shall be accom-  
4 panied by the tax disclosed thereby. Records of sales of new tires shall be  
5 kept separate and apart from the records of other retail sales made by  
6 the person charged to collect the tax imposed pursuant to this section in  
7 order to facilitate the examination of books and records as provided  
8 herein.

9 (c) The secretary of revenue or the secretary's authorized represen-  
0 tative shall have the right at all reasonable times during business hours  
1 to make such examination and inspection of the books and records of the  
2 person required to collect the tax imposed pursuant to this section as may  
3 be necessary to determine the accuracy of such reports required  
4 hereunder.

5 (d) The secretary of revenue is hereby authorized to administer and  
6 collect the tax imposed by this section and to adopt such rules and reg-  
7 ulations as may be necessary for the efficient and effective administration  
8 and enforcement of the collection thereof. Whenever any person liable  
9 to collect the taxes imposed hereunder refuses or neglects to pay them,  
0 the amount, including any penalty, shall be collected in the manner pre-  
1 scribed for the collection of the retailers' sales tax by K.S.A. 79-3617 and  
2 amendments thereto.

3 (e) The secretary of revenue shall remit daily to the state treasurer  
4 all revenue collected under the provisions of this section. The state trea-  
5 surer shall deposit the entire amount of each remittance in the state  
6 treasury and credit it to the waste tire management fund.

7 (f) Whenever, in the judgment of the secretary of revenue, it is nec-  
8 essary, in order to secure the collection of any taxes, penalties or interest  
9 due, or to become due, under the provisions of this act, the secretary may  
0 require any person charged with the collection of such tax to file a bond  
1 with the director of taxation under conditions established by and in such  
2 form and amount as prescribed by rules and regulations adopted by the  
3 secretary.

(g) The secretary of revenue and the secretary of health and environment shall cooperate to: (1) Ensure that retailers required to collect the tax imposed by this section collect such tax on sales of tires for all vehicles, as defined by K.S.A. 65-3424 and amendments thereto; and (2) develop and distribute to tire retailers educational materials that emphasize appropriate waste tire management practices.

Sec. 4. K.S.A. 2000 Supp. 65-3424f is hereby amended to read as follows: 65-3424f. (a) ~~The secretary shall establish a program to make abatement grants to private companies, cities and counties which, individually or collectively, submit to the secretary plans approved by the secretary. Abatement grants shall be used for: (1) Projects to abate waste tire accumulations in existence before July 1, 1990, but no grants for such projects shall be used for any tires accumulated, or added to an existing accumulation, on or after July 1, 1990, and (2) programs to allow free lawful disposal of waste tires not generated in the ordinary course of a business, but not more than one such program shall be conducted per county. Not more than one abatement grant shall be awarded to abate the same waste tire accumulation unless it can be demonstrated by the applicant that the waste tire accumulation exceeded initial quantity estimates or that unknown circumstances, identified by the applicant, increased project difficulty and cost. No abatement grant payment shall be made on or after July 1, 2002. In awarding abatement grants, the secretary shall give preference to projects which include waste tire recycling or energy recovery. The secretary may authorize waste tire landfilling under abatement grant projects if the waste tires are contaminated or if no practical in-state markets are identified.~~

~~(b) The secretary shall establish a program to make enforcement grants to counties having populations of more than 100,000 which, individually or collectively, submit to the secretary plans approved by the secretary. Enforcement grants shall be used to pay the county's or counties' costs of assessing and enforcing compliance with this act and rules and regulations adopted under this act and to educate the public on the provisions and purposes of this act. Enforcement grants shall be for an amount not exceeding 75% of the costs incurred by the county or counties for eligible costs.~~

~~(b) The secretary shall establish a competitive waste tire recycling grant program to stimulate the processing of waste tires and the use and purchase of tire-derived products. Recycling grants under such program may be made to cities, counties, schools, colleges, universities, regional entities that are part of an interlocal agreement entered into pursuant to K.S.A. 12-2901 et seq., and amendments thereto, and nonprofit organizations to purchase tire-derived products for playgrounds, running tracks, hiking trails, or other uses approved by the secretary to stimulate in-state~~

\* page 5 line 8 insert "The secretary shall establish a program to make abatement grants to private companies, cities and counties which, individually or collectively, submit to the secretary plans approved by the secretary. Abatement grants shall be for an amount not exceeding 75% of the costs incurred.

Abatement grants shall be used for: (1) Projects to abate waste tire accumulations in existence before July 1, 2000, but no grant for such projects shall be used for any tires accumulated, or added to an existing accumulation, on or after July 1, 2000 that have not been previously discovered and abated. Not more than one abatement grant shall be awarded to abate the same waste tire accumulation unless it can be demonstrated by the applicant that the waste tire accumulation exceeded initial quantity estimates or that unknown circumstances, identified by the applicant, increased project difficulty and cost. No abatement grant payment shall be made on or after July 1, 2004. In awarding abatement grants, the secretary shall give preference to projects which include waste tire recycling or energy recovery. The secretary may authorize waste tire landfilling under abatement grant projects if the waste tires are contaminated or if no practical in-state markets are identified."

\*page 5 line 28 line out having populations of more than 100,000

\*page 5 line 39 insert "private companies"

\* page 5 line 42 insert " tire chips & other"

\*page 5 line 43 insert "septic systems and other civil engineering projects,"

1 bus. uses and institutions to process waste tires and utilize tire-derived  
 2 material to manufacture and market consumer products. Waste tire re-  
 3 cycling grants shall be in an amount not exceeding 75% of the cost of the  
 4 approved purchase. Approved purchases may be from in-state ~~and out-~~  
 5 ~~of state companies in fiscal years 2002 and 2003.~~ After July 1, 2003, ap-  
 6 proved purchases shall be only from companies which are located in Kan-  
 7 sas and which recycle waste tires generated in Kansas at a minimum rate  
 8 of 50% of total waste tire throughput. Applications for waste tire recycling  
 9 grants shall be reviewed by the solid waste grants advisory committee  
 0 established pursuant to K.S.A. 65-3426, and amendments thereto, which  
 1 shall make recommendations to the secretary regarding project eligibility  
 2 and funding.

3 (c) ~~Private companies,~~ Cities and counties may join together, pooling  
 4 their financial resources, when utilizing their grants for the purposes de-  
 5 scribed in subsection (a).

6 (d) The secretary may provide technical assistance, upon request, to  
 7 ~~a private company, city, county or group of private companies, cities or~~  
 8 ~~counties desiring assistance~~ any eligible entity in applying for waste tire  
 9 grants or choosing a method of waste tire management which would be  
 0 an eligible use of the grant funds described in subsections (a) and (b).

11 (e) The secretary shall submit to the legislature, on or before the first  
 12 day of the regular legislative session each year, a report of all grants made  
 13 pursuant to this section. The report shall include: (1) The total contract  
 14 amounts awarded for each type of grant in each fiscal year and, of those  
 15 amounts, the total amount awarded to individual counties, groups of  
 16 counties and private entities; and (2) with respect to each grant awarded,  
 17 the contract amount and type of grant, the recipient, a description of the  
 18 project for which the grant was awarded, the number of tires involved  
 19 and the amount actually spent. The secretary shall submit the report by  
 20 filing it with the secretary of the senate, the chief clerk of the house of  
 21 representatives and the chairperson and ranking minority member of each  
 22 of the senate and house committees on energy and natural resources.

23 Sec. 5. K.S.A. 2000 Supp. 65-3424g is hereby amended to read as  
 24 follows: 65-3424g. (a) There is hereby established in the state treasury  
 25 the waste tire management fund.

26 (b) Money from the following sources shall be credited to the waste  
 27 tire management fund:

28 (1) Revenue collected from the excise tax by K.S.A. 65-3424d and  
 29 amendments thereto;

30 (2) permit application and renewal fees provided for by K.S.A. 65-  
 31 3424b and amendments thereto;

32 (3) interest provided for by subsection (e);

33 (4) additional sources of funding such as reimbursements and appro-

\* page 6 line 2 insert "industrial"

\* page 6 line 3 line out "75%" insert "50%"

\*page 6 line 4 insert "companies in fiscal years 2002 and 2003 and out-of-state companies in 2002 and 2003 if no in-state companies are available"

\* page 6 line 4-5 Line out "and out-of-state companies in fiscal years 2002 and 2003"

\*page 6 line 8 line out 50% and insert "of 10% of total waste tire throughput in Fiscal year 2003, plus 10% additional throughput for each subsequent year until fiscal year ending 2007 to attain 50% total waste tire throughput"

\* page 6 line 13 leave in "Private companies"

permitted to be used for the purposes of the fund;

(5) any recoveries from abatement and enforcement actions provided for by K.S.A. 2000 Supp. 65-3424k and amendments thereto;

(6) any interagency fund transfers relevant to providing business development grants for businesses engaged in recycling or utilizing waste tires in resource recovery programs provided for by K.S.A. 65-3424f and amendments thereto; and

(7) any other moneys provided by law.

(c) Moneys in the waste tire management fund shall be used only for the purpose of:

(1) Making grants as provided by K.S.A. 65-3424f, and amendments thereto;

(2) paying compensation and other expenses of employing personnel to carry out the duties of the secretary pursuant to K.S.A. 65-3424 through 65-3424h, and amendments thereto, but not more than the following shall be used for such purpose: ~~(A) For fiscal years beginning before July 1, 2002, 16% or \$200,000, 35% or \$500,000, whichever amount is less, of the moneys credited to the fund during the preceding fiscal year; and (B) for fiscal years beginning on or after July 1, 2002, 32% or \$200,000, whichever amount is less, of the moneys credited to the fund during the preceding fiscal year;~~

~~\* (3) action by the department before July 1, 2001, to abate waste tires accumulated prior to July 1, 1990, or to abate a nuisance or risk to the public health or the environment created or which could be created by waste tires accumulated after July 1, 1990, if the owner or operator of the site has not been identified or has not abated the nuisance;~~

~~— (4) action by the department before July 1, 2001, to abate waste tires accumulated by a city or county as a result of a temporary waste tire amnesty collection program, authorized by the department, to allow residents of the city or county free disposal of waste tires generated by farming and ranching activities and waste tires not generated in the ordinary course of any other business, provided that not more than one such amnesty program is conducted by the city or county after January 1990; and~~

~~\* (5) action by the department after July 1, 2001, to implement interim measures to minimize nuisances or risks to public health or the environment that are or could be created by waste tire accumulations, until the responsible party or county can fully abate the site~~

(3) *with the consent of the city or county, payment for the removal and disposal or on-site stabilization of waste tires which have been illegally accumulated or, with respect to the conditions of a permit issued by the department pursuant to K.S.A. 65-3407 or 65-3424b, and amendments thereto, illegally managed, when the responsible party is unknown or*

\* page 7 line 16 Line out lines 16-21 insert  
“(A) For fiscal years beginning July 1, 2002, 16% or \$200,000 whichever amount is less of the moneys credited to the fund during the preceding fiscal year”

\* page 7 line 22 insert “(3) action by the department before July 1, 2003, to abate waste tires accumulated prior to July 1, 2000, or to abate a nuisance or risk to the public health or the environment created or which could be created by waste tires accumulated after July 1, 2000, if the owner or operator of the site has not been identified or has not abated the nuisance;”

\* page 7 line 35 insert “action by the department after July 1, 2003, to implement interim measures to minimize nuisances or risks to public health or the environment that are or could be created by waste tire accumulations, until the responsible party or county can fully abate the site.

1 unwilling or unable to perform the necessary corrective action, provided  
 2 moneys in the fund shall only be used to pay up to 75% of the costs of  
 3 the required abatement action and the city or county shall pay the re-  
 4 maining 25% of such costs; and

5 (4) the costs of using contractors to provide public education and  
 6 technical training to persons involved with the management of waste tires.

7 (d) All expenditures from the waste tire management fund shall be  
 8 made in accordance with appropriations acts upon warrants of the direc-  
 9 tor of accounts and reports issued pursuant to vouchers approved by the  
 0 secretary.

1 (e) On or before the 10th of each month, the director of accounts  
 2 and reports shall transfer from the state general fund to the waste tire  
 3 management fund interest earnings based on: (1) The average daily bal-  
 4 ance of moneys in the waste tire management fund for the preceding  
 5 month; and (2) the net earnings rate for the pooled money investment  
 6 portfolio for the preceding month.

7 Sec. 6. K.S.A. 2000 Supp. 65-3424k is hereby amended to read as  
 8 follows: 65-3424k. (a) ~~Before July 1, 2001, the secretary may undertake~~  
 9 ~~appropriate abatement action and may enter into contracts, including~~  
 0 ~~grant contracts, for abatement of waste tire accumulations, utilizing funds~~  
 1 ~~from the waste tire management fund. After July 1, 2001, the secretary's~~  
 2 ~~actions shall be limited to contractual services to perform interim meas-~~  
 3 ~~ures designed to minimize nuisances or risks to public health or the en-~~  
 4 ~~vironment created by a waste tire accumulation.~~

5 ~~(b) Any authorized representative of the secretary may enter, at rea-~~  
 6 ~~sonable times and upon written notice, onto any property or premises~~  
 7 ~~where an accumulation of waste tires is located to conduct an abatement~~  
 8 ~~of the accumulation or to perform interim measures to minimize nui-~~  
 9 ~~sances or risks: (1) An inspection and site assessment to determine whether~~  
 0 ~~the accumulation creates a nuisance or risk to public health or and safety~~  
 1 ~~or to the environment created by a waste tire accumulation, or (2) interim~~  
 2 ~~measures to minimize risk to public health and safety or to the~~  
 3 ~~environment.~~

4 ~~(e) (b) Whenever the secretary has reason to believe that an owner~~  
 5 ~~or operator has accumulated waste tires that create accumulation of waste~~  
 6 ~~tires creates a nuisance or risk to public health or and safety or to the~~  
 7 ~~environment or is in violation of rules and regulations adopted by the~~  
 8 ~~secretary or conditions of a permit issued by the secretary, the secretary~~  
 9 ~~may require that owner or operator to abate the accumulation the person~~  
 0 ~~or persons responsible for the accumulation to carry out abatement activ-~~  
 1 ~~ities. Such abatement activities shall be performed in accordance with a~~  
 2 ~~plan approved by the secretary. The secretary shall give notice, by letter,~~  
 3 ~~to the property owner and operator responsible parties that the waste~~

\*page 8 line 18 insert " Before July 1, 2003  
 The secretary may undertake appropriate  
 abatement action and may enter into contracts,  
 for abatement of waste tire accumulations,  
 utilizing funds from the waste tire management  
 fund."



1 tires constitute a nuisance or risk to public health or the environment,  
 2 and that the waste tire accumulation must be abated within a specified  
 3 period. ~~Before July 1, 2001, The secretary may undertake abatement ac-~~  
 4 ~~tion utilizing funds from the waste tire management fund if the owner or~~  
 5 ~~operator fails responsible parties fail to take the required action within~~  
 6 ~~the specified time period. After July 1, 2001, the secretary's actions shall~~  
 7 ~~be limited to contractual services to perform interim measures designed~~  
 8 ~~to minimize nuisances or risks to public health or the environment created~~  
 9 ~~by a waste tire accumulation. The department and its representatives are~~  
 0 ~~authorized to enter private property to perform abatement activities if~~  
 1 ~~the responsible party fails to perform required clean-up work, but no~~  
 2 ~~entry shall be made without the property owner's consent except upon~~  
 3 ~~notice and hearing in accordance with the Kansas administrative proce-~~  
 4 ~~dures act.~~

5 (c) All costs incurred by the secretary in abatement of waste tires ac-  
 6 cumulated after July 1, 1990, or in performing interim measures, includ-  
 7 ing administrative and legal expenses, are recoverable from ~~an owner or~~  
 8 ~~operator a responsible party or parties~~ and may be recovered in a civil  
 9 action in district court brought by the secretary. ~~Abatement costs recov-~~  
 0 ~~ered under this section If any abatement costs are recovered under this~~  
 1 ~~section, the city or county that shared in the cost of the abatement action~~  
 2 ~~shall be reimbursed its costs not to exceed 25% of the amount recovered.~~  
 3 ~~The remaining amount recovered shall be remitted to the state treasurer,~~  
 4 ~~who shall deposit the entire amount in the state treasury and credit it to~~  
 5 ~~the waste tire management fund. An action to recover abatement or in-~~  
 6 ~~terim measures costs may be commenced at any stage of an abatement.~~

7 ~~(d) In performing or entering contracts for abatement actions under~~  
 8 ~~this section, the secretary shall give preference to actions that recycle the~~  
 9 ~~waste tires or burn the waste tires for energy recovery. Direct abatement~~  
 0 ~~expenditures may include landfilling when waste tires are contaminated~~  
 1 ~~or when practical in-state markets cannot be identified.~~

2 (d) Permits granted by the secretary pursuant to K.S.A. 65-3424b,  
 3 and amendments thereto, shall not be transferable and may be revoked  
 4 or suspended whenever the secretary determines that the permit holder  
 5 is operating in violation of this act or rules and regulations adopted pur-  
 6 suant to the act; is creating or threatens to create a hazard to persons,  
 7 property or the environment; or is creating or threatens to create a public  
 8 nuisance. The secretary may also revoke, suspend or refuse to issue a  
 9 permit when the secretary determines that past or continuing violations  
 0 of the provisions of K.S.A. 65-3409, and amendments thereto, have been  
 1 committed by the applicant or permit holder.

2 (e) Neither the state of Kansas nor the waste tire management fund  
 3 shall be liable to any owner or, operator or responsible party for the loss

\* page 9 line 3 insert "Before July 1, 2003,"

\* page 9 line 6 insert "After July 1, 2003,"

\* page 9 line 16 insert "accumulated after July 1, 2000,"

\*page 9 line 27 insert "In performing or entering contracts for abatement actions, the secretary shall give preference to actions that recycle the waste tires or burn the waste tires for energy recovery. Direct abatement expenditures may include landfilling when waste tires are contaminated or when practical in-state markets cannot be identified."

1 of business, damages or taking of property associated with any abatement  
2 or enforcement action taken pursuant to this section.

3 (f) *If the secretary determines that the recipient of a grant, awarded*  
4 *pursuant to K.S.A. 65-3424f, and amendments thereto, has utilized grant*  
5 *moneys for purposes not authorized in the grant contract, the secretary*  
6 *may order the repayment of such moneys and cancel any remaining de-*  
7 *partment commitments under the grant. If the grant recipient fails to*  
8 *comply with the secretary's order, the secretary may initiate a civil action*  
9 *in district court to recover any unapproved expenditures, including ad-*  
10 *ministrative and legal expenses incurred to pursue such action. Recovered*  
11 *grant moneys shall be remitted to the state treasurer, who shall deposit*  
12 *the entire amount in the state treasury and credit it to the waste tire*  
13 *management fund.*

14 Sec. 7. K.S.A. 2000 Supp. 65-3426 is hereby amended to read as  
15 follows: 65-3426. (a) There is hereby established within the department  
16 of health and environment the solid waste grants advisory committee,  
17 which shall be composed of seven members as follows:

18 (1) Six members appointed by the governor, two of whom shall rep-  
19 resent the interests of regional solid waste management entities, two of  
20 whom shall represent the interests of counties, one of whom shall rep-  
21 resent the interests of cities and one of whom shall represent the interests  
22 of the private sector;

23 (2) the secretary of health and environment or the secretary's  
24 designee.

25 (b) Appointive members of the solid waste grants advisory committee  
26 shall serve terms of two years. The secretary of health and environment  
27 or the person designated by the secretary shall serve as chairperson of  
28 the advisory committee.

29 (c) Members of the solid waste grants advisory committee shall re-  
30 ceive amounts provided by subsection (e) of K.S.A. 75-3223 and amend-  
31 ments thereto for each day of actual attendance at any meeting of the  
32 advisory committee or any subcommittee meeting authorized by the ad-  
33 visory committee.

34 (d) The secretary of health and environment shall provide technical  
35 support related to the activities of the solid waste grants advisory com-  
36 mittee, including but not limited to establishing project selection criteria,  
37 performing technology evaluations, assessing technical feasibility and de-  
38 termining consistency with the statewide solid waste management plan,  
39 the applicable county or regional solid waste management plan and re-  
40 gional activities.

1 (e) In accordance with schedules established by the secretary of  
2 health and environment, the solid waste grants advisory committee shall  
3 meet to review competitive grant applications submitted pursuant to sub-

1 section (c) of K.S.A. 65-3415 and K.S.A. 65-3424f, and amendments  
 2 thereto. The advisory committee shall establish a project priority list for  
 3 each fiscal year in each grant program based upon the availability of funds  
 4 as estimated by the secretary and shall make recommendations regarding  
 5 the selection of grantees and the disbursement of moneys.

6 Sec. 8. K.S.A. 2000 Supp. 65-3424, 65-3424a, 65-3424d, 65-3424f,  
 7 65-3424g, 65-3424k and 65-3426 are hereby repealed.

8 Sec. 9. This act shall take effect and be in force from and after its  
 9 publication in the statute book.



Testimony concerning HB 2131  
House Environment Committee  
February 8, 2001  
Presented by Randy Allen, Executive Director  
Kansas Association of Counties

Madam Chair 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 2131*, a waste tire bill drafted and introduced by the Kansas Department of Health and Environment.

Currently, KDHE finances four major activities using the tire disposal excise tax (currently \$.50). These include 1) the cleanup of illegal tire piles; 2) compliance and enforcement work with regard to waste tire piles; and 3) a business and public education program to promote waste tire management; and 4) waste tire recycling grants. Without legislative action, the responsibility for policing waste tire piles would shift from the state to counties.

At our annual meeting last fall, the KAC membership unanimously approved a statement urging extension of the state's waste tire fund, continuation of the current excise tax rate of \$.50 after July 1, 2001, and continued placement of responsibility for the waste tire program at the state level.

If you have questions, I would be happy to respond. Thank you.

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

House Environment  
2-8-01  
Attachment 9

February 8, 2001

To: Chairperson Freeborn and Members of the House Environment Committee  
From: Steve Kearney, Lobbyist, Waste Management  
Re: HB 2134

Madam Chair and Members of the Committee:

Thank you for taking the time to allow me to present testimony regarding HB 2134 on behalf of Waste Management. I would like to express our concerns with this bill based on the following:

1. As written, this bill gives the impression that a permit has been required in the past for storage of waste generated from natural disaster, when in fact, no authorization of any kind has been required due to the need to act expeditiously. Possible public health concerns may be raised if permit authorization does not occur in a timely manner.
2. The method of authorization needs to be determined and outlined within the bill, including process for authorization, detail needed to receive authorization, length of the decision-making process, and allowance of public input. We would also recommend that a specific timeframe be established for the Secretary of Health & Environment providing written authorization in a specific number of days or automatic authorization is given.
3. Required authorization for division, sale, transfer, or otherwise encumbrance of the land is the most troubling aspect of this bill. Our concern regards the intent of requiring authorization. Is the intent to ensure that the disposal area is closed properly? If so, why include the setback property as property requiring authorization from the Secretary prior to sale. Setback property is not used for landfill. The entire site includes land that is purchased and owned by private industry. Areas used for land disposal are monitored by the Department already through the permit. Why should the Department be concerned with property not used for landfill purposes, since there are no environmental concerns in these areas?

Sincerely,

Steve Kearney  
Lobbyist  
Waste Management

*House Environment  
2-8-01  
Attachment 10*