

3 Senate Bill No. 41

4 SENATE BILL NO. 41 - By: WILCOXSON and LAWLER of the Senate and  
5 YOUNG of the House.

6 An Act relating to environment and natural resources;  
7 amending 27A O.S. 2001, Section 2-10-802, which relates to  
8 solid waste disposal sites; updating reference; modifying  
9 amount of penalty for certain late reports; and providing an  
10 effective date.

11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 27A O.S. 2001, Section 2-10-802,  
13 is amended to read as follows:

14 Section 2-10-802. A. 1. Owners or operators of landfill  
15 disposal sites which are not generator owned and operated  
16 nonhazardous industrial waste monofills shall install scales by  
17 January 1, 1996. Such scales shall be installed on or within five  
18 (5) miles of the landfill disposal site and shall be tested and  
19 certified as required by Section ~~5-61e~~ 14-35 of Title 2 of the  
20 Oklahoma Statutes relating to the authority of the Board of  
21 Agriculture to test annually the standards of weights and measures  
22 used by any city or county within the state and to approve if found  
23 to be correct.

24 2. The owner or operator shall upon receipt weigh all waste  
25 received and record the weight in writing. If scales at a disposal  
26 site are not operative, tonnage shall be estimated on a volume basis

1 whereby the volume reported shall be no less than the volume  
2 capacity of the containers or, if none, of the vehicles delivering  
3 the waste, and one cubic yard of solid waste shall be calculated to  
4 weigh one-third (1/3) ton. The owner or operator shall place notice  
5 in the disposal site's operating record of the time and date at  
6 which the scales became inoperable, describe the steps taken to  
7 repair them, and note the date use was resumed. If daily use has  
8 not resumed within thirty (30) days after the scales became  
9 inoperable, the owner or operator shall give written notice to the  
10 Department of Environmental Quality.

11 3. The owner or operator shall also maintain a written record  
12 of the weight or volume of any solid waste received which is  
13 productively reused or recovered and sold in accordance with the  
14 landfill disposal site's permit.

15 4. The scale location restriction of this subsection shall not  
16 apply to federal or state military installations so long as:

- 17 a. the scales are located within the physical boundary of  
18 that installation, and  
19 b. the disposal site receives waste only from that  
20 military installation.

21 B. 1. Except as otherwise provided by this subsection, on and  
22 after January 1, 1996:

1           a.   owners and operators of landfill disposal sites which  
2                   receive an average of less than one hundred (100) tons  
3                   of solid waste per operating day shall assess a fee of  
4                   One Dollar and fifty cents (\$1.50) per ton of solid  
5                   waste received for disposal. A total of fifty cents  
6                   (\$.50) per ton of such fee shall be retained by the  
7                   owner or operator and used exclusively for capital  
8                   improvement to their facilities and for the projects  
9                   required pursuant to the Oklahoma Solid Waste  
10                  Management Act or the disposal site's permit for such  
11                  period of time necessary to recoup a capital  
12                  investment, plus the interest costs expended in  
13                  purchasing the scales, of a total of Forty Thousand  
14                  Dollars (\$40,000.00),  
15           b.   when the owner or operators have recouped a capital  
16                   investment of the total specified in subparagraph a of  
17                   this paragraph, the fee to be assessed shall be One  
18                   Dollar and twenty-five cents (\$1.25) per ton of solid  
19                   waste received for disposal. At such time, for a  
20                   return with remittance filed on or before the due  
21                   date, the owner or operator may deduct and retain ten  
22                   percent (10%) of the fees collected, and

- 1           c.    records documenting the projects and use of the funds  
2                   shall be included with each return.
- 3        2.    a.    Owners and operators of landfill disposal sites which  
4                   receive an average of more than one hundred (100) tons  
5                   of solid waste per operating day shall assess a fee of  
6                   One Dollar and fifty cents (\$1.50) per ton of solid  
7                   waste received for disposal, retaining twenty-five  
8                   cents (\$0.25) per ton for a period of time necessary  
9                   to recoup a capital investment, plus the interest  
10                  costs expended in purchasing the scales, of Forty  
11                  Thousand Dollars (\$40,000.00). At the end of such  
12                  period the fee shall revert to One Dollar and twenty-  
13                  five cents (\$1.25) per ton. For a return with  
14                  remittance filed on or before the due date, the owner  
15                  or operator may deduct and retain ten percent (10%) of  
16                  the fees collected.
- 17           b.    Records documenting the capital investment and the use  
18                   of the funds shall be included with each return.
- 19        3.    The fee shall not be imposed on:
- 20           a.    the solid waste received which is productively reused  
21                   or recovered in accordance with the landfill disposal  
22                   site's permit. The owner or operator shall include

1 records pertaining to this fee exemption in the  
2 quarterly return of fees to the Department, and  
3 b. generator owned and operated nonhazardous waste land  
4 disposal monofills and waste subject to a fee pursuant  
5 to Section 2-10-803 of this title. For emergencies  
6 and other special events, the Department and the owner  
7 or operator of a site subject to this section may  
8 enter into a formal agreement to waive the fee.

9 4. Large industrial waste generators who generate over ten  
10 thousand (10,000) tons of nonhazardous industrial solid waste in the  
11 state in a calendar year may annually apply to the Department for a  
12 certificate exempting the disposal of such generated waste in excess  
13 of ten thousand (10,000) tons from the disposal fee authorized by  
14 this section. An applicant must have implemented a pollution  
15 prevention plan for such waste and filed it with the Department,  
16 provided operational documentation regarding such plan and paid the  
17 disposal fee on ten thousand (10,000) tons of the waste during the  
18 calendar year of application. The Department-issued exemption  
19 certificates shall be valid for the remainder of the calendar year  
20 of application, may contain conditions, and, upon presentation by  
21 authorized persons, shall be recognized by owners or operators of  
22 landfill disposal sites subject to this section. If a generator  
23 operates a landfill solely for waste from that generator, and if

1 that generator chooses to seek the exemption authorized by this  
2 paragraph, the generator shall not be required to install scales or  
3 keep records relative to quantity of waste received for the  
4 landfill.

5 5. The fee assessed by this subsection is to be a charge to  
6 waste producers in addition to any charges specified in any contract  
7 or elsewhere. The fee shall be imposed upon and passed through to  
8 disposers of waste using the facility.

9 6. The owner or operator of a solid waste disposal site shall  
10 collect the fee levied pursuant to this subsection as trustee for  
11 the state and shall prepare and file with the Department quarterly  
12 returns indicating:

13 a. the total tonnage of solid wastes received for  
14 disposal at the gate of the site, and

15 b. the total amount of the fees collected pursuant to  
16 this section.

17 7. Not later than thirty (30) days after the end of the quarter  
18 to which such a return applies, the owner or operator shall mail to  
19 the Department the return for that quarter together with the fees  
20 collected during that quarter as indicated on the return.

21 8. The owner or operator may receive an extension of not more  
22 than thirty (30) days for filing the return and remitting the fees,  
23 provided that:

- 1           a.    the owner or operator has submitted a request for an  
2                    extension in writing to the Department together with a  
3                    detailed description of why the extension is  
4                    requested,
- 5           b.    the Department has received the request not later than  
6                    the day on which the return is required to be filed,  
7                    and
- 8           c.    the Department has approved the request.

9           9.    For any quarterly return filed more than thirty (30) days  
10           after the last day of the quarter or extension date, the owner or  
11           operator shall remit an additional five percent (5%) of the fees  
12           collected during the month to which the return applies. If the fees  
13           are not remitted within sixty (60) days of the last day of the  
14           quarter during which they were collected, the owner or operator  
15           shall pay an additional ~~fifty percent (50%)~~ fifteen percent (15%) of  
16           the amount of the fees for each month that they are late.

17           10. If the owner or operator misrepresents, or fails to  
18           properly measure or record, the amount of waste received or fails to  
19           remit fees within sixty (60) days after the last day of the quarter  
20           during which they were collected, the landfill disposal site's  
21           permit shall be summarily suspended by order and the Department  
22           shall initiate the process of revoking the permit and may require  
23           closure of the landfill.

1 C. 1. The Department shall expend funds collected pursuant to  
2 the provisions of this section solely for the administration and  
3 enforcement of the provisions of the Oklahoma Solid Waste Management  
4 Act and for the development of solid waste technical assistance  
5 programs, solid waste public environmental education programs and  
6 educational curricula, solid waste studies, development of a  
7 statewide solid waste plan, solid waste recycling and litter  
8 prevention programs, and other environmental improvements.

9 2. In order to assist the Department of Environmental Quality  
10 regarding its responsibilities relating to the promotion of  
11 recycling of solid waste, beginning July 1, 1996, and each fiscal  
12 year thereafter, the Department shall contract with units of local  
13 government, political subdivisions of this state, components of The  
14 Oklahoma State System of Higher Education, local and statewide  
15 organizations representing municipalities or counties, or substate  
16 planning districts recognized by the Oklahoma Department of  
17 Commerce, for up to a total of One Hundred Thousand Dollars  
18 (\$100,000.00) and to the extent such monies are available for  
19 projects promoting the recycling of solid waste. Local governments,  
20 political subdivisions of this state, components of The Oklahoma  
21 State System of Higher Education, local and statewide organizations  
22 representing municipalities and counties and substate planning  
23 districts recognized by the Oklahoma Department of Commerce desiring

1 to contract with the Department for such projects shall meet the  
2 application requirements of rules promulgated by the Environmental  
3 Quality Board and the criteria established by a recycling priorities  
4 plan prepared annually by the Department after review and comment by  
5 the Solid Waste Management Advisory Council. Except as otherwise  
6 provided by this section, contracts for such projects shall not be  
7 granted to state agencies.

8 3. Any litter prevention program shall be developed by the  
9 Department in conjunction with the Department of Transportation.

10 4. a. To the extent that funds are available, the Department  
11 may also reimburse any governmental entity for  
12 equipment other than motor vehicles or buildings to  
13 separate, process, modify, convert or treat solid  
14 waste or recovered materials so that the resulting  
15 product is being used in a productive manner.

16 b. The reimbursements shall be from solid waste fee funds  
17 and shall not exceed twenty-five percent (25%) of the  
18 person's total project costs. No reimbursement may be  
19 larger than Twenty Thousand Dollars (\$20,000.00).

20 c. Reimbursements must be expended in accordance with  
21 rules promulgated by the Environmental Quality Board  
22 and criteria established through the Department's  
23 annual recycling priorities plan. The Department

1 shall not expend more than Two Hundred Thousand  
2 Dollars (\$200,000.00) in each fiscal year for such  
3 reimbursements, nor shall the Department reimburse  
4 waste tire facilities that may be eligible for  
5 compensation from the Waste Tire Recycling Indemnity  
6 Fund.

7 5. a. The Department, in conjunction with the Corporation  
8 Commission, the Oklahoma Energy Resources Board and  
9 the Oklahoma Conservation Commission, may develop a  
10 plan to use suitable portions of the solid waste  
11 stream to reclaim Oklahoma lands damaged by oil and  
12 gas exploration and production or by mining  
13 activities.

14 b. To the extent that funds are available, the Department  
15 may use up to ten percent (10%) of the annual income  
16 from the fees received pursuant to the provisions of  
17 this section to implement the plan. The Department  
18 may use its discretion in administering the funds for  
19 the purpose of this paragraph, but shall keep records  
20 subject to audit by the State Auditor and Inspector  
21 for good business practices.

22 6. a. To the extent that funds are available, after having  
23 reasonably met other specified uses of the solid waste

1 fund, the Department is authorized to expend up to  
2 five percent (5%) of the total annual solid waste fee  
3 income for the purpose of making incentive payments to  
4 any person, firm or corporation located in this state  
5 generating energy by utilizing solid waste landfill  
6 methane.

7 b. The Environmental Quality Board shall promulgate rules  
8 to administer the provisions of this paragraph.

9 c. No person, firm or corporation shall be eligible to  
10 receive incentive payments as provided in subparagraph  
11 a of this paragraph for more than three (3) years.

12 The amount of such payments shall be determined by the  
13 Department based on the amount of energy generated and  
14 the cost of production.

15 D. The provisions of this section shall not apply to landfill  
16 disposal sites that receive only ash generated by the burning of  
17 coal.

18 E. On or before September 1, 1996, and September 1 of each year  
19 thereafter, the Department of Environmental Quality shall prepare a  
20 report of income and expenditures for the period of each fiscal year  
21 in which solid waste fee monies authorized by this section were  
22 received and such report shall be distributed to members of the  
23 Solid Waste Management Advisory Council for review. By November 1

1 of each year the Council shall submit to the Executive Director,  
2 Governor, Speaker of the House of Representatives and President Pro  
3 Tempore of the Senate, its written comments on the comparison of  
4 income with program expenditures.

5 SECTION 2. This act shall become effective November 1, 2005.

6 COMMITTEE REPORT BY: COMMITTEE ON ENERGY & ENVIRONMENT, dated  
7 2-17-05 - DO PASS, As Coauthored.