

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES

The meeting was called to order by Senator Merrill Werts at  
Chairperson

8:00 a.m./~~PM~~<sup>XX</sup> on February 19, 19 86 in room 123-S of the Capitol.

All members were present except:

Committee staff present:

Ramon Powers - Research  
Don Hayward - Revisor  
Nancy Jones - Secretary

Conferees appearing before the committee:

Shawn McGrath, Kansas Natural Resource Council  
Allan Smith, Manager, N.R. Hamm Quarry Inc., Operator of the Jefferson/Douglas  
County Landfill  
Dennis Murphy, Kansas Department of Health & Environment  
Charles Linn, Kansas Department of Health & Environment  
Senator Wint Winter

SB 566 - Relating to the disposal of solid waste

Shawn McGrath testified in support of the bill stating establishment of the contingency fund and closure escrow accounts is a protective measure for water sources in Kansas. The Resource Council also feels the request by operators in the solid waste industry to introduce the bill underlines their interest in environmental protection as well as bringing the industry into compliance with existing law. (Attachment A).

Mr. Murphy clarified the intents and purposes of proposed amendments to the bill by the Department. (Attachment B).

Discussion concerned the suggested deposit fee by landfills into the contingency fund of .50¢ per ton for solids and .02¢ per gallon of liquid waste. Variations of landfills and the increased cost to the users were considerations in establishment of the fee. The conversion factor from tonnage to cubic yards was clarified by Mr. Murphy and this is preferred by KDHE. Problems that could occur due to configuration of the landfills were discussed by Mr. Murphy. Further discussion reflected agreement between the agency and the industry for establishing a flexible fee rate for accumulation in a closure fund to a specified level of \$10,000 acre.

Senator Martin made the conceptual motion to amend Section 3 to establish a flexible rate of 20¢ to 50¢ per cubic yard for accumulation in an interest bearing account, seconded by Senator Gordon. Motion carried.

Following this action, the Chairman excused himself and Vice Chairman Vidricksen chaired the meeting.

Mr. Murphy stated the Department prefers to have clear direction from the legislature in administering the contingency fund and specification of claims to be paid from the fund. Estimated administrative costs each year will be \$100,000, including additional staff of five persons, for adequate administration of the fund by the Department.

Senator Martin expressed the concern that more study is needed on this bill by an interim committee.

Senator Winter and Mr. Murphy expressed the view that action should be taken this year by the legislature as this bill deals with critical issues that need to be addressed and proper guidelines to administer procedures need to be established.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES,  
room 123-S, Statehouse, at 8:00 a.m. ~~XX~~ on February 19, 19 86

Senator Hayden made the conceptional motion to exempt publicly owned facilities from the bill. The motion failed for lack of a second.

Working from the ballooned copy prepared by the Department, the following amendments were considered:

- Page 2, Line 57            Motion to adopt by Senator martin, seconded by Senator Vidricksen. Motion adopted.
- Page 2, Line 73-78       Motion to adopt by Senator Martin, seconded by Senator Gordon. Motion adopted.
- Page 3 Line 85            Motion to adopt by Senator Hayden, seconded by Senator Martin. Motion adopted.
- Page 4 Line 153          Motion to adopt by Senator Kerr, seconded by Senator Hayden. Motion adopted.
- Page 5 Line 170          Motion to adopt by Senator Yost, seconded by Senator Martin. Motion adopted.
- Page 5 Line 186          Motion to adopt by Senator Martin, seconded by Senator Daniels. Motion adopted.
- Page 5 Line 192          Motion to adopt by Senator Hayden, seconded by Senator Kerr. Motion adopted.
- Page 6 Line 196          Motion to insert word "on/" after shall by Senator Martin, seconded by Senator Daniels. Motion carried.
- Page 6 Line 223          Motion to adopt by Senator Daniels, seconded by Senator Martin. Motion adopted.
- Page 7 Line 250          Motion to adopt new section 9, change section 9 to new section 10 by Senator Daniels, seconded by Senator Martin. Motion adopted.

A motion was made by Senator Yost to recommend SB 566 favorably as amended, seconded by Senator Martin. Motion carried.

Senator Hayden requested his "no" vote be recorded.

Meeting adjourned.

# Guest List 2-19-86

Dennis Murphy	KDHE	Topeka
Steve Smith	H.R. Hamm Quarry, Ill.	Perry, Kan
Charles V. Hamm	KDHE	Topeka
Chuck Linn	KDHE	Topeka
John J. Murrath	KNRC	"
Dr. <sup>DAVE</sup> Warrough		Johnson Ks.
Rich McKee	K.L.A.	Topeka

# Kansas Natural Resource Council

To: Senate Energy and Natural Resources Committee

Regarding: SB566

KNRC supports SB566.

KNRC has historically encouraged legislation which will better protect water in Kansas. SB566 is congruous with this aim.

By setting up the 'solid waste disposal contingency fund', money will be available for cleanup of any accidents which might occur at a solid waste land fill. Money from the fund will also be used to monitor such disposal sites for undesirable leaks into the environment.

SB566 also requires land fill operators to establish escrow accounts; the money from which will be used for closure of land fills. This ensures adequate money to this important end.

This legislation was requested by persons from within the solid waste disposal industry to help them better comply with current Kansas Laws, and to better protect the environment. KNRC commends this committee for introducing SB566, and recommends favorable passage.



2-19-86  
S. ENR  
8:00 AM

## SENATE BILL No. 566

By Committee on Energy and Natural Resources

2-5

0017 AN ACT relating to the disposal of solid waste; concerning  
0018 closure of solid waste disposal facilities; providing for fees  
0019 and charges and the establishment of certain funds; providing  
0020 duties and authorities for the secretary of health and environ-  
0021 ment relating thereto; amending K.S.A. 65-3407 and repealing  
0022 the existing section.

0023 *Be it enacted by the Legislature of the State of Kansas:*

0024 New Section 1. The legislature finds and declares that the  
0025 proper closure of solid waste disposal facilities is essential to the  
0026 public health, safety and welfare; that closure activities can  
0027 require capital expenditures at a time when revenues collected  
0028 by owners and operators of solid waste disposal facilities are  
0029 minimal or nonexistent; and that it is necessary to guarantee that  
0030 adequate funds are reserved to insure such closure. The legisla-  
0031 ture further finds and declares that the improper operation or  
0032 closure of solid waste disposal facilities can result in the con-  
0033 tamination of surface and groundwaters, including potable water  
0034 supplies; that the migration of methane gas from solid waste  
0035 disposal facilities poses a threat to life and property; that private  
0036 insurers have withdrawn from the solid waste disposal market;  
0037 that insurance when available at all is available at a cost prohib-  
0038 itive to owners and operators of solid waste disposal facilities;  
0039 that compensation for the damage resulting from improper  
0040 operation or closure is, at best, inadequate; and that it is neces-  
0041 sary to provide a mechanism for the prompt compensation for  
0042 these damages.

0043 New Sec. 2. As used in this act:

0044 "Closing costs" or "closure" means all activities and costs  
0045 associated with the design, purchase, construction or mainte-  
0046 nance of all measures required by the department, pursuant to

Page 1, No comments.

2-19-86  
S. ENR  
8:00 A.M. (B)

0047 law or rule and regulation, in order to prevent or minimize  
 0048 pollution or health hazards resulting from solid waste disposal  
 0049 facilities subsequent to the termination of operations at any  
 0050 portion thereof, including, but not necessarily limited to, the  
 0051 costs of the placement of engineered earthen, membrane or  
 0052 vegetative cover and the installation of methane gas vents,  
 0053 methane collection systems or monitors and leachate monitoring  
 0054 wells or collection systems at the site of any solid waste disposal  
 0055 or facility;

0056 (b) "owner or operator" means and includes, in addition to  
 0057 the usual meanings thereof, every owner or record of any interest  
 0058 in land whereon a solid waste disposal facility is or has been  
 0059 located, and any person or corporation which owns a majority  
 0060 interest in any other corporation which is the owner or operator  
 0061 of any sanitary landfill facility, including political subdivisions of  
 0062 the state of Kansas;

0063 (c) "solid waste disposal facility" means any site used for the  
 0064 disposal of solid wastes as defined by K.S.A. 65-3402, and  
 0065 amendments thereto;

0066 (d) "department" means the Kansas department of health and  
 0067 environment;

0068 (e) "secretary" means the secretary of the Kansas department  
 0069 of health and environment.

0070 New Sec. 3. (a) The owner or operator of every solid waste  
 0071 disposal facility shall deposit, on a quarterly basis, in an inter-  
 0072 est-bearing account with an accredited financial institution, an  
 0073 amount equal to \$.50 per ton of solids and \$.02 per gallon of  
 0074 liquids for all solid waste accepted for disposal during the  
 0075 preceding quarter year at the solid waste disposal facility. In the  
 0076 event that any solid waste is measured, upon acceptance for  
 0077 disposal, by other than tons or gallons, the amount to be depos-  
 0078 ited shall be calculated by using equivalents thereof as shall be  
 0079 determined by the secretary. The account established pursuant  
 0080 to this subsection shall constitute an escrow account for the  
 0081 closure of that particular solid waste disposal facility, and no  
 0082 withdrawals therefrom may be made without written approval of  
 0083 the secretary, or as otherwise authorized by the secretary. The

Line 0057 - owner or record should read owner of record

Line 0073 and 0078 - The department suggests that the basis for the deposit be calculated on cubic yards in place rather than a per ton basis. The volume of material to be added to a disposal site can easily be measured by field measurements or topographic survey and that information once acquired is useful for disposal site planning purposes. Of the 240 or so sites covered by the amendment only a dozen are equipped with truck scales. Scales suitable for weighing incoming solid wastes cost upwards of 30 thousand dollars installed. The 50 cents per ton deposit would make it difficult to accumulate the specified funding (\$10,000/acre). In practice the in-place density of compacted solid wastes in a well operated landfill is 900 to 1,200 pounds per cubic yard, requiring a disposal site to receive 24 feet of solid wastes exclusive of daily cover to accumulate the required funding.

In addition to simplifying the calculations; modifying the method of measurement from ton to cubic yard would make it more likely that the necessary funding would be accumulated.

0084 maximum amount to be accumulated in such account shall be  
 0 \$10,000 per acre, except when the secretary shall determine that  
 0086 closure measures other than the application of earth cover will  
 0087 be necessary to close the facility. In those cases the maximum  
 0088 amount required to be deposited shall be determined at the time  
 0089 a permit is issued by the secretary for the operation of such  
 0090 facility.

The \$10,000 acre closure fund would appear adequate based upon the application of a minimum of 3 feet of earth cover (5,000 cubic yards) and grading, fertilization, seeding and mulching costs of \$600 per acre.

Line 0085 - After \$10,000 add "plus accrued interest".

0091 (b) Any owner or operator of a solid waste disposal facility  
 0092 who shall fail to deposit funds into an escrow account or uses  
 0093 those funds for any purpose other than closing costs, as approved  
 0094 by the secretary, shall be guilty of a class A misdemeanor. In  
 0095 addition, the secretary may seek a restraining order to prevent  
 0096 the owner or operator from accepting solid waste for disposal in  
 0097 such facility.

0098 (c) Every owner or operator of a solid waste disposal facility  
 0099 shall file with the department an annual audit of the escrow  
 0100 account established for the closure of the facility pursuant to this  
 0101 act. The audit shall be conducted by a certified public account-  
 0102 ant, and shall be filed with the department no later than October  
 0103 31 of each year.

0104 (d) Whenever circumstances such as duration of operation,  
 0105 quantity of materials to be disposed of or other factors make it  
 0106 impractical to establish a closure account, the secretary may  
 0107 accept cash bond, surety bond, letter of credit or other financial  
 0108 assurances as may be prescribed by rule and regulation of the  
 0109 secretary in lieu of a closure account.

0110 (e) The secretary shall adopt rules and regulations prescrib-  
 0111 ing the manner in which closure account records shall be main-  
 0112 tained and how a permittee shall make deposits to and with-  
 0113 draws from the account, and other matters deemed necessary to  
 0114 administer this section.

0115 (f) Any moneys remaining in the escrow account of any solid  
 0116 waste disposal facility subsequent to the proper and complete  
 0117 closure thereof, as determined by the department shall be paid  
 0118 by the owner or operator thereof into the solid waste disposal  
 0119 facility contingency fund unless the owner or operator has other  
 0120 ~~facilities.~~

Line 0120 - Delete the word "facilities" and add the phrase "Kansas facilities permitted for the disposal of solid wastes, in which case the secretary may authorize the transfer of unused funds into those escrow accounts".

0121 New Sec. 4. (a) The solid waste disposal facility contingency  
 0122 fund is hereby established as a nonlapsing revolving fund in the  
 0123 department. The fund shall be administered by the department  
 0124 and shall be credited with all disposal fee revenues collected by  
 0125 the department pursuant to section 5. The secretary shall remit  
 0126 all disposal fee revenues collected under this subsection to the  
 0127 state treasurer to be credited to such fund. The pooled money  
 0128 investment board may invest moneys in the fund in obligations  
 0129 of the United States or obligations the principal and interest of  
 0130 which are guaranteed by the United States or in interest-bearing  
 0131 time deposits in any commercial bank or trust company located  
 0132 in Kansas or, if the board determines that it is impossible to  
 0133 deposit such moneys in such time deposits, in repurchase  
 0134 agreements of less than 30 days' duration with a Kansas bank for  
 0135 direct obligations of, or obligations that are insured as to princi-  
 0136 pal and interest by the United States government or any agency  
 0137 thereof. Any income of interest earned by such investments shall  
 0138 be credited to the fund.

0139 The maximum amount of the fund shall be \$6,000,000 plus all  
 0140 interest income accruing to the fund. Whenever the secretary  
 0141 determines that projected receipts for any quarter minus out-  
 0142 standing claims against the fund will exceed the upper limit as  
 0143 herein provided, the collection of fees authorized in section 5  
 0144 shall be suspended until such time as the fund needs replenish-  
 0145 ing, and no charges shall be levied for such purpose until  
 0146 replenishment of the fund is needed. During any such period a  
 0147 permit holder shall deposit any excess moneys that would have  
 0148 been paid into the fund into the closure account established in  
 0149 section 3 as provided in such section.

0150 (b) The solid waste disposal contingency fund shall be liable  
 0151 for damages proximately resulting from the operation of any solid  
 0152 waste disposal facility whose operator is a participant in the  
 0153 fund. These damages shall include, ~~but not be limited to:~~

0154 (1) The cost of providing an individual health assessment for  
 0155 any person found to be consuming a drinking water source or a  
 0156 food chain product or who is exposed to an air emission found to  
 0157 be contaminated by solid waste disposal facility.

Line 0153 - We suggest that the phrase "but not be limited to" be deleted. This phrase opens up the fund to a whole range of issues not related to health or environment concerns, such as the devaluation or taking of property without compensation, personal injury claims resulting from accidents at the facility.

Another policy decision would be whether the legislature would want to consider an upper limit for a single claim or claims from the fund.



0158 (2) The cost of restoring, repairing or replacing any real or  
0159 personal property damaged or destroyed.

0160 (3) The cost of restoration and replacement, where possible,  
0161 of any natural resource damaged or destroyed, including any  
0162 potable water supply.

0163 (4) The costs of the design, construction, installation, opera-  
0164 tion and maintenance of any device or action deemed necessary  
0165 by the department to cleanup, remedy, mitigate, monitor or  
0166 analyze any threat to the public health, safety or welfare of the  
0167 citizens of this state, including the installation and maintenance  
0168 of methane gas monitors and vents and leachate monitoring  
0169 wells and collection systems and the sampling and analysis of  
0170 any public or private potable water supply.

0171 (c) In the event that the total of claims awarded exceeds the  
0172 current balance of the fund, the immediate award shall be paid  
0173 on a prorated basis, and all claimants paid shall be paid, as  
0174 determined by the department, on a pro rata share of all moneys  
0175 deposited in the fund until the total amount of the proven  
0176 damages is paid to the claimants. The department may also  
0177 provide, by rule and regulation, priority for the payment of  
0178 claims based on extreme hardships or extreme existing or immi-  
0179 nent hazard.

0180 (d) Claims against the fund shall be filed within one year of  
0181 the date of discovery of damage, and in the manner as shall be  
0182 prescribed by the department.

0183 (e) Moneys in the funds shall be disbursed by the depart-  
0184 ment for the following purposes and no others:

0185 (1) Administrative costs incurred by the department pursuant  
0186 to section 5 of this act; and,

0187 (2) damages as provided in paragraphs 1 to 4, inclusive.

0188 Allocation: from the fund for damages shall be reviewed and  
0189 approved by the state finance council as provided for in K.S.A.  
0190 75-3711 and 75-3711c, and amendments thereto.

0191 New Sec. 5. (a) The secretary shall establish a fee for each  
0192 owner or operator not to exceed \$.50 per ton for solids and by  
0193 \$.01 per gallon of liquids to be deposited in the solid waste  
0194 disposal facility contingency fund.

Line 0170 - After the word "supply" add the phrase "whenever these required remedial actions are necessitated by an event which occurs or is discovered at an inactive facility following approval of its closure by the department and which are in addition to the post closure operation and maintenance required of a site owner at the time the site is closed."

Comment - The department feels that this addition clarifies the intent of the legislative proposal which we see as a form of "insurance". We do not believe that the fund should be subject to claims made for operational and maintenance items which an operator is already obligated to perform under current policies and regulations.

Line 0186 - After the word "section add 4; after "5" add 6 and 8.

In addition to the costs in collecting fees (section 5) the department will incur significant administrative costs in evaluating and processing claims, and in developing rules and regulations for administering the fund (section 4). Costs of recovery of any amount due the fund from a cause of action accruing to the fund should be chargeable to the fund (section 6). And the cost of preparing and distributing the annual audit of the fund should be chargeable to the fund.

Line 0192 - Comment - For the reasons cited in section 3, we recommend that the basis of the fee collection be cubic yards in place.

In attempting to calculate potential revenues to the fund, we looked at the community sanitary landfills which report on the volumes of wastes they receive each year. (Operators report in two ways: tons and loose cubic yards as received.)

0185 (b) Every owner or operator of a solid waste disposal facility  
 0186 shall or before April 20 and October 20 render a return under  
 0197 oath to the secretary on such form as may be prescribed by the  
 0189 secretary indicating the number of cubic yards of solid wastes  
 0189 and gallons of liquid waste accepted at the solid waste disposal  
 0200 facility and at such time the owner or operator shall pay the full  
 0201 amount of disposal fee due.

0202 (c) If a return required by this act is not filed or, if a return  
 0203 when filed is incorrect or insufficient in the opinion of the  
 0204 secretary, the amount of fee due shall be determined by the  
 0205 secretary from such information as may be available. Notice of  
 0206 such determination shall be given the person liable for the fees.  
 0207 Such determination shall finally and unrevocably fix the fee  
 0208 unless the person shall apply to the secretary for a hearing or  
 0209 unless the secretary shall redetermine the same.

0210 (d) The solid waste disposal facility permit of any person  
 0211 liable for the fee shall be cancelled if any fee remains unpaid for  
 0212 a period of 60 days past its due date, and the secretary may begin  
 0213 proceedings in any court of competent jurisdiction to recover any  
 0214 amounts due the fund. Past due amounts shall bear interest at  
 0215 12% per annum. For any site permitted for less than six-months'  
 0216 duration, an estimated disposal fee shall be billed and collected  
 0217 at the time the permit is issued.

0218 (e) Any person failing to file a return, failing to pay, or filing  
 0219 or causing to be filed, or making or causing to be made, or giving  
 0220 or causing to be given, any return, certificate, affidavit, repre-  
 0221 sentation, information, testimony or statement required or claim  
 0222 authorized by this act, or rules and regulations adopted hereun-  
 0223 der, which is willfully false, or failing to keep any records  
 0224 required by this act, or rules and regulations adopted hereunder,  
 0225 shall, in addition to any other penalties prescribed, be guilty of a  
 0226 class A misdemeanor.

0227 (f) The certification of the secretary to the effect that a fee has  
 0228 not been paid, that a return has not been filed, that information  
 0229 has not been supplied or that inaccurate information has been  
 0230 supplied pursuant to this act or rules and regulations adopted  
 0231 hereunder shall be presumptive evidence thereof.

(continued from page 5)

Solid Wastes Received 1984

769,856-Tons - equivalent to	1.46 million cubic yards
*loose cubic yards 4,423,840	<u>1.47 million cubic yards</u>
Total	2.93 million cubic yards

\*A loose cubic yard is estimated to compact to 1/3 volume in the landfill.

Line 0223 - Delete the word "willfully" and substitute "knowingly".

Comment - "willfully" implies proof of intent which requires a much higher standard of proof than knowingly.

0232 New Sec. 6. Payment of any damages from the solid waste  
 0233 disposal facility contingency fund shall be conditioned upon the  
 0234 department acquiring, by subrogation, all rights of the claimant  
 0235 to recovery of the damages from any owner or operator of a solid  
 0236 waste disposal facility.

0237 New Sec. 7. Nothing in this act shall be deemed to preclude  
 0238 the pursuit of any other civil or injunctive remedy by any person.  
 0239 The remedies provided in this act are in addition to those  
 0240 provided by existing statutory or common law, but no person  
 0241 who received compensation for damages pursuant to any other  
 0242 state or federal law shall be permitted to receive compensation  
 0243 for the same damages or cleanup costs under this act.

0244 New Sec. 8. The secretary shall prepare an annual report on  
 0245 the condition of the solid waste disposal contingency fund on  
 0246 September 1 of each year. The report shall list receipts to, and  
 0247 disbursements from the fund, claims processed and pending and  
 0248 any other information relevant to the fund. The report shall be  
 0249 sent to all depositors to the fund.

0250 Sec. 9. K.S.A. 65-3407 is hereby amended to read as follows:  
 0251 65-3407. (a) It shall be unlawful for any person to construct, alter  
 0252 or operate a solid waste processing facility or a solid waste  
 0253 disposal area of a solid waste management system without first  
 0254 obtaining a permit from the secretary.

0255 (b) Every person desiring to obtain a permit to construct,  
 0256 alter or operate a solid waste storage, treatment or processing  
 0257 facility or disposal area shall make application for such a permit  
 0258 on forms provided for such purpose by the rules and regulations  
 0259 of the secretary and shall provide the secretary with such infor-  
 0260 mation as necessary to show that the facility or service will  
 0261 comply with the purpose of this act. Upon receipt of any appli-  
 0262 cation and payment of the fee, the secretary, with advice and  
 0263 counsel from the local health authorities and the county com-  
 0264 mission, shall make an investigation of the proposed solid waste  
 0265 processing facility or disposal area and determine whether it  
 0266 complies with the provisions of this act and any rules and  
 0267 regulations and standards adopted thereunder. When the inves-  
 0268 tigation reveals that the facility or area does conform with the

New Section 9. The secretary shall adopt rules and regulations necessary to administer the solid waste disposal contingency fund.

Make Section 9 into a new Section 10.

0269 provisions of the act and the rules and regulations and standards  
0270 adopted thereunder the secretary shall approve the application  
0271 and shall issue a permit for the operation of each solid waste  
0272 processing or disposal facility or area set forth in the application.  
0273 In the event that the facility or area fails to meet the rules and  
0274 regulations and standards required by this act the secretary shall  
0275 issue a report to the applicant stating the deficiencies in the  
0276 application. The secretary may issue temporary permits condi-  
0277 tioned upon corrections of construction methods being com-  
0278 pleted and implemented.

0279 (c) The annual fee for a solid waste processing or disposal  
0280 permit shall be, \$50 and no refund shall be made in case of  
0281 revocation. All fees shall be deposited in the general fund in the  
0282 state treasury. A city, county, other political subdivision or state  
0283 agency shall be exempt from payment of the fee but shall meet  
0284 all other provisions of this act.

0285 (d) Plans, designs and relevant data for the construction of  
0286 solid waste processing facilities and disposal sites shall be pre-  
0287 pared by a professional engineer licensed to practice in Kansas  
0288 and shall be submitted to the department for approval prior to  
0289 the construction, alteration or operation of such facility or area.  
0290 In adopting rules and regulations, the secretary may specify  
0291 sites, areas or facilities where the environmental impact is min-  
0292 imal and may waive such preparation requirements provided  
0293 that a review of such plans is conducted by a professional  
0294 engineer licensed to practice in Kansas.

0295 (e) Each permit granted by the secretary, as provided in this  
0296 act, shall be subject to such conditions as the secretary deems  
0297 necessary to protect human health and the environment and to  
0298 conserve the sites. Such conditions shall include approval by the  
0299 secretary of the types and quantities of solid waste allowable for  
0300 processing or disposal at the permitted location.

0301 (f) As a condition of granting a permit to operate any proc-  
0302 essing facility or disposal area for solid waste, the secretary shall  
0303 may require the permittee to provide surety bond, cash bond or a  
0304 secured trust fund and liability insurance, including coverage  
0305 against non-sudden occurrences, or any combination thereof, in

0306 such amount as determined necessary by the secretary to insure  
0307 the financial responsibility of the permittee for any liability  
0308 incurred in the operation of the facility or area and to insure that,  
0309 upon abandonment, cessation or interruption of the operation of  
0310 the facility or area, all appropriate measures are taken to prevent  
0311 present or future damage to human health and the environment.  
0312 Any such liability insurance as may be required pursuant to this  
0313 subsection or pursuant to the rules and regulations of the secre-  
0314 tary shall be issued by an insurance company authorized to do  
0315 business in Kansas or by a licensed insurance agent operating  
0316 under authority of K.S.A. 40-246b, *and amendments thereto*, and  
0317 shall be subject to the insurer's policy provisions filed with and  
0318 approved by the commissioner of insurance pursuant to K.S.A.  
0319 40-216, *and amendments thereto*, except as authorized by K.S.A.  
0320 40-246b, *and amendments thereto*. Nothing contained in this  
0321 subsection shall be deemed to apply to any political subdivision,  
0322 state agency, department or agency of the federal government or  
0323 to any independent contractor operating a solid waste disposal  
0324 area as a part of an approved solid waste management plan for  
0325 which equivalent surety is provided to a political subdivision or  
0326 federal or state agency.

0327 (g) Permits granted by the secretary, as provided in this act,  
0328 shall be revoked or subject to suspension whenever the secre-  
0329 tary shall determine that the solid waste processing or disposal  
0330 facility or area is, or has been constructed or conducted in  
0331 violation of the act or the rules and regulations or standards  
0332 adopted pursuant to the act, or is creating a hazard to persons or  
0333 property in the area or to the environment, or is creating a public  
0334 nuisance.

0335 (h) In case any permit is denied, suspended or revoked the  
0336 person, city, county or other political subdivision or state agency  
0337 may request a hearing before the secretary in accordance with  
0338 K.S.A. 65-3412, *and amendments thereto*.

0339 Sec. 10. K.S.A. 65-3407 is hereby repealed.

0340 Sec. 11. This act shall take effect and be in force from and  
0341 after its publication in the statute book.