

Approved 4-10-87
Date

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~~ on March 26, 1987 in room 123-S of the Capitol.

All members were present except:
Senator Eric Yost

Committee staff present:
Ramon Powers - Research
Don Hayward - Revisor
Nancy Jones - Secretary

Conferees appearing before the committee:

Discussion of a bill draft to establish a state authority which would own and operate a LLRW disposal facility. (Attachment A)

Chairman Werts stated that if Kansas withdraws from the Compact, an alternative plan is needed. As it is uncertain if having an LLRW authority in place would be consistent with being part of a compact, SB 114 and HB 2108 will be considered following possible action on the proposed bill. Under the bill draft the state would have the authority, under certain circumstances, to use underground burial as an option using known available technology.

Senator Feleciano and Senator Hayden feel the views of the Governor regarding withdrawal from the compact and the establishment of a state authority should be made known to the Committee as action must be taken promptly.

Senator Kerr made the observation that many citizens of the state will be affected by committee action and are totally uninformed regarding the proposed bill and the intent of the Committee in requesting the bill. Senator Kerr feels it is very important not to ignore the citizens on this issue. Senator Martin stressed the importance of a thorough debate on the site location even though land has already been offered by a responsible landowner. Sources researched for the bill draft were Texas statutes on LLRW, statutes relating to the Turnpike Authority and those permitting the sale of revenue bonds and permitting borrowing from the pooled money investment board.

Senator Gordon commented that citizens in his area are uneducated regarding a definition of underground burial and more detailed information should be made available to Committee members to clarify the issue with constituents. Senator Daniels feels it is imperative to set a state policy on LLRW this session.

Section 10 of the bill draft states only LLRW generated in Kansas will be stored and disposed of. This policy may be in conflict with the U.S. supremacy clause, which could lead to court action. Under federal law, if a state has to accept waste from another state, a surcharge may be added which increases with the length of time waste is brought into a state. The inclusion of "storage" in Section 1, Subsection (c) implies design capability for retrieval and this is the unquestioned intent of the Committee. Appointment of members to the Authority was discussed in detail. The Authority will consist of five members to be appointed by the Governor as follows: a geologist, a nuclear engineer, a physician trained in nuclear medicine and two appointees from the general public.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES,
room 123-S, Statehouse, at 8:00 a.m./~~P.M.~~^{XX} on March 26, 1987

The Authority to be established should be granted the power to enter into agreements with other states. Committee members also feel the power of eminent domain for the state in the selection of site locations should be perfectly clear and financial provision for perpetual care of the facility must be made. All sections of the bill were addressed by the Committee for "clean up" of language, which will be further refined during future hearings.

Motion was made to request introduction of the bill by the Senate Federal & State Affairs Committee, by Senator Feleciano, seconded by Senator Vidricksen. Motion carried.

Meeting adjourned. The next meeting is March 30, 1987.

Sunat Energy - Guest List

3-26-87

James Power	Topeka	KDHE
Harold Spiker	Topeka	KDHE
Nedert Anderson	St. Lawrence	Med. Cont. O. S. J. J.
Bob Mantz	Topeka	KR
Marshall Clark	Topeka	KSPCO
Joey Casner	"	KGEE
John Blythe	Manhattan	KFB
Laura Neukusen	Juwell	NCK Citizens
John D. McClure	Glen Elder	NCK Citizens
David Ebbert	Quinter	
Ed Reinert	Topeka	Ks L W V S
Shawn McGrath	Topeka	Sierra Club
Hispeth Byer	Topeka	KNRC
Rich McFee	Topeka	KLA

_____ BILL NO. _____

By

AN ACT relating to the disposal of low-level radioactive wastes; establishing the Kansas low-level radioactive waste disposal authority; prescribing powers and duties therefor; amending K.S.A. 1986 Supp. 48-1622 and repealing the existing section; also repealing K.S.A. 1986 Supp. 48-1620.

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

New Section 1. As used in this act:

(a) "Authority" means the Kansas low-level radioactive waste disposal authority;

(b) "Department" means the department of health and environment;

(c) "Disposal site" means the property and facilities acquired, constructed and owned by the authority at which low-level radioactive waste may be processed and may be disposed of permanently.

(d) "Low-level radioactive waste" shall have the meaning ascribed thereto by subsection (k) of K.S.A. 48-1603, and amendments thereto;

(e) "On-site operator" means a person who is employed by or who contracts with the authority and who is responsible for supervising the overall operations of the disposal site.

(f) "Operation" means the control, supervision and implementation of the actual physical activities involved in the receipt, processing, packaging, storage, disposal and monitoring of low-level radioactive waste at a disposal site and the maintenance of the disposal site and any other responsibilities designated by the authority as part of the operation.

(g) "Person" means an individual, corporation, partnership, firm, association, trust, estate, public or private institution,

Attachment A

group, government or governmental subdivision or agency, or other legal entity or any legal successor to or representative, agent or agency of any of these; and

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

New Sec. 2. (a) In furtherance of the policy of this state with respect to the disposal of low-level radioactive waste as contained in K.S.A. 48-1601, and amendments thereto, there is hereby created the Kansas low-level radioactive waste disposal authority. The authority shall be composed of seven members of whom five shall be appointed by the governor subject to confirmation by the senate as provided in K.S.A. 75-4315b, and amendments thereto. Of the appointed members, one shall be a medical doctor licensed to practice medicine in this state, one shall be an attorney licensed to practice law in this state, one shall be a geologist and two shall represent the interests of the general public. The chairperson of both the senate and house of representatives standing committee on energy and natural resources shall be members of the authority. The appointed members of the authority shall serve for four year terms. In the case of a vacancy in the appointed membership of the authority, the vacancy shall be filled for the unexpired term by appointment in the same manner that the original appointment was made.

(b) The authority shall elect one member as chairperson of the authority and another as vice-chairperson. Three members of the authority shall constitute a quorum and the affirmative vote of three members shall be necessary for any action taken by the authority.

(c) Members of the authority attending meetings of such authority or attending a subcommittee meeting thereof authorized by the authority shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

New Sec. 3. The authority shall have exclusive jurisdiction with respect to the site selection and construction, operation,

maintenance, closing and financing of disposal sites. Notwithstanding the foregoing, the department and the secretary shall continue and retain all of their respective authority and duty to regulate, inspect and monitor any such disposal sites.

New Sec. 4. For the purpose of carrying out this act, the authority may:

(a) Apply for, accept, receive and administer gifts, grants and other funds available from any source;

(b) enter into contracts with the federal government and its agencies, the state and its other agencies, interstate agencies, local governmental entities and private entities for the purpose of carrying out this act;

(c) conduct, request and participate in studies, investigations and research relating to selection, preparation, construction, operation, maintenance, decommissioning, closing and financing of sites and disposal of low-level radioactive waste;

(d) advise, consult and cooperate with the federal government and its agencies, the state and its other agencies, interstate agencies, local governmental entities within the state and private entities;

(e) acquire, hold and dispose of real and personal property in the exercise of its powers and duties under this act;

(f) issue revenue bonds of the authority payable solely from fees pledged for their payment;

(g) construct and equip facilities to dispose of low-level radioactive wastes;

(h) make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act;

(i) employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers and such other employees and agents as may be necessary in its judgment, and to fix their compensation; and

(j) do all acts and things necessary or convenient to carry

out the powers expressly granted in this act.

New Sec. 5. (a) The authority shall develop and operate or contract for operation of one disposal site for the disposal of low-level radioactive waste in Kansas.

(b) (1) The authority shall make studies or contract for studies to be made of the future requirements for disposal of low-level radioactive waste in this state and to determine the areas of the state that are relatively more suitable than others for low-level radioactive waste disposal activities.

(2) In studying future requirements and relative suitability, the authority and any persons with which it contracts under this section shall consider the following:

(A) The volume of low-level radioactive waste generated by type and source categories for the expected life of the site;

(B) geology;

(C) surface characteristics (topography);

(D) other aspects of transportation and access;

(E) meteorology;

(F) population density;

(G) surface and subsurface hydrology;

(H) flora and fauna;

(I) current land use;

(J) the proximity to sources of low-level radioactive waste, including related transportation costs, to the extent that the proximity and transportation costs do not interfere with selection of the best site for protecting public health and the environment;

(K) other site characteristics as may need study on a preliminary basis that would require detailed study to prepare any application or license required for site operation; and

(L) alternative management techniques, including aboveground isolation facilities, waste processing and reduction both at the site of waste generation and at an authority management site, and waste recycling.

(3) The studies may be performed either by the authority's

staff or under contract with others.

(4) No low-level radioactive waste may be disposed of in a landfill below the natural level of the disposal site unless:

(A) State or federal regulatory programs for low-level radioactive waste preclude or recommend against aboveground disposal; or

(B) the authority has determined that below ground disposal provides greater protection than aboveground disposal for the environment and public health for the period of time for which the low-level radioactive waste will continue to pose a hazard to the environment and public health.

(c) (1) On completion of the studies required by this section, the authority shall select two or more potential disposal sites for further analysis.

(2) The authority shall evaluate or contract to have evaluated the preoperating costs, operating costs, maintenance costs and costs of decommissioning and extended care and the socioeconomic, environmental and public health impacts associated with each of these potential sites.

(3) Socioeconomic impacts to be evaluated shall include fire, police, educational, utility, public works, public access, planning and other governmental services and assumed and perceived risks of the disposal sites and disposal activities.

(4) Public officials and members of local boards or governing bodies of local political subdivisions of the state within which a potential site is located shall be invited to participate in appropriate evaluation activities.

(d) (1) On receiving the results of the studies and evaluations required under this act, the authority shall select the site that appears from the studies to be the most suitable for a disposal site and shall hold a public hearing to consider whether or not that site should be selected as the disposal site and give 30 days notice thereof, published once a week for four consecutive weeks preceding the hearing, in the official county newspaper of the county of the disposal site. The hearing shall

be commenced in the county seat at the county courthouse in which the proposed disposal site is located.

(2) Before giving notice of the hearing, the authority shall prepare a report that includes detailed information regarding all aspects of the disposal site selection process, criteria for site selection as established by the appropriate licensing authority, and summaries of the studies and evaluations required under this section and shall make this report available to the public. The authority may contract for the distribution of the report and may hold or contract with others to hold informational seminars for the public.

(3) On a thorough consideration of the studies and evaluations relating to site selection required under this section, the criteria required to be used in those studies, and testimony and evidence presented at the hearing, the authority shall determine if the proposed disposal site should be selected, and if the authority selects that site as the disposal site, the authority shall issue an order designating that site as the ~~proposed~~ proposed disposal site, shall issue a final report, and shall prepare necessary applications, disposal plans, and other material for obtaining licenses and other authorizations for the disposal site. If the authority determines that the proposed site should not be selected, it shall issue an order rejecting selection of the site and shall call another hearing to consider another site that appears from the studies and evaluations under this section to be suitable. The authority shall continue to follow the procedures under this section until a suitable disposal site is selected.

(4) A copy of the final report and order selecting a disposal site shall be submitted to the governor and to the legislature for informational purposes.

New Sec. 6. (a) The authority shall submit to all federal and state agencies from which it must obtain licenses and other types of authorization to construct and operate disposal sites necessary applications and information to obtain those licenses

and authorizations.

(b) The authority shall cooperate with appropriate federal and state agencies in the licensing and authorization process and shall supply any additional information and material requested by those agencies. As a condition for obtaining a license, the authority shall submit to the department or its designee evidence as to the reasonableness of any technique to be practiced at the proposed disposal site for managing low-level radioactive waste. Before determining the techniques to be used, the authority shall study alternative techniques for managing low-level radioactive waste, including waste processing and reduction at the site of waste generation and at the disposal site, and the use of aboveground isolation facilities.

(c) If the application of the authority for a license for the proposed disposal site is denied, the authority shall give notice and hold a hearing on an alternative site, and shall consider and select an alternative site for the disposal site in the manner provided by this act for the selection of the original proposed disposal site.

(d) The authority shall provide financial security in the form and manner required by federal and state agencies under federal and state laws and rules adopted under those laws. Supplemental financial security shall be provided as required by any federal or state agency.

Sec. 7. K.S.A. 1986 Supp. 48-1622 is hereby amended to read as follows: 48-1622. (a) The secretary is authorized to enter into negotiations for a compact with other states for the establishment and operation of a regional low-level radioactive waste disposal site which, before being put into effect, shall be ratified by the legislatures of three states and consented to by the Congress of the United States.

(b) The state authority is authorized to accept or acquire, by gift, transfer or purchase, from another governmental agency or private person, suitable sites including land and appurtenances for the disposal of low-level radioactive waste.

Sites received by gift or transfer are subject to approval and acceptance by the legislature.

(c) Lands and appurtenances which are used for the disposal of low-level radioactive waste shall be acquired in fee simple absolute and used exclusively for such purpose, unless or until the secretary determines that such exclusive use is not required to protect the public health, safety, welfare or environment. Before such site is leased for other use, the secretary shall require and assure that the low-level radioactive waste history of the site be recorded in the permanent land records of the site. All low-level radioactive material accepted by the site operator or by any agent of the site operator for disposal on a low-level radioactive waste disposal site shall become the property of the state.

(d) The state authority is authorized to arrange for the availability of a service for disposal of low-level radioactive waste by contract operation of a disposal site acquired pursuant to subsection (b) or already owned by the state or operate and manage the same itself. A contract operator shall be subject to the surety and long-term care funding provisions of this act and to appropriate licensing by the United States nuclear regulatory commission or by the secretary under K.S.A. 48-1607, and amendments thereto.

(e) The secretary shall not approve any application for a license to receive low-level radioactive waste from other persons for disposal on land not owned by the state or federal government.

New Sec. 8. (a) The authority shall cause to be constructed on the disposal site all works and facilities and improvements necessary to prepare for disposal and permanently dispose of low-level radioactive waste.

(b) Preparation and construction of works and facilities at the disposal site shall be done in a manner that will comply with the rules and standards for disposal sites adopted by federal and state agencies and with the disposal plans of the authority.

(c) The authority may contract with any person to construct any part of the works and facilities or from time to time make improvements at the disposal site, provided the contract specifically provides for termination by the authority for failure of the contractor to comply with federal and state standards and rules or with the authority's disposal plans.

(d) Construction contracts and contracts for the purchase of materials, machinery, equipment or supplies shall be subject to the provisions of K.S.A. 75-3738 et seq., and amendments thereto.

New Sec. 9. (a) (1) Subject to the limitations in this section and section 10, each disposal site shall accept for disposal all low-level radioactive waste that is presented to it and that is properly processed and packaged.

(2) The secretary shall adopt rules and regulations relating to the packaging of low-level radioactive waste, and an inspector employed by the department shall inspect all packaged low-level radioactive waste before it is transported to a Kansas permanent disposal site. The rules and regulations of the department shall provide that the department charge a reasonable fee for the inspection. The fee shall be limited to the cost of the inspection of the low-level radioactive waste.

(b) For shipments of low-level radioactive waste that are in excess of 75 cubic feet, the person making the shipment shall give the on-site operator of the disposal site written notice of the shipment containing information required by the authority at least 72 hours before shipment of the low-level radioactive waste to the disposal site begins.

(c) On arrival of a shipment of low-level radioactive waste at a disposal site, the on-site operator or agent shall determine that the waste complies with all laws, rules and standards relating to processing and packaging of low-level radioactive waste before the waste is accepted for disposal at the disposal site.

(d) If low-level radioactive waste that is not properly

processed or packaged arrives at a disposal site, the on-site operator or the operator's agent shall properly process and package the waste for disposal and charge the person making the shipment the fee required by section 11.

(e) The on-site operator or agent shall report to the federal and state agencies that establish rules and regulations and standards for processing, packaging and transportation of low-level radioactive waste any person who delivers to a disposal site low-level radioactive waste that is not properly processed or packaged.

New Sec. 10. (a) Only low-level radioactive waste that is generated within the state of Kansas may be accepted by a disposal site.

(b) The authority shall exclude certain types of low-level radioactive waste from a disposal site if the low-level radioactive waste is incompatible with disposal operations.

New Sec. 11. Disposal sites shall be used for permanent storage of low-level radioactive wastes, and the authority may adopt any methods and techniques for permanent disposal that comply with federal and state standards for low-level radioactive waste disposal and that protect the public health and safety and the environment. Also, the authority may provide facilities at disposal sites for processing and packaging low-level radioactive waste for disposal.

New Sec. 12. (a) To protect the public health and safety and the environment, the authority, after notice and hearing, shall adopt an emergency response plan for each disposal site to be implemented in the event a disposal site becomes a threat to the public health or safety or the environment.

(b) The authority shall cooperate with and seek the cooperation of federal and state agencies responsible for regulating disposal sites and of federal, state and local agencies engaged in disaster relief activities.

New Sec. 13. On finding by the authority, after notice and hearing, that a disposal site should be closed, the authority and

any operator with which it has contracted shall proceed with decommissioning of the disposal site in compliance with federal and state laws and rules and standards adopted under those laws and with rules and plans of the authority.

New Sec. 14. At least 60 days before each regular session, the authority shall submit to the appropriate committees of the legislature a biennial report that shall serve as a basis for periodic oversight hearings on the authority's operations and on the status of interstate compacts and agreements.

New Sec. 15. The authority shall ensure that the design of facilities for low-level radioactive waste disposal incorporates, insofar as possible, safeguards against hazards resulting from local meteorological conditions including, without limitation, such phenomena as violent storms, hurricanes, tornados, earthquakes, earth tremors and susceptibility to flooding.

New Sec. 16. (a) Expenses of the authority shall be paid from fees authorized and collected under this section and appropriations made by the legislature.

(b) (1) The authority shall have collected a waste disposal fee to be paid by each person who delivers to the authority low-level radioactive waste for disposal.

(2) The authority shall adopt and periodically revise by rule and regulation a schedule of waste disposal fees based on the volume of low-level radioactive waste delivered for disposal and the relative hazard presented by each type of low-level radioactive waste that is delivered to the disposal site. In determining relative hazard, the authority shall consider the radioactive, physical and chemical properties of each type of low-level radioactive waste.

(3) Waste disposal fees adopted by the authority shall be sufficient to allow the authority to recover operating and maintenance costs, expenses incurred before beginning operation of the site amortized over a period of not more than 20 years beginning on the first day of operation of the disposal site, an amount necessary to meet future costs of decommissioning and

closing the disposal site, an amount necessary to pay licensing fees and to provide security required by the department under laws and rules and regulations of the secretary.

(c) The authority shall adopt and periodically revise by rule and regulation a schedule of processing and packaging fees based on the volume of improperly processed or packaged low-level radioactive waste delivered for disposal and on the cost to the authority for processing and packaging the waste properly in compliance with federal and state standards.

New Sec. 17. The authority is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of revenue bonds of the authority for the purpose of paying all or any part of the cost of acquisition and construction of disposal sites. The principal of and the interest on such bonds shall be payable solely from waste disposal fees. The bonds of each issue shall be dated, shall bear interest at such rate not exceeding the maximum rate of interest prescribed by K.S.A. 10-1009, and amendments thereto, shall mature at such time not exceeding 40 years from their date, as determined by the authority, and may be made redeemable before maturity, at the option of the authority, at such price and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination of the bonds and the place of payment of principal and interest, which may be at any bank or trust company within or without the state. The bonds shall be signed by the chairperson of the authority or shall bear a facsimile signature of the chairperson, and the official seal of the authority shall be impressed thereon and attested by the secretary-treasurer of the authority. Any coupons attached thereto to such bonds shall bear the facsimile signature of the chairperson of the authority. In case any officer whose signature or a facsimile of whose signature appears on any bonds or coupons shall cease to be such officer before the delivery of such bonds,

such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery. All bonds issued under the provisions of this act shall have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state. The bonds may be issued in coupon or in registered form, or both, as the authority determines, and provision may be made for the registration of any coupon bonds as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. The authority may sell such bonds in such manner and for such price as it determines will best effect the purposes of this act.

The proceeds of the bonds of each issue shall be used solely for the payment of the cost of acquisition and construction of disposal sites for which such bonds have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the authority provides in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue exceed such cost, surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The authority may also provide for the replacement of

any bonds which are mutilated, destroyed or lost. Bonds may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau or agency of the state and without any other proceedings or the happening of any other conditions or things than those proceedings or conditions which are specifically required by this act.

New Sec. 18. Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision thereof, but all such bonds shall be payable solely from the revenues received from waste disposal fees. All such revenue bonds shall contain on the face thereof a statement to the effect that neither the state nor the authority shall be obligated to pay the same or the interest thereon except from revenues of disposal sites for which they are issued and that neither the faith and credit nor the taxing power of the state or any political subdivision thereof is pledge to the payment of the principal of or the interest on such bonds.

All expenses incurred in carrying out the provisions of this act shall be payable solely from funds provided under the authority of this act and no liability or obligation shall be incurred by the authority hereunder beyond the extent to which moneys shall have been provided under the provisions of this act.

New Sec. 19. The waste disposal fees derived from the disposal site in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the principal of and the interest on

such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the waste disposal fees so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another.

New Sec. 20. In the discretion of the authority any bonds issued under the provisions of this act may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the waste disposal fees to be received, but shall not convey or mortgage any disposal site. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the disposal site in connection with which such bonds shall have been authorized, the

waste disposal fees to be charged, and the custody, safeguarding and application of all moneys.

It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of the disposal site.

New Sec. 21. All moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as waste disposal fees, shall be deemed to be trust funds to be held and applied solely as provided in this act. The resolution authorizing the bonds of any issue or the trust agreement securing such bonds shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustees of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this act and such resolution or trust agreement may provide.

New Sec. 22. Any holder of bonds issued under the provisions of this act or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the state or granted hereunder or under such trust agreement or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all

duties required by this act or by such trust agreement or resolution to be performed by the authority or by any officer thereof, including the fixing, charging and collecting of waste disposal fees.

New Sec. 23. The exercise of the powers granted by this act will be in all respects for the benefit of the health and welfare of the people of the state and, as the acquisition, construction and operation of disposal sites by the authority will constitute the performance of essential governmental functions, the authority shall not be required to pay any taxes or assessments upon the income derived from disposal sites or property acquired or used by the authority under the provisions of this act. Any bonds issued under the provisions of this act, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation within the state. The authority shall pay payments in lieu of ad valorem property taxes as determined in negotiation with the board of county commissioners of the county wherein a disposal site is located.

New Sec. 24. Bonds issued by the authority under the provisions of this act are hereby made securities in which all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now or may hereafter be authorized by law.

New Sec. 25. To provide for the payment of the costs of acquisition and construction of disposal sites, the pooled money investment board is authorized and directed to loan to the authority sufficient funds therefor, except that no such loan shall be made unless the terms thereof have been approved by the

state finance council acting on this matter which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c. The pooled money investment board is authorized and directed to use any moneys in the active accounts, inactive accounts or time deposits, open accounts, of the state of Kansas to provide the funds for such loan. Such loan shall bear interest at a rate equal to the interest rate being paid on state inactive account moneys at the time of the making of such loan. The loan principal and interest thereon shall be payable solely from revenues derived from charges imposed for the use of the disposal site, or as otherwise provided by law. Such loan shall not be deemed to be an indebtedness or debt of the state of Kansas within the meaning of section 6 of article 11 of the constitution of the state of Kansas.

Sec. 26. K.S.A. 1986 Supp. 48-1620 and 48-1622 are hereby repealed.

Sec. 27. This act shall take effect and be in force from and after its publication in the statute book.