

Approved

Ken Grotewiel  
Date 3/27/91

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES

The meeting was called to order by Representative Ken Grotewiel at  
Chairperson

3:30 ~~xxx~~ p.m. on March 25, 1991 in room 526-S of the Capitol.

All members were present except:  
Representative Rezac, excused

Committee staff present:

Raney Gilliland, Principal Analyst, Legislative Research  
Mary Torrence, Revisor of Statutes' Office  
Pay Mah, Legislative Research  
Lenore Olson, Committee Secretary

Conferees appearing before the committee:

none

Chairperson Grotewiel called the meeting to order and directed the Committee to turn to SB 89.

A motion was made by Representative Charlton, seconded by Representative Correll, to report SB 89 favorable for passage. The motion carried.

The Chair directed the Committee to turn to SB 157.

A motion was made by Representative McClure, seconded by Representative Stevens, to amend SB 157 on page 2, Section (k) to include language which would allow reduced zone back pressure devices. The motion carried.

A motion was made by Representative McClure, seconded by Representative Thompson, to pass SB 157 favorably as amended. The motion carried.

The Chair directed the Committee to turn to SB 88.

Representative McClure reviewed a balloon amendment suggested by the Sierra Club. (Attachment 1)

A motion was made by Representative McClure, seconded by Representative Thompson, to adopt the balloon for SB 88. The motion carried.

A motion was made by Representative Holmes, seconded by Representative Webb, to amend SB 88, page 2, lines 5, 6, and 7, as shown on the attached balloon. The motion carried. (Attachment 2)

A motion was made by Representative Patrick, seconded by Representative Thompson, to conceptually amend SB 88, to add on page 4 a provision that the interest costs and finance charges for class III projects could be recouped. The motion carried.

A motion was made by Representative McClure, seconded by Representative Lynch, to pass SB 88 favorably as amended. The motion carried.

The Chair directed the Committee to turn to HB 2309.

Representative Mollenkamp reviewed a balloon with several proposed amendments to HB 2309.

A motion was made by Representative Mollenkamp, seconded by Representative Gatlin, to adopt the balloon for HB 2309. The motion carried. (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES,  
room 526-S Statehouse, at 3:30 ~~am~~/p.m. on March 25, 1991

A motion was made by Representative Lloyd, seconded by Representative Hendrix, to table HB 2309. The motion failed.

A motion was made by Representative Mollenkamp, seconded by Representative Gatlin, to pass HB 2309 favorably as amended. The motion carried.

The Chair directed the Committee to turn to HB 2195. (Attachment 4)

A motion was made by Representative Hendrix, seconded by Representative Corbin, to table HB 2195. The motion carried.

A motion was made by Representative Corbin, seconded by Representative Correll, to approve the minutes of March 20, 1991. The motion carried.

The meeting adjourned.



SENATE BILL No. 88

By Committee on Energy and Natural Resources

1-30

8 AN ACT concerning the multipurpose small lakes program; relating
9 to state participation in certain projects; amending K.S.A. 82a-
10 1603, 82a-1604, 82a-1605 and 82a-1606 and repealing the existing
11 sections.

82a-326,

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

14 Section 1. K.S.A. 82a-1603 is hereby amended to read as follows:
15 82a-1603. When used in this act:

16 (a) "Chief engineer" means the chief engineer of the division of
17 water resources of the state board of agriculture.

18 (b) "Class I funded project" means a proposed new project or
19 renovation of an existing project located within the boundaries of an
20 organized watershed district which is receiving or is eligible to re-
21 ceive financial participation from the state conservation commission
22 for the flood control storage portion of the project.

23 (c) "Class II funded project" means a proposed new project or
24 renovation of an existing project which is receiving or is eligible to
25 receive financial participation from the federal government.

26 (d) "Class III funded project" means a proposed new project or
27 renovation of an existing project located outside the boundaries of
28 an organized watershed district which is not receiving or is not
29 eligible to receive financial participation from the state conservation
30 commission or the federal government except as provided in K.S.A.
31 82a-1606, and amendments thereto.

32 (e) "Flood control storage" means storage space in reservoirs to
33 hold flood waters.

34 (f) "General plan" means a preliminary engineering report de-
35 scribing the characteristics of the project area, the nature and meth-
36 ods of dealing with the soil and water problems within the project
37 area, and the projects proposed to be undertaken by the sponsor
38 within the project area. Such plan shall include maps, descriptions
39 and other data as may be necessary for the location, identification
40 and establishment of the character of the work to be undertaken

41 and any other data and information as the chief engineer may require.
42 (g) "Land right" means real property as that term is defined by
43 the laws of the state of Kansas and all rights thereto and interest

; a cost-benefit analysis of alternatives to the
project, including but not limited to,
nonstructural flood control options and water
conservation and reuse to reduce need for new
water supply storage;

E+NR

3/25/91

Attachment 1

1 vide up to 50% of the engineering and construction costs and up to  
2 50% of the costs of land rights associated with recreation features.

3 (d) *The state Kansas water office may recover its the state's costs*  
4 *incurred in providing public water supply storage in such class II*  
5 *project by selling such storage and the associated water rights.*

6 Sec. 4. K.S.A. 82a-1606 is hereby amended to read as follows:  
7 82a-1606. (a) The state may participate with a sponsor in the de-  
8 velopment, construction or renovation of a class III multipurpose  
9 small lake project if the sponsor has a general plan which has been  
10 submitted to and approved by the chief engineer in the manner  
11 provided by K.S.A. 24-1213 and 24-1214, and amendments thereto.  
12 If public water supply storage is included in the project, the sponsor  
13 of such class III project shall pay for 100% of the costs associated  
14 with the public water supply storage portion of such project. *unless*  
15 *the Kansas water office determines that additional public water sup-*  
16 *ply storage shall be needed in that area of the state within 20 years*  
17 *from the time such project is to be completed and a sponsor is not*  
18 *available to finance 100% of the costs associated with the public*  
19 *water supply storage, the state may participate in the public water*  
20 *supply storage costs of the project. If the state participates in the*  
21 *public water supply storage costs, the Kansas water office shall apply*  
22 *for a water appropriation right sufficient to insure a dependable*  
23 *yield from public water supply storage. The Kansas water office shall*  
24 *be exempt from all applicable fees imposed pursuant to K.S.A. 82a-*  
25 *701, et seq. and amendments thereto, for such applications.*

26 (b) The sponsor of such class III project shall be responsible for  
27 acquiring land rights and for the costs of operation and maintenance  
28 of the project. The sponsor participating in the construction of rec-  
29 reation features of a project shall pay for that portion of the project  
30 attributable to recreation. The state may provide up to 50% of the  
31 engineering and construction costs and up to 50% of the costs of  
32 land rights associated with recreation features. The state may pay  
33 up to 100% of the engineering and construction costs of flood control  
34 storage *and public water supply storage*. All other costs of such  
35 project, including land, construction, operation and maintenance,  
36 shall be paid by the sponsor.

37 (c) *The Kansas water office may recover the state's costs incurred*  
38 *in providing public water supply storage in such class III project*  
39 *by selling such storage and the associated water rights.*

40 ~~7~~ ~~Sec. 5.~~ K.S.A. 82a-1603, 82a-1604, 82a-1605 and 82a-1606 are  
41 hereby repealed.

42 ~~8~~ ~~Sec. 6.~~ This act shall take effect and be in force from and after  
43 its publication in the statute book.

New Sec. 5. (a) Before the state conservation  
commission requests any appropriation for any  
multipurpose small lake project, the chief  
engineer shall review the cost-benefit analysis of  
alternatives to the project and shall:

(1) Submit the general plan to the  
appropriate state environmental review agencies  
pursuant to K.S.A. 82a-325, 82a-326 and 82a-327,  
and amendments thereto, for review and comment as  
provided by those sections; and

(2) publish notice of the review in the  
Kansas register, make the general plan available  
to the public and receive public comments on the  
proposed project for a period of 30 days following  
publication of the notice.

(b) If, in the review, a reasonable, less  
expensive alternative to the proposed project is  
identified in such review and the state  
conservation commission nevertheless requests an  
appropriation for the proposed project, the  
commission shall submit its reasons for proceeding  
with participation in the project, together with  
substantiating documentation, with the budget  
estimate and program statement for such project.

(c) This section shall be part of and  
supplemental to the multipurpose small lakes  
program act.

Sec. 6. K.S.A. 82a-326 is hereby amended to  
read as follows: 82a-326. When used in this act:

(a) "Water development project" means any  
project or plan which may be allowed or permitted  
pursuant to K.S.A. 24-126, 24-1213 and, 82a-301 et  
seq. or the multipurpose small lakes program act,  
and amendments thereto;

(b) "environmental review agencies" means  
the:

- (1) Kansas department of wildlife and parks;
- (2) office of extension forestry;
- (3) state biological survey;
- (4) Kansas department of health and  
environment;
- (5) state historical society;
- (6) state conservation commission; and
- (7) state corporation commission.

1 therein and shall include any road, highway, bridge, street, easement  
2 or other right-of-way thereon.

3 (h) "Multipurpose small lake project" means a dam and lake con-  
4 taining (1) flood control storage and (2) either public water supply  
5 storage or recreation features or both. The project shall include ~~land~~  
6 ~~treatment measures in the drainage area to adequately protect the~~  
7 ~~lake from siltation and pollution.~~

8 (i) "Public water supply" means a water supply for municipal,  
9 industrial or domestic use.

10 (j) "Public water supply storage" means storage of water for mu-  
11 nicipal, industrial or domestic use.

12 (k) "Recreation feature" means water storage and related facilities  
13 for activities such as swimming, fishing, boating, camping or other  
14 related activities.

15 (l) "Sponsor" means (1) any political subdivision of the state which  
16 has the power of taxation and the right of eminent domain ~~or~~; (2)  
17 any public wholesale water supply district; *or (3) any rural water*  
18 *district.*

19 (m) "Water user" means any city, rural water district, wholesale  
20 water district or any other political subdivision of the state which is  
21 in the business of furnishing municipal or industrial water to the  
22 public.

23 Sec. 2. K.S.A. 82a-1604 is hereby amended to read as follows:  
24 82a-1604. (a) The state may participate with a sponsor in the de-  
25 velopment, construction or renovation of a class I multipurpose small  
26 lake project if the sponsor has a general plan which has been sub-  
27 mitted to and approved by the chief engineer in the manner provided  
28 by K.S.A. 24-1213 and 24-1214, and amendments thereto. If the  
29 Kansas water office determines that additional public water supply  
30 storage shall be needed in that area of the state within 20 years  
31 from the time such project is to be completed and a water user is  
32 not available to finance public water supply storage, the state may  
33 include public water supply storage in the project. The Kansas water  
34 office shall apply for a water appropriation right sufficient to insure  
35 a dependable yield from the public water supply storage. *The Kansas*  
36 *water office shall be exempt from all applicable fees imposed pur-*  
37 *suant to K.S.A. 82a-701, et seq. and amendments thereto, for such*  
*applications.*

40 (b) The sponsor of such class I project shall be responsible for  
41 acquiring land rights and for the costs of operation and maintenance  
42 of such project. The sponsor participating in the construction of  
recreation features of a project shall pay for that portion of the project  
state may provide up to 50% of the

strike bracketed language and insert  
a local non point source management plan for the  
watershed(s) draining into the proposed lake.  
The plan will be approved by the State Conservation  
Commission. No state funds will be used for such  
project until such a plan is approved.

*E + NR*  
*3/25/91*  
*Attachment 2*

HOUSE BILL No. 2309

By Representatives Mollenkamp and Jennison

2-13

8 AN ACT concerning certain oil reclaiming facilities; providing for  
9 regulation and permitting thereof; prohibiting certain acts and  
10 providing penalties for violations.  
11

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

13 Section 1. As used in this act:

14 (a) "Oil reclaiming facility" means any location where oil sludge  
15 retrieved from oil field collection tanks is stored, treated or  
16 processed.

17 (b) "Person" means any individual, partnership, firm, trust, com-  
18 pany, association, corporation, institution, political subdivision or  
19 state agency or federal department or agency.

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

21 Sec. 2. The secretary shall adopt rules and regulations  
22 establishing:

23 (a) Criteria for the location of oil reclaiming facilities; and

24 (b) such standards and procedures relative to oil reclaiming fa-  
25 cilities as necessary to protect the public health and environmen-  
26 prevent public nuisances] and enable the secretary to carry out the  
27 provisions of this act.

28 Sec. 3. (a) On and after January 1, 1992, it shall be unlawful for  
29 any person to construct, alter or operate an oil reclaiming facility  
30 without first obtaining a permit from the secretary.

31 (b) Every person desiring to obtain a permit to construct, alter  
32 or operate an oil reclaiming facility shall make application for such  
33 a permit on forms provided for such purpose by the rules and  
34 regulations of the secretary and shall provide the secretary with such  
35 information as necessary to show that the facility will comply with  
36 rules and regulations adopted under this act. Upon receipt of any  
37 application and payment of the fee, the secretary, with advice and  
38 counsel from the local health authorities and the county commission,  
39 shall make an investigation of the proposed oil reclaiming facility  
40 and determine whether it complies with any rules and regulations  
41 adopted under this act. When the investigation reveals that the  
42 facility does conform with such rules and regulations, the secretary  
43 shall approve the application and shall issue a permit for the op-

Oil reclaiming facility does not include any facility under the jurisdiction of the state corporation commission.

← strike bracketed language

from the governing body of the city where the facility is or will be located or, if the facility is not or will not be within the boundaries of a city, from

K&NR  
3/25/91  
Attachment 3

1 eration of each oil reclaiming facility set forth in the application. If  
 2 the facility fails to meet the requirements of such rules and regu-  
 3 lations, the secretary shall issue a report to the applicant stating the  
 4 deficiencies in the application. The secretary may issue temporary  
 5 permits conditioned upon corrections of construction methods being  
 6 completed and implemented.

7 [(c) The annual fee for an oil reclaiming facility permit shall be  
 8 \$50 and no refund shall be made in case of revocation. All fees shall  
 9 be deposited in the general fund in the state treasury. A city, county,  
 10 other political subdivision or state agency shall be exempt from  
 11 payment of the fee but shall meet all other provisions of this act.]

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

21 (e) Each permit granted under this section shall be subject to  
 22 such conditions as the secretary deems necessary to protect human  
 23 health and the environment and to conserve the sites. Such condi-  
 24 tions shall include approval by the secretary of the types and  
 25 quantities of oil sludge allowable for storage, treatment or processing  
 26 at the permitted location.

27 (f) As a condition of granting a permit to operate any oil reclaim-  
 28 ing facility, the secretary shall require the permittee to provide  
 29 surety bond, cash bond or a secured trust fund and liability insur-  
 30 ance, including coverage against non-sudden occurrences, or any  
 31 combination thereof, in such amount as determined necessary by  
 32 the secretary to insure the financial responsibility of the permittee  
 33 for any liability incurred in the operation of the facility and to insure  
 34 that, upon abandonment, cessation or interruption of the operation  
 35 of the facility, all appropriate measures are taken to prevent present  
 36 or future damage to human health and the environment. Any such  
 37 liability insurance required pursuant to this subsection or pursuant  
 38 to the rules and regulations of the secretary shall be issued by an  
 39 insurance company authorized to do business in Kansas or by a  
 40 licensed insurance agent operating under authority of K.S.A. 40-  
 41 246b and amendments thereto and shall be subject to the insurer's  
 42 policy provisions filed with and approved by the commissioner of  
 43 insurance pursuant to K.S.A. 40-216 and amendments thereto except

(c) (1) The annual fee for an oil reclaiming facility permit shall be fixed by rules and regulations adopted by the secretary in the amount necessary to administer and enforce this act, but not to exceed \$2,500. No refund shall be made in case of revocation of the permit.

(2) The secretary shall remit at least monthly any money collected pursuant to this subsection to the state treasurer. Upon receipt of any such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury to the credit of the oil reclaimer fund, which fund is hereby established in the state treasury. Moneys in the oil reclaimer fund may be expended for the purpose of administering and enforcing the provisions of this act.

(3) On or before the 10th day of the month following the month in which moneys are first credited to the oil reclaimer fund, and monthly thereafter on or before the 10th day of the month, the director of accounts and reports shall transfer from the state general fund to the oil reclaimer fund, the amount of money certified by the pooled money investment board in accordance with this subsection (c)(3). Prior to the 10th day of the month following the month in which moneys are first credited to the oil reclaimer fund, and monthly thereafter prior to the 10th day of the month, the pooled money investment board shall certify to the director of accounts and reports the amount of money equal to the proportionate amount of all the interest credited to the state general fund for the preceding month, pursuant to K.S.A. 75-4210a and amendments thereto, that is attributable to moneys in the oil reclaimer fund. Such amount of money shall be determined by the pooled money investment board based on: (A) The average daily balance of moneys in the oil reclaimer fund during the preceding month as certified to the board by the director of accounts and reports and (B) the average interest rate on time deposit, open accounts for that period as determined under K.S.A. 75-4212 and amendments thereto. On or before the fifth day of the month following the month in which moneys are first credited to the oil reclaimer fund, and monthly thereafter on or before the fifth day of the month, the director of accounts and reports shall certify to the pooled money investment board the average daily balance of moneys in the oil reclaimer fund during the preceding month.

(4) All expenditures from the oil reclaimer fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or the secretary's designee.



B-3

1 as authorized by K.S.A. 40-246b and amendments thereto.

2 (g) Permits granted by the secretary under this section shall be  
3 revocable or subject to suspension whenever the secretary deter-  
4 mines that the oil reclaiming facility is or has been constructed or  
5 operated in violation of the rules and regulations under this act, is  
6 creating a hazard to the environment or to persons or property in  
7 the area ~~or is creating a public nuisance~~

strike bracketed language

8 (h) If any permit is denied, suspended or revoked under this  
9 section, the applicant or permittee, within 15 days after service of  
10 the order denying, suspending or revoking the permit, may request  
11 a hearing on the order. Such hearing shall be in accordance with  
12 the Kansas administrative procedure act. Action of the secretary upon  
13 such hearing shall be subject to review in accordance with the act  
14 for judicial review and civil enforcement of agency actions.

15 Sec. 4. (a) On and after January 1, 1992, it shall be unlawful for  
16 any person to construct, alter or operate an oil reclaiming facility:

- 17 (1) Without a valid permit issued under section 2;
- 18 (2) in violation of rules and regulations adopted under section 1;
- 19 or

20 (3) in violation of any condition of the permit issued for such  
21 facility.

22 (b) On and after January 1, 1992, it shall be unlawful for any  
23 person to:

- 24 (1) Store, treat or process oil sludge retrieved from oil field col-  
25 lection tanks contrary to the rules and regulations of the secretary  
26 or in such a manner as to create a public nuisance; or
- 27 (2) refuse or hinder entry, inspection, sampling and the exami-  
28 nation or copying of records related to the purposes of this act by  
29 an agent or employee of the secretary after such agent or employee  
30 identifies and gives notice of their purpose.

31 (c) Violation of this section is a class A misdemeanor.

32 Sec. 5. This act shall take effect and be in force from and after  
33 its publication in the statute book.

HOUSE BILL No. 2195

By Representatives Hensley, Everhart and Wiard

2-11

8 AN ACT concerning quarrying; providing for regulation thereof; pro-  
9 viding penalties for certain violations.

10  
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. This act shall be known and may be cited as the  
13 quarrying regulation act.

14 Sec. 2. As used in this act:

15 (a) "Person" means any individual, association, partnership, lim-  
16 ited partnership, corporation, government or other agency.

17 (b) "Quarried minerals" means any stone, shale or similar ma-  
18 terial obtained from quarrying operations. Quarried minerals does  
19 not include coal, alluvial sand or alluvial gravel.

20 (c) "Quarrying operations" means:

21 (1) Activities conducted on the surface of lands in connection  
22 with quarrying operations. Such activities include excavation for the  
23 purpose of obtaining quarried minerals, including such common  
24 methods as contour, strip, auger, mountaintop removal, box cut,  
25 open pit and area quarrying; the use of explosives and blasting; in  
26 situ distillation, retorting, leaching or other chemical or physical  
27 processing and cleaning, concentrating or other processing, prepa-  
28 ration or loading of quarried minerals at or near the quarry site.

29 (2) The areas upon which such activities occur or where such  
30 activities disturb the natural land surface. Such areas shall also in-  
31 clude any adjacent land the use of which is incidental to any such  
32 activities, all lands affected by the construction of new roads or the  
33 improvement or use of existing roads to gain access to the site of  
34 such activities and for haulage, excavations, workings, impound-  
35 ments, dams, ventilation shafts, entryways, refuse banks, dumps,  
36 stockpiles, overburden piles, spoil banks, culm banks, tailings, holes  
37 or depressions, repair areas, storage areas, processing areas, shipping  
38 areas and other areas upon which are sited structures, facilities or  
39 other property or materials on the surface, resulting from or incident  
40 to such activities.

41 (d) "Reclamation" means the reconditioning of the area of land  
42 affected by quarrying operations.

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

*ENR*  
*3/25/91*  
*Attachment 4*

—strike bracketed language

and, if determined by the secretary to be appropriate, may include preparation of such area for use as a solid waste disposal area, as defined by K.S.A. 65-3402 and amendments thereto

418

1 Sec. 3. (a) On and after January 1, 1992, no person shall engage  
2 in quarrying operations in this state unless such person possesses a  
3 valid permit issued by the secretary for the area of land affected by  
4 such quarrying operations.

5 (b) An application for a permit shall be made to the secretary  
6 and shall be in such form and contain such information as required  
7 by the secretary. Each application shall state who owns the area to  
8 be quarried and who operates the quarrying operation. In addition,  
9 the application shall be accompanied by:

- 10 (1) An application fee of \$50;
- 11 (2) proof of the applicant's legal right to the minerals to be  
12 quarried;
- 13 (3) proof of compliance with all applicable zoning regulations;
- 14 (4) maps of the area of land to be affected by the quarrying  
15 operations, which maps shall show the land before, during and after  
16 quarrying operations and shall contain such information, prescribed  
17 by rules and regulations of the secretary, as necessary to determine  
18 suitability of the site, of the planned quarrying operations and re-  
19 clamation plans; and
- 20 (5) a statement of the projected environmental impact of the  
21 quarrying operations, in such form and detail as required by the  
22 secretary.

23 (c) The secretary shall issue a quarrying permit only if the sec-  
24 retary finds that:

- 25 (1) The applicant has a legal right to the minerals to be quarried;
- 26 (2) the quarrying operations comply with all applicable zoning  
27 regulations;
- 28 (3) the location of the quarrying operations does not adversely  
29 affect public health and safety or the environment; and
- 30 (4) the applicant has submitted to the secretary sufficient plans  
31 for operation and reclamation.

32 (d) The term of a permit shall be 10 years. The fees for a permit  
33 shall be:

- 34 (1) For quarrying operations, a fee of \$50 per acre of permitted  
35 area; and
- 36 (2) for extraction of minerals, a fee established by rules and reg-  
37 ulations of the secretary, but not to exceed \$.01 per ton of minerals  
38 quarried.

39 Sec. 4. (a) The secretary shall impose such conditions on quar-  
40 rying permits as the secretary determines necessary to public health  
41 and safety and the environment. Such conditions shall include but  
42 not be limited to:

- 43 (1) Control of dust from the permittee's quarrying operations;

; and  
 (5) the applicant, in the past, has: (A) Performed adequate reclamation of areas quarried by the applicant; and (B) substantially complied with rules and regulations adopted by the secretary under this act and conditions of any permit issued to the applicant pursuant to this act

in the amount necessary to administer and enforce the provisions of this act, but not to exceed \$.05 per ton of minerals removed from the permitted area.

(e) The secretary shall remit to the state treasurer at least monthly all moneys from fees collected pursuant to this section. Upon receipt thereof, the state treasurer shall deposit the entire amount in the state treasury and credit it to the quarrying fee fund created by section 7.

protect

4-3

- 1 (2) compliance with blasting safety standards;
- 2 (3) containment of all water run-off in the permitted area;
- 3 (4) clear marking of the permitted area;
- 4 (5) identification at the entrance to the site as a quarry;
- 5 (6) reclamation of the area in accordance with recognized recla-
- 6 mation procedures; and
- 7 (7) deposit with the secretary of bond or other financial security,
- 8 satisfactory to the secretary and in an amount fixed by the secretary,
- 9 sufficient to pay the costs of reclamation.

10 (b) ~~Each person engaging in quarrying operations in this state~~  
 11 ~~shall submit to the secretary, as required by the secretary, a report~~ ← delete bracketed language  
 12 ~~on all conditions contained in the person's permit.~~

13 (c) ~~The secretary shall cause each quarrying operation in this~~  
 14 ~~state to be inspected at least quarterly and at other times when valid~~ ← delete bracketed language  
 15 ~~complaints are received by the secretary.~~

16 ~~(d) Any person engaged in quarrying operations in this state on~~ (c)  
 17 ~~the effective date of this act shall have four years after the effective~~ January 1, 1991,  
 18 ~~date of this act to comply with the conditions of the permit issued~~  
 19 ~~for such operations.~~

20 Sec. 5. (a) The secretary, upon a finding that the permittee has  
 21 failed to comply with any condition of a permit with which the  
 22 permittee is required to comply pursuant to this act, may impose  
 23 upon the permit holder a civil penalty not exceeding \$5,000 for each  
 24 day of noncompliance.

25 (b) All civil penalties assessed pursuant to this section shall be  
 26 due and payable within 35 days after written notice of the imposition  
 27 of a civil penalty is served on the person upon whom the penalty  
 28 is being imposed, unless a longer period of time is granted by the  
 29 secretary or unless the person appeals the assessment as provided  
 30 in this section.

31 (c) No civil penalty shall be imposed under this section except  
 32 upon the written order of the secretary or the secretary's designee  
 33 to the person upon whom the penalty is to be imposed, stating the  
 34 nature of the violation, the penalty imposed and the right of the  
 35 person upon whom the penalty is imposed to appeal to the secretary  
 36 for a hearing on the matter. A person upon whom a civil penalty  
 37 has been imposed may appeal, within 15 days after service of the  
 38 order imposing the civil penalty, to the secretary. If appealed, a  
 39 hearing shall be conducted in accordance with the provisions of the  
 40 Kansas administrative procedure act. The decision of the secretary  
 41 shall be final unless review is sought under subsection (d).

42 (d) Any action of the secretary pursuant to this section is subject  
 43 to review in accordance with the act for judicial review and civil

1 enforcement of agency actions.

2 ~~8~~ ~~Sec. 6.~~ The secretary shall adopt such rules and regulations as  
3 necessary to administer and enforce the provisions of this act.

4 ~~9~~ ~~Sec. 7.~~ This act shall take effect and be in force from and after  
5 its publication in the statute book.

to protect the public health  
and safety and the environ-  
ment and

Sec. 6. (a) The secretary, upon a finding that the permittee has failed to comply with any rule and regulation adopted by the secretary under this act or any condition of a permit issued to the permittee pursuant to this act, may suspend or revoke any permit held by such permittee.

(b) Any suspension or revocation of a permit under this section shall be in accordance with the Kansas administrative procedure act.

(c) Any action of the secretary pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

Sec. 7. (a) There is hereby created in the state treasury the quarrying fee fund.

(b) Moneys in the quarrying fee fund shall be expended only for the purpose of administering and enforcing the provisions of this act.

(c) On or before the 10th day of the month following the month in which moneys are first credited to the quarrying fee fund, and monthly thereafter on or before the 10th day of the month, the director of accounts and reports shall transfer from the state general fund to the quarrying fee fund, the amount of money certified by the pooled money investment board in accordance with this subsection. Prior to the 10th day of the month following the month in which moneys are first credited to the quarrying fee fund, and monthly thereafter prior to the 10th day of the month, the pooled money investment board shall certify to the director of accounts and reports the amount of money equal to the proportionate amount of all the interest credited to the state general fund for the preceding month, pursuant to K.S.A. 75-4210a and amendments thereto, that is attributable to moneys in the quarrying fee fund. Such amount of money shall be determined by the pooled money investment board based on: (1) The average daily balance of moneys in the quarrying fee fund during the preceding month as certified to the board by the director of accounts and reports, and (2) the average interest rate on time deposit, open accounts for that period as determined under K.S.A. 75-4212 and amendments thereto. On or before the fifth day of the month following the month in which moneys are first credited to the quarrying fee fund, and monthly thereafter on or before the fifth day of the month, the director of accounts and reports shall certify to the pooled money investment board the average daily balance of moneys in the quarrying fee fund during the preceding month.

(d) All expenditures from the quarrying fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or the secretary's designee.

4-4