

Approved

Ken Grotewiel
Date 3/3/92

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES

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

3:35 ~~xxx~~/p.m. on February 27, 1992 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

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

Conferees appearing before the committee:

Ron Hammerschmidt - Division of Environment, KDHE

Chairperson Grotewiel directed the Committee to discussion on HB 2899.

HB 2899 - Utility rates; dues, donations, and contributions.

A motion was made by Representative Shore, seconded by Representative Gatlin, to conceptually amend HB 2899 that if a gas utility corporation is a Subchapter S corporation, that the Corporation Commission could disallow that corporation's income tax from being included in the rate base. The motion carried.

A motion was made by Representative McClure, seconded by Representative Shore, to pass favorably as amended HB 2899.

A substitute motion was made by Representative Krehbiel, seconded by Representative Stephens, to amend HB 2899 by striking in lines 32 and 33 on page 1 the words "a percentage, not to exceed 50%, of". The motion carried.

A motion was made by Representative McClure, seconded by Representative Webb, to pass HB 2899 favorable as amended. The motion carried.

The Chair called upon Ron Hammerschmidt, KDHE, to respond to questions on HB 2801. Mr. Hammerschmidt talked about exemptions from Subtitle D regulations, state payment for monitoring wells at landfills, and a statewide management plan which could be used as a guide for counties.

Representative Charlton reviewed the Subcommittee Report on HB 2801. The recommendations of the Subcommittee are shown on (Attachment 1) in the form of a balloon.

A motion was made by Representative Charlton, seconded by Representative Gatlin, to adopt the balloon as an amendment to HB 2801. The motion carried.

A motion was made by Representative Mollenkamp, seconded by Representative Lawrence, to amend HB 2801 by striking lines 31 and 32 on page 14. The motion carried.

A motion was made by Representative Gatlin, seconded by Representative Shore, to amend the balloon in lines 42 and 43 on page 15 to read "The fee established pursuant to this section shall not exceed \$1.50 per ton or equivalent volume." The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY & NATURAL RESOURCES,
room 526-S, Statehouse, at 3:35 ~~a.m.~~ p.m. on February 27, 1992

A motion was made by Representative Lloyd, seconded by Representative Lawrence, to strike Sec. 9 on page 5, except for the words "Establish a schedule for the reduction of the waste volumes as determined by the county or groups of counties."

A substitute motion to amend the balloon was made by Representative Charlton, seconded by Representative McKechnie, and would change the two references to 10,000 population in new Sec. 10 to 20,000 population. The motion failed.

The Chair directed the Committee back to the motion by Representative Lloyd to amend Sec. 9 on page 5. The motion carried with a vote count of 10 ayes to 9 nays.

A motion was made by Representative Lawrence, seconded by Representative Patrick, to amend the balloon on page 2, letter (o) after line 30, to read "Reclamation facility means any location at which materials containing a component defined as a hazardous substance pursuant to KSA 65-3452a is processed." The motion carried.

The meeting adjourned at 5:20 p.m. with no further action on HB 2801.

HOUSE BILL No. 2801

By Committee on Energy and Natural Resources

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8 AN ACT concerning solid waste management; relating to local solid
9 waste management committees and plans; providing for the im-
10 position of certain fees and the disposition of revenues therefrom;
11 amending K.S.A. 65-3402, 65-3405, 65-3406 and 65-3415 and
12 K.S.A. 1991 Supp. 65-3407 and 65-3419 and repealing the existing
13 sections.

14
15 Be it enacted by the Legislature of the State of Kansas:

16 Section 1. K.S.A. 65-3402 is hereby amended to read as follows:
17 65-3402. The following words and phrases when used in this
18 act shall, for the purpose of this act, have the meanings re-
19 spectively ascribed to them in this section. As used in this act,
20 unless the context otherwise requires:

21 (a) "Solid waste" means garbage, refuse and other discarded ma-
22 terials including, but not limited to, solid, semisolid, sludges, liquid
23 and contained gaseous waste materials resulting from industrial, com-
24 mercial, agricultural and domestic activities. Such term shall Solid
25 waste does not include hazardous wastes as defined by subsection
26 (f) of K.S.A. 65-3430, and amendments thereto.

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

31 (c) "Solid waste processing facility" means incinerator, compost
32 plant, transfer station, recycling facility or any other location where
33 solid wastes are consolidated, temporarily stored or, salvaged or
34 otherwise processed prior to being transported to a final disposal
35 site. reclamation

36 (d) "Solid waste disposal area" means any area used for the dis-
37 posal of solid waste from more than one residential premise, or one
38 or more commercial, industrial, manufacturing, or municipal
39 operations.

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

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Attachment 1

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

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

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

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

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

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

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

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

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

31 Sec. 2. K.S.A. 65-3405 is hereby amended to read as follows:
32 65-3405. (a) ~~On or before January 1, 1971, each county shall~~
33 ~~organize a solid waste management committee provided for in~~
34 ~~subsection (b) of this section. On or before June 30, 1974, each~~
35 ~~county with a population in excess of thirty thousand (30,000)~~
36 ~~and each city located therein which elects pursuant to sub-~~
37 ~~section (b) of this section to exclude such city from the county~~
38 ~~plan shall submit to the secretary a workable plan for the man-~~
39 ~~agement of solid waste within such county or city. On or before~~
40 ~~June 30, 1974, each county with a population of from fifteen~~
41 ~~thousand (15,000) to thirty thousand (30,000) and each city lo-~~
42 ~~cated therein which elects pursuant to subsection (b) of this~~
43 ~~section to exclude such city from the county plan shall submit~~

(o) "Reclamation facility" means any location where there is processed material containing a component listed by the secretary as potentially harmful to human health.

1 to the secretary a workable plan for the management of solid
2 waste within such county or city. On or before June 30, 1974,
3 each county with a population of less than fifteen thousand
4 (15,000) and each city located therein which elects pursuant to
5 subsection (b) of this section to exclude such city from the
6 county plan *Each county of this state shall submit to the secretary*
7 *a workable plan for the management of solid waste in such county*
8 *or city. The plan developed by each county or city shall be adopted*
9 *by the governing body of such county or city and. Two or more*
10 *counties, by interlocal agreement entered into pursuant to K.S.A.*
11 *12-2901 et seq., and amendments thereto, may develop and adopt*
12 *a regional plan in lieu of separate county plans. County and regional*
13 *plans shall be amended from time to time as changing conditions*
14 *occur by the filing of revisions to said plan with the secretary.*
15 *Nothing in this act shall be construed to supersede or oust the*
16 *jurisdiction of any local solid waste control program in oper-*
17 *ation on the effective date of this act: Provided, That within*
18 *two (2) years from such date, any such program shall meet all*
19 *the requirements of this act for a local solid waste control*
20 *program. Any approval required shall be deemed granted un-*
21 *less action is taken to the contrary filing revisions with the*
22 *secretary.*

23 (b) There is hereby created in each county of this state a
24 solid waste management committee which shall include one
25 (1) member of the board of county commissioners, the county
26 engineer, the county health officer or his designated represen-
27 tative, the director of planning if one exists, one representative
28 from each city and township served by the county solid waste
29 management plan, two members who shall be selected from
30 the public at large. *City members of the solid waste manage-*
31 *ment planning committee shall be established in each county or*
32 *group of counties cooperating in a regional plan a solid waste man-*
33 *agement committee. Subject to the requirements of this section, the*
34 *membership of the committee, the terms of committee members, the*
35 *organization of the committee and selection of its officers shall be*
36 *determined by the county or counties by interlocal agreement entered*
37 *into pursuant to K.S.A. 12-2901 et seq., and amendments thereto.*
38 *The membership of the committee shall include: (1) At least one*
39 *member representative of each class of city located within the county*
40 *or counties; (2) representatives of the general public, citizen organ-*
41 *izations, private industry, any private solid waste management in-*
42 *dustry operating in the county or counties and any private recycling*
43 *or scrap material processing industry operating in the county or*

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1 counties; (3) the recycling coordinator, if any, of the county or
2 counties; and (4) any other persons deemed appropriate by the
3 county or counties including, but not limited to, county commis-
4 sioners, county engineers, county health officers and county plan-
5 ners. Members representing cities shall be selected by the mayors
6 of the cities represented and the members of the public at large
7 other members shall be selected by the board of county
8 commissioners.

9 (c) The solid waste management committee shall: (1) Be respon-
10 sible for the preparation of the solid waste management plan of the
11 county or group of counties participating in the committee; (2) review
12 the plan at least annually and submit to the secretary or the se-
13 cretary's designee any recommendations for revision of the plan; and
14 (3) at least every five years hold a public hearing on the plan and
15 future goals of solid waste management in the county or group of
16 counties.

17 (d) Each county or group of counties is required to adopt and
18 implement a solid waste management plan pursuant to this section
19 and is responsible for continued and ongoing planning for systematic
20 solid waste management within the boundaries of such county or
21 group of counties. Each county or group of counties shall demon-
22 strate that its planning process includes regular communication with
23 other counties or groups of counties and reflects consideration of
24 planning and solid waste management practices that are ongoing in
25 the state. The solid waste management plan submitted by of each
26 county or group of counties shall provide for a solid waste manage-
27 ment system plan to serve the residents of all townships and cities
28 within the county or group of counties except for those cities
29 which elect to be excluded from the county plan by resolution
30 adopted by the city governing body thereof: *Provided*, That
31 the county plan shall take reasonable cognizance of separately
32 prepared plans developed by cities within such county.

33 (e) (e) Every plan shall:

34 (1) Delineate areas within the jurisdiction of the political sub-
35 division where waste management systems are in existence and areas
36 where the solid waste management systems are planned to be avail-
37 able within a ~~ten-year~~ 10-year period.

38 (2) Reasonably conform to the rules, and regulations, standards
39 and procedures adopted by the secretary for implementation of this
40 act.

41 (3) Provide for the orderly extension of solid waste management
42 systems in a manner consistent with the needs and plans of the
43 whole area, and in a manner which will not contribute to pollution

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1 of the waters or air of the state, nor constitute a public nuisance
2 and shall otherwise provide for the safe and sanitary disposal of solid
3 waste.

4 (4) Take into consideration existing comprehensive plans, pop-
5 ulation trend projections, engineering and economics so as to delin-
6 eate with practicable precision those portions of the area which may
7 reasonably be expected to be served by a solid waste management
8 system within the next ~~ten~~ (10) 10 years.

9 (5) Take into consideration existing acts and regulations affecting
10 the development, use and protection of air, water or land resources.

11 (6) Establish a time schedule and revenue schedule for the de-
12 velopment, construction and operation of the planned solid waste
13 management systems, together with the estimated cost thereof.

14 (7) Describe the elements of the plan which will require public
15 education and include a plan for delivering such education.

16 (8) Include such other reasonable information as the secretary
17 shall require requires.

18 (9) Establish a schedule for the reduction of ~~the waste volumes~~
19 ~~with goals of 25% by 1997, and 50% by 2002 in consideration of~~
20 ~~the following:~~

21 ~~(A) Resource conservation;~~

22 ~~(B) reduction;~~

23 ~~(C) reuse and recycling;~~

24 ~~(D) processing treatment; and~~

25 ~~(E) land disposal.~~

26 (d) (f) The plan and any revision of the plan shall be reviewed
27 by appropriate official planning agencies within the area covered by
28 the plan for consistency with programs of comprehensive planning
29 for the area, and. All such reviews shall be transmitted to the
30 secretary with the proposed plan or revision.

31 (e) (g) The secretary is hereby authorized to approve or disap-
32 prove plans for solid waste management systems, or revisions of such
33 plans, submitted in accordance with this act. In the event any plan
34 If a plan or revision is disapproved, the secretary shall furnish any
35 and all reasons for such disapproval, and any city, county or po-
36 litical subdivision the county or group of counties whose plan or
37 revision is disapproved may request a hearing before the secretary
38 in accordance with K.S.A. 65-3412, and amendments thereto.

39 (f) (h) The secretary is authorized to provide technical assistance
40 to counties, municipalities and authorities counties in coordinat-
41 ing plans for solid waste management systems required by this act,
42 including revisions of such plans.

43 (g) (i) The secretary may, in appropriate cases, recommend

waste volumes, taking into consideration resource conservation, reduction, reuse and recycling, processing and treatment and land disposal. The base year for determining reductions shall be determined by the county or group of counties. The goals of a county or regional plan that includes any county having a population of 10,000 or more shall be 25% reduction by 1997 and 50% reduction by 2002. The goals of a county or regional plan that includes only counties having populations of less than 10,000 shall be established by the county or counties in consultation with the secretary.

(10) Take into consideration the development of specific management programs for certain wastes, including (but not limited to) lead acid batteries, household hazardous wastes, small quantities of hazardous waste, white goods containing chlorofluorocarbons, agricultural chemicals and chemical containers, motor oil and yard waste.

1 the submission of joint plans ~~require the adoption, submission~~
 2 ~~and implementation of a regional plan for two or more counties.~~

recommend that two or more counties adopt, submit and implement a regional plan
 rather than separate county plans

3 (h) (j) The secretary may institute appropriate action under
 4 K.S.A. 65-3414 to compel submission of plans or plan revisions in
 5 accordance with this act and the rules, and regulations, standards
 6 and procedures of the secretary.

7 Sec. 3. K.S.A. 65-3406 is hereby amended to read as follows:
 8 65-3406. The secretary is authorized and directed to:

9 (a) Adopt such rules and regulations, standards and procedures
 10 relative to solid waste management as shall be necessary to protect
 11 the public health and environment, prevent public nuisances, and
 12 enable the secretary to carry out the purposes and provisions of this
 13 act.

14 (b) Report to the legislature on further assistance needed to ad-
 15 minister the solid waste management program.

16 (c) Administer the solid waste management program pursuant to
 17 provisions of this act.

18 (d) Cooperate with appropriate federal, state, interstate and local
 19 units of government and with appropriate private organizations in
 20 carrying out duties under this act.

21 (e) Develop a statewide solid waste management plan.

22 (f) Provide technical assistance, including the training of person-
 23 nel to cities, counties and other political subdivisions.

24 (g) Initiate, conduct and support research, demonstration pro-
 25 jects, and investigations and coordinate all state agency research
 26 programs with applicable federal programs pertaining to solid waste
 27 management systems.

28 (h) Establish policies for effective solid waste management
 29 systems.

30 (i) Assist counties to jointly establish and implement regional solid
 31 waste planning and management.

32 (j) Authorize issuance of such permits and orders and conduct
 33 such inspections as may be necessary to implement the provisions
 34 of this act and the rules and regulations and standards adopted
 35 pursuant to this act.

36 (j) (k) Conduct and contract for research and investigations in
 37 the overall area of solid waste storage, collection, transportation,
 38 processing, treatment, recovery and disposal including, but not lim-
 39 ited to, new and novel procedures.

40 (l) Adopt rules and regulations for permitting of all solid waste
 41 disposal areas, including those that are privately owned.

42 (k) (m) Adopt rules and regulations establishing criteria for the
 43 location of processing facilities and disposal areas for solid wastes.

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1 (H) (n) Adopt rules and regulations establishing appropriate meas-
2 ures for monitoring solid waste disposal areas and processing facil-
3 ities, both during operation and after closure.

4 (m) (o) Adopt rules and regulations requiring that, for such pe-
5 riod of time as the secretary shall specify, any assignment, sale,
6 conveyance or transfer of all or any part of the property upon which
7 a permitted disposal area for solid waste is or has been located shall
8 be subject to such terms and conditions as to the use of such property
9 as the secretary shall specify to protect human health and the
10 environment.

11 (n) (p) Adopt suitable measures, including rules and regulations
12 if appropriate, to encourage ~~require~~ recovery and recycling of solid
13 waste for reuse whenever feasible. induce

14 (q) Adopt rules and regulations establishing standards for [public
15 and private] transporters of solid waste. strike bracketed language

16 (e) (r) Adopt rules and regulations establishing minimum stan-
17 dards for closing, termination, and long-term care of sites for the
18 land disposal of solid waste. In this subsection, "site" refers to a site
19 for the land disposal of solid waste which has a permit issued under
20 K.S.A. 65-3407 and amendments thereto. The owner of a site shall
21 be responsible for the long-term care of the site for ~~ten~~ (10) 30
22 years after the closing of the site, except the secretary may extend
23 the long-term care responsibility of a particular site or sites as the
24 secretary may ~~deem~~ deems necessary to protect the public health
25 and safety or the environment. Any person acquiring rights of own-
26 ership, possession, or operation in a permitted site or facility for the
27 land disposal of solid waste at any time after the site has begun to
28 accept waste and prior to closure shall be subject to all requirements
29 of the permit for the site or facility, including the requirements
30 relating to long-term care of the site or facility.

31 (s) Enter into cooperative agreements with the secretary of com-
32 merce for the development and implementation of statewide market
33 development for recyclable materials.

34 Sec. 4. K.S.A. 1991 Supp. 65-3407 is hereby amended to read
35 as follows: 65-3407. (a) It shall be unlawful for any person to con-
36 struct, alter or operate a solid waste processing facility or a solid
37 waste disposal area of a solid waste management system without first
38 obtaining a permit from the secretary.

39 (b) Every person desiring to obtain a permit to construct, alter
40 or operate a solid waste storage, treatment or processing facility or
41 disposal area shall make application for such a permit on forms
42 provided for such purpose by the rules and regulations of the sec-
43 retary and shall provide the secretary with such information as nec-

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1 essary to show that the facility or ~~service~~ will comply with the _____ area
 2 purpose of this act. Upon receipt of any application and payment of
 3 the *application fee*, the secretary, with advice and counsel from the
 4 local health authorities and the county commission, shall make an
 5 investigation of the proposed solid waste processing facility or dis-
 6 posal area and determine whether it complies with the provisions
 7 of this act and any rules and regulations and standards adopted
 8 thereunder. *The secretary also may consider the need for the facility* _____ or area
 9 *in conjunction with the county or regional solid waste management*
 10 *plan.* When the investigation reveals that the facility or area does
 11 conform with the provisions of the act and the rules and regulations
 12 and standards adopted thereunder the secretary shall approve the
 13 application and shall issue a permit for the operation of each solid
 14 waste processing or disposal facility or area set forth in the appli-
 15 cation. In the event that the facility or area fails to meet the rules
 16 and regulations and standards required by this act the secretary shall
 17 issue a report to the applicant stating the deficiencies in the appli-
 18 cation. The secretary may issue temporary permits conditioned upon
 19 corrections of construction methods being completed and
 20 implemented.

21 (c) *Before reviewing any application for permit, the secretary*
 22 *shall conduct a background investigation of the applicant. The sec-*
 23 *retary shall consider the financial, technical and management ca-*
 24 *pacilities of the applicant as conditions for issuance of a permit.*
 25 *The secretary may reject the application ~~without~~ conducting an in-* _____ prior to
 26 *vestigation into the merits of the application if the secretary finds*
 27 *that:*

28 (1) *The applicant currently holds, or in the past has held, a*
 29 *permit under this section and ~~that~~ while the applicant held a permit*
 30 *under this section the applicant violated a provision of subsection* _____ 65-3409
 31 *(a) of K.S.A. ~~65-3441~~, and amendments thereto; or*

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

34 (3) *the applicant failed or continues to fail to comply with any*
 35 *of the provisions of the air, water or waste statutes, including rules*
 36 *and regulations issued thereunder, relating to environmental pro-*
 37 *tection or to the protection of public health in this or any other*
 38 *state or the federal government of the United States, or any condition*
 39 *of any permit or license issued by the secretary; or if the secretary*
 40 *finds that the applicant has shown a lack of ability or intention to*
 41 *comply with any provision of any law referred to in this subsection*
 42 *or any rule and regulation or order or permit issued pursuant to*
 43 *any such law as indicated by past or continuing violations; or*

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1 (4) *the applicant is a corporation and any principal, shareholder,*
 2 *or other person capable of exercising total or partial control of such*
 3 *corporation could be determined ineligible to receive a permit pur-*
 4 *suant to ~~subsections~~ (c)(1), (2) or (3) above.* subsection

5 (d) *Before reviewing any application for a permit, the secretary*
 6 *may request that the attorney general perform a comprehensive*
 7 *criminal background investigation of the applicant; or in the case*
 8 *of a corporate applicant, any person who holds an interest in or*
 9 *exercises total or partial control of the corporation. The secretary*
 10 *may reject the application ~~without~~ conducting an investigation into* prior to
 11 *the merits of the application if the secretary finds that serious crim-*
 12 *inal violations have been committed by the applicant or a principal*
 13 *of the corporation.*

14 (e) (e) *The annual fee fees for a solid waste processing or disposal*
 15 *permit shall be, \$50 and no established by rules and regulations*
 16 *adopted by the secretary. The initial application fee shall not exceed*
 17 *\$10,000. The annual fee shall not exceed \$5,000. No refund shall be* fee for the application and original permit shall not exceed \$5,000. The annual
 18 *made in case of revocation. All fees shall be deposited in the general* permit renewal fee shall not exceed \$2,000
 19 *fund in the state treasury and credited to the solid waste manage-*
 20 *ment fund. A city, county, other political subdivision or state*
 21 *agency shall be exempt from payment of the fee but shall meet*
 22 *all other provisions of this act.*

23 (d) (f) *Plans, designs and relevant data for the construction of*
 24 *solid waste processing facilities and disposal sites shall be prepared*
 25 *by a professional engineer licensed to practice in Kansas and shall*
 26 *be submitted to the department for approval prior to the construc-*
 27 *tion, alteration or operation of such facility or area. In adopting rules*
 28 *and regulations, the secretary may specify sites, areas or facilities*
 29 *where the environmental impact is minimal and may waive such*
 30 *preparation requirements provided that a review of such plans is*
 31 *conducted by a professional engineer licensed to practice in Kansas.*

32 (e) (g) *Each permit granted by the secretary, as provided in this*
 33 *act, shall be subject to such conditions as the secretary deems nec-*
 34 *essary to protect human health and the environment and to conserve*
 35 *the sites. Such conditions shall include approval by the secretary of*
 36 *the types and quantities of solid waste allowable for processing or*
 37 *disposal at the permitted location.*

38 (f) (h) *As a condition of granting a permit to operate any proces-*
 39 *sing facility or disposal area for solid waste, the secretary shall*
 40 *require the permittee to provide a trust fund, surety bond, cash*
 41 *bond or, a secured trust fund, irrevocable letter of credit, insurance*
 42 *or to meet a financial test established by the secretary for closure*
 43 *and post-closure, and liability insurance, including coverage against*

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1 *sudden and* nonsudden occurrences, or any combination thereof, in
 2 such amount as determined necessary by the secretary to insure the
 3 financial responsibility of the permittee for any: (1) *Operational ac-*
 4 *tivities contemplated by the act, rules and regulations adopted pur-*
 5 *suant thereto, and the permit; and* (2) liability incurred in the
 6 operation of the facility or area and to insure that, upon abandon-
 7 ment, cessation or interruption of the operation of the facility or
 8 area, all appropriate measures are taken to prevent present or future
 9 damage to human health and the environment. Any such liability
 10 insurance as may be required pursuant to this subsection or pursuant
 11 to the rules and regulations of the secretary shall be issued by an
 12 insurance company authorized to do business in Kansas or by a
 13 licensed insurance agent operating under authority of K.S.A. 40-
 14 246b, and amendments thereto, and shall be subject to the insurer's
 15 policy provisions filed with and approved by the commissioner of
 16 insurance pursuant to K.S.A. 40-216, and amendments thereto, ex-
 17 cept as authorized by K.S.A. 40-246b, and amendments thereto.
 18 Nothing contained in this subsection shall be deemed to apply to
 19 any [political subdivision,] state agency, department or agency of the
 20 federal government [or to any independent contractor operating a
 21 solid waste disposal area as a part of an approved solid waste man-
 22 agement plan for which equivalent surety is provided to a political
 23 subdivision or federal or state agency]

24 (g) (i) Permits granted by the secretary, as provided in this act,
 25 : (1) *Shall not be transferable; and* (2) shall be revocable or subject
 26 to suspension whenever the secretary shall determine that the solid
 27 waste processing or disposal facility or area is, or has been con-
 28 structed or ~~conducted~~ operated in violation of this act or the rules
 29 and regulations or standards adopted pursuant to the act, or is cre-
 30 ating *or threatens to create* a hazard to persons or property in the
 31 area or to the environment, or is creating *or threatens to create* a
 32 public nuisance, *or upon the failure to make payment of any fee*
 33 *required under this act. The secretary also may revoke, suspend or*
 34 *refuse to issue a permit when the secretary determines that past or*
 35 *continuing violations of the provisions of paragraph (3) of subsection*
 36 *(c) of K.S.A. 65-3437, and amendments thereto, have been committed*
 37 *by a permittee or any person holding an interest in or exercising*
 38 *partial or total control over a permittee.*

39 (h) (j) In case any permit is denied, suspended or revoked the
 40 person, city, county or other political subdivision or state agency
 41 may request a hearing before the secretary in accordance with K.S.A.
 42 65-3412, and amendments thereto.

43 (i) (k) (1) No permit to construct or operate a solid waste disposal

strike bracketed language

subsection (c) (3) of K.S.A. 65-3407

1 area shall be issued on or after the effective date of this act if such
2 area is located within 1/2 mile of a navigable stream used for interstate
3 commerce or within one mile of an intake point for any public surface
4 water supply system.

5 (2) Any permit, issued before the effective date of this act, to
6 construct or operate a solid waste disposal area is hereby declared
7 void if such area is not yet in operation and is located within 1/2
8 mile of a navigable stream used for interstate commerce or within
9 one mile of an intake point for any public surface water supply
10 system.

11 (3) The provisions of this subsection (i) shall not be construed
12 to prohibit: (A) Issuance of a permit for lateral expansion onto land
13 contiguous to a permitted solid waste disposal area in operation on
14 the effective date of this act; (B) issuance of a permit for a solid
15 waste disposal area for disposal of a solid waste by-product produced
16 on-site; or (C) renewal of an existing permit for a solid waste area
17 in operation on the effective date of this act.

18 Sec. 5. K.S.A. 65-3415 is hereby amended to read as follows:
19 65-3415. (a) The secretary is authorized to assist counties, ~~muni-~~
20 ~~palities and authorities~~ by administering grants to pay up to fifty
21 ~~percent (50%)~~ 50% of the costs of preparing *and revising* official
22 plans for solid waste management systems in accordance with the
23 requirements of this act and the rules, *and* regulations and standards
24 adopted pursuant to this act, and for carrying out related studies,
25 surveys, investigations, inquiries, research and analyses.

26 (b) *The secretary is authorized to assist counties developing a*
27 *regional plan by administering grants to pay up to 90% of the costs*
28 *of preparing and revising official plans for solid waste management*
29 *systems in accordance with the requirements of this act and the rules*
30 *and regulations and standards adopted pursuant to this act, and for*
31 *carrying out related studies, surveys, investigations, inquiries, re-*
32 *search and analyses.*

33 (b) (c) All grants shall be made ~~from funds appropriated for~~
34 ~~this purpose by the legislature in accordance with appropriations~~
35 ~~acts from moneys in the solid waste management fund created by~~
36 ~~section 7.~~

37 Sec. 6. K.S.A. 1991 Supp. 65-3419 is hereby amended to read
38 as follows: 65-3419. (a) Any person who violates any provision of
39 subsection (a) of K.S.A. 65-3409, and amendments thereto, shall
40 incur, in addition to any other penalty provided by law, a civil
41 penalty in an amount of up to \$500 ~~\$5,000~~ for every such violation
42 and, in the case of a continuing violation, every day such violation
43 continues shall be deemed a separate violation.

1 (b) The director of the division of environment, upon a finding
2 that a person has violated any provision of subsection (a) of K.S.A.
3 65-3409, and amendments thereto, may impose a penalty within the
4 limits provided in this section, which penalty shall constitute an
5 actual and substantial economic deterrent to the violation for which
6 it is assessed.

7 (c) No penalty shall be imposed pursuant to this section except
8 upon the written order of the director of the division of environment
9 to the person who committed the violation. Such order shall state
10 the violation, the penalty to be imposed and the right of such person
11 to appeal to a hearing before the secretary of health and environment.
12 Any such person may, within 15 days after service of the order,
13 make written request to the secretary for a hearing thereon. The
14 secretary shall hear such person within 30 days after receipt
15 of such request. Hearings under this subsection shall be conducted
16 in accordance with the provisions of the Kansas administrative pro-
17 cedure act.

18 (d) Any action of the secretary pursuant to subsection (c) is sub-
19 ject to review in accordance with the act for judicial review and civil
20 enforcement of agency actions.

21 (e) Notwithstanding any other provision of this act, the secretary,
22 upon receipt of information that the storage, transportation, *proc-*
23 *essing*, treatment, or disposal of any waste may present an imminent
24 and a substantial hazard to the health of persons or to the envi-
25 ronment *or for a threatened or actual violation of this act or rules*
26 *and regulations adopted pursuant thereto, or any orders issued pur-*
27 *suant thereto, or any permit conditions required thereby*, may take
28 such action as the secretary determines to be necessary to protect
29 the health of such persons or the environment. The action the sec-
30 retary may take shall include, but not be limited to:

31 (1) Issuing an order directing the *owner, generator, transporter*
32 *or the operator of the processing, treatment or disposal facility or*
33 *site, or the custodian of the waste, which constitutes such hazard*
34 *or threatened or actual violation*, to take such steps as are necessary
35 to prevent the act or eliminate the practice which constitutes such
36 hazard. Such action may include, with respect to a facility or site,
37 permanent or temporary cessation of operation.

38 (2) ~~Requesting that the attorney general or appropriate dis-~~
39 ~~trict attorney commence an action enjoining such acts or prac-~~
40 ~~tices. Upon showing by the department that a person has~~
41 ~~engaged in such acts or practices, a permanent or temporary~~
42 ~~injunction, restraining order, or other order may be granted by~~
43 ~~any court of competent jurisdiction.~~

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1 (2) Commencing an action to enjoin acts or practices specified
2 in paragraph (1) or requesting that the attorney general or appro-
3 priate district or county attorney commence an action to enjoin those
4 acts or practices or threatened acts or practices. Upon a showing
5 by the secretary that a person has engaged in those acts or practices
6 or intends to engage in those acts or practices, a permanent or
7 temporary injunction, restraining order or other order may be
8 granted by any court of competent jurisdiction. An action for in-
9 junction under this paragraph (2) shall have precedence over other
10 cases in respect to order of trial.

11 (3) Applying to the district court in the county in which an order
12 of the secretary under paragraph (1) will take effect, in whole or
13 in part, for an order of that court directing compliance with the
14 order of the secretary. Failure to obey the court order shall be
15 punishable as contempt of the court issuing the order. The appli-
16 cation under this paragraph (3) for a court order shall have pre-
17 cedence over other cases in respect to order of trial.

18 (f) In any civil action brought pursuant to this section in which
19 a temporary restraining order, preliminary injunction or permanent
20 injunction is sought, it shall not be necessary to allege or prove at
21 any stage of the proceeding that irreparable damage will occur should
22 the temporary restraining order, preliminary injunction or permanent
23 injunction not be issued or that the remedy at law is inadequate,
24 and the temporary restraining order, preliminary injunction or per-
25 manent injunction shall issue without such allegations and without
26 such proof.

27 New Sec. 7. (a) There is hereby created in the state treasury
28 the solid waste management fund.

29 (b) The secretary shall remit at least monthly to the state treas-
30 urer all moneys collected or received by the secretary from the
31 following sources:

32 (1) Solid waste tonnage fees imposed pursuant to section 8;

33 (2) application fees provided for by K.S.A. 65-3407, and amend-
34 ments thereto;

35 (3) gifts, grants, reimbursements or appropriations intended to
36 be used for the purposes of the fund, but excluding federal grants
37 and cooperative agreements; and

38 (4) any other moneys provided by law.

39 Upon receipt thereof, the state treasurer shall deposit in the state
40 treasury any amount remitted pursuant to this subsection and shall
41 credit the entire amount to the solid waste management fund.

42 (c) Moneys in the solid waste management fund shall be ex-
43 pended for the following purposes:

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1 (1) Grants to counties or groups of counties pursuant to K.S.A.
2 65-3415, and amendments thereto;

3 (2) monitoring and investigating solid waste management plans
4 of counties and groups of counties;

5 (3) payment of extraordinary costs related to monitoring permit-
6 ted solid waste processing facilities and disposal areas, both during
7 operation and after closure;

8 (4) payment of costs of postclosure cleanup of permitted solid
9 waste disposal areas which, as a result of a postclosure occurrence,
10 pose a substantial hazard to public health or safety or to the
11 environment;

12 (5) emergency payment for costs of cleanup of solid waste disposal
13 areas which were closed before the effective date of this act and
14 which pose a substantial risk to the public health or safety or to the
15 environment, but the total amount of such emergency payments
16 during a fiscal year shall not exceed an amount equal to 50% of all
17 amounts credited to the fund during the preceding fiscal year;

18 (6) to permit the secretary to take whatever emergency action is
19 necessary or appropriate to assure that the public health or safety
20 is not threatened whenever there is a release from a solid waste
21 processing facility or a solid waste disposal area;

22 (7) to permit the secretary to take corrective action where the
23 release presents actual or potential threat to human health or the
24 environment, if the owner or operator has not been identified or is
25 unable or unwilling to perform corrective action;

26 (8) payment of the administrative, technical and legal costs in-
27 curred by the secretary in carrying out the provisions of K.S.A. 65-
28 3401 through 65-3423, and amendments thereto, including the cost
29 of any additional employees or increased general operating costs of
30 the department attributable therefor; ~~and~~

31 (9) payment of costs for market development established under
32 cooperative agreements with the secretary of commerce.

33 (d) If the secretary determines that expenditures from the solid
34 waste management fund are necessary, the person or persons re-
35 sponsible for the operation or long-term care of a disposal area whose
36 failure to comply with this act, rules and regulations promulgated
37 thereunder, or permit conditions resulted in such determination,
38 shall be responsible for the repayment of those amounts expended.
39 The secretary shall take appropriate action to enforce this provision
40 against any responsible person. The secretary shall remit to the state
41 treasurer any amounts recovered and collected in such action. The
42 state treasurer shall deposit all such amounts in the state treasury
43 and credit the same to the solid waste management fund.

; and
(10) development of educational materials and programs for informing the public about solid waste issues

1 (e) Expenditures from the solid waste management fund shall be
2 made in accordance with appropriations acts upon warrants of the
3 director of accounts and reports issued pursuant to vouchers ap-
4 proved by the secretary or a person designated by the secretary.

5 (f) On or before the 10th day of the month following the month
6 in which moneys are first credited to the solid waste management
7 fund, and monthly thereafter on or before the 10th day of the month,
8 the director of accounts and reports shall transfer from the state
9 general fund to the solid waste management fund the amount of
10 money certified by the pooled money investment board in accordance
11 with this subsection. Prior to the 10th day of the month following
12 the month in which moneys are first credited to the solid waste
13 management fund, and monthly thereafter prior to the 10th day of
14 the month, the pooled money investment board shall certify to the
15 director of accounts and reports the amount of money equal to the
16 proportionate amount of all the interest credited to the state general
17 fund for the preceding month, pursuant to K.S.A. 75-4210a, and
18 amendments thereto, that is attributable to moneys in the solid waste
19 management fund. Such amount of money shall be determined by
20 the pooled money investment board based on: (1) The average daily
21 balance of moneys in the solid waste management fund during the
22 preceding month as certified to the board by the director of accounts
23 and reports; and (2) the average interest rate on time deposit, open
24 accounts for that period as determined under K.S.A. 75-4212, and
25 amendments thereto. On or before the fifth day of the month fol-
26 lowing the month in which moneys are first credited to the solid
27 waste management fund, and monthly thereafter on or before the
28 fifth day of the month, the director of accounts and reports shall
29 certify to the pooled money investment board the average daily
30 balance of moneys in the solid waste management fund during the
31 preceding month.

32 (g) The solid waste management fund shall be used for the pur-
33 poses set forth in this act and for no other governmental purposes.
34 It is the intent of the legislature that the fund shall remain intact
35 and inviolate for the purposes set forth in this act, and moneys in
36 the fund shall not be subject to the provisions of K.S.A. 75-3722,
37 75-3725a and 75-3726a, and amendments thereto.

38 New Section 8. (a) The secretary of health and environment shall
39 establish by rules and regulations a state solid waste tonnage fee to
40 be imposed for each ton or equivalent volume of solid waste disposed
41 of at any solid waste disposal area in this state on or after January
42 1, 1993. No fee established pursuant to this section shall exceed \$5
43 per ton or equivalent volume. The fee may be adjusted annually.

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1 (b) The operator of a solid waste disposal area shall pay the fee
2 imposed by this section.

3 (c) The secretary of health and environment shall administer,
4 enforce and collect the fee imposed by this section. Except as oth-
5 erwise provided by subsection (b), all laws and rules and regulations
6 of the secretary of revenue relating to the administration, enforce-
7 ment and collection of the retailers' sales tax shall apply to such fee
8 insofar as they can be made applicable, and the secretary of health
9 and environment shall adopt such additional rules and regulations
10 as necessary for the efficient and effective administration, enforce-
11 ment and collection thereof.

12 (d) The secretary of health and environment shall remit daily to
13 the state treasurer all moneys collected from fees imposed pursuant
14 to this section. Upon receipt thereof, the state treasurer shall deposit
15 the entire amount in the state treasury and credit it to the solid
16 waste management fund created by section 7.

17 (e) An additional fee may be imposed by a group of counties
18 engaged in regional solid waste management on solid waste generated
19 outside the boundaries of the region. The funds raised may be used
20 to implement the regional solid waste plan. If imposed, this fee must
21 be assessed on all solid waste ~~entering the regional solid waste~~
22 facility. This fee will be collected by the county in which the regional
23 solid waste facility is located.

24 (f) The fee imposed by this section shall be in addition to any
25 other fees or tax imposed for solid waste disposal at a solid waste
26 disposal area.

27 Sec. 9. K.S.A. 65-3402, 65-3405, 65-3406 and 65-3415 and
28 K.S.A. 1991 Supp. 65-3407 and 65-3419 are hereby repealed.

29 Sec. 10. This act shall take effect and be in force from and after
30 its publication in the statute book.

that is generated outside the boundaries of the region and enters

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